

AFTER RECORDING RETURN TO:
BRYANT LOVLIE & JARVIS, PC
P.O. BOX 1151
BEND, OR 97709

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DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-09324



\$61.00

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SOUTH VILLAGE SUBDIVISION**

THIS DECLARATION is made on February 16, 2005, ~~2004~~ by Diamond Built Homes, LLC, an Oregon limited liability company (hereinafter referred to as the "Declarant"), which is the Owner of certain real property located in Bend, Oregon described as: South Village. LOTS 1 THROUGH 49, SOUTH VILLAGE, DESCHUTES COUNTY, OREGON.

The Declarant hereby proclaims that the above-described property is subject to the following Covenants, Conditions and Restrictions for the purpose of protecting and enhancing the value, attractiveness and desirability thereof.

I. DEFINITIONS.

"Buildable Area" shall mean and refer to that portion of a Lot, which lies solely within the building footprint lines as defined herein and on the Master Plan.

"Declarant" shall mean Diamond Built Homes, LLC, an Oregon limited liability company.

"Family" shall mean and refer to one or more persons occupying a single housekeeping unit and using common housekeeping facilities; provided, unless all members are related by blood, marriage, adoption or partnership, no family consists of over five persons.

"Lot" shall mean and refer to any plot of land shown on a recorded plat, which subdivides the Property.

"Owner" shall mean and refer to the record owner or contract buyer of the fee simple title to any lot which is a part of the Property, excluding those having such interest merely as security for the performance of an obligation. For the purposes exercising the rights granted by this Declaration, each lot may have only one vote, regardless of the number of persons who may have a co-ownership interest therein.

"Property" shall mean and refer to the above-described real property and any real property annexed hereto.

"Street" shall mean and refer to the private right of way as shown on the recorded plat of the Property.

II. PURPOSE AND BINDING EFFECT

The purpose of this Declaration is to enhance and protect the value and desirability of the Property for residential use. This Declaration shall run with the Property, shall be binding upon and inure to the benefit of, enjoin and pass to all parties having or acquiring any right, title or interest in the Property, their heirs, successors in interest and assigns as a servitude in favor of and enforceable by the Declarant, its vendees, successors and assigns during the term hereof.

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III. ARCHITECTURAL REVIEW BY DECLARANT

Until such time as the Declarant no longer owns any Lot on the Property, no structure, fence, retaining wall, landscaping or other improvements of any kind (collectively "Improvements") may be constructed, placed, altered (including any change in paint color), removed or allowed to remain on, under or above any portion of the Property until the plans for said construction, placement, alteration or removal are approved in advance, in writing, by the Declarant. Detailed plans of such construction, placement, alteration or removal shall be submitted to the Declarant prior to the commencement of any work. Such plans shall include a list of all material and plant types and samples of all exterior colors to be used. Declarant may withhold or condition its approval in its sole discretion.

IV. FIRE SAFETY

Ownership, use and occupancy of any portion of the property is subject to the following fire safety restrictions.

A. BUILDING STANDARDS

All buildings constructed on the Property shall have roofing which has a fire rating of Class A or better. All eaves, attics and under floor openings shall be screened or otherwise enclosed. Any chimney or stovepipes connected to a device burning solid or liquid fuel shall be equipped with a screen constructed of non-flammable materials with a mesh no coarser than one half inch over its outlet. All deck within three feet of the ground shall be screened from the under floor to the ground. No overhead electrical, telephone or television lines are permitted anywhere on the Property.

B. WATER SUPPLY

Each dwelling shall have a water supply that meets city requirements. Each building shall have a minimum of one garden hose outlet.

C. UTILIZATION OF OUTDOOR SPACE

No open fires are permitted at any time. Barbecues and other outdoor cooking facilities shall be continuously attended while in use. Firewood any other material which could provide fuel to a fire shall be stored a minimum of thirty (30) feet away from buildings, or covered with a fire-resistant protective covering.

V. USE RESTRICTIONS

Ownership, use and occupancy of any portion of the Property are subject to the following use restrictions:

A. LAND USE

The Property may be used only for single family residential purposes with homes not exceeding five (5) bedrooms and legal home occupations.

B. FURTHER SUBDIVISION

No Lot platted by the Declarant may be further subdivided. This restriction shall not apply to subsequent land use actions by the Declarant.

C. COMMENCEMENT OF BUILDING CONSTRUCTION

All dwelling construction shall be commenced within one (1) year from the date of the Lot's purchase, and shall be completed within six (6) months of the commencement of construction. In the event an Owner fails to commence construction within said twelve (12) month period, the Declarant shall have the right to repurchase that Owner's Lot or Lots at the Owner's original purchase price, less real estate commissions paid by the Declarant, with no allowance for taxes paid by the Owner prior to the repurchase. The terms of said repurchase shall be identical to the terms of the original purchase by which said Owner(s) acquired the Lot. This right of repurchase shall be the exclusive remedy for failure to commence construction within one (1) year of the purchase of a Lot and shall inure solely to the Declarant, and not to those claiming under it. The Declarant, its stockholders, directors, officers and related parties shall be exempt from the requirement to commence dwelling construction within one (1) as contained in this paragraph.

VI. MISCELLANEOUS BUILDING STANDARDS

A. COMPLETION OF LANDSCAPING

Landscaping visible from the street shall be considered a part of the dwelling construction process, and shall be completed prior to dwelling occupancy, unless said completion is precluded because of weather conditions.

B. PERMITS REQUIRED

All building, structure or fence construction shall be performed pursuant to any required permits obtained from the public entity claiming jurisdiction over the issuance of such permits.

C. EASEMENTS

Easement for the installation and maintenance of utilities, slopes, signs, pedestrian ways, wildlife movement and drainage facilities are reserved as shown on the recorded plat or as described herein. All easements are subject to the use restrictions which are recorded therewith.

D. STRUCTURE TYPE AND SIZE

No building shall be altered, placed, constructed or permitted to remain on any lot except for one permanent single family, detached house and a garage or carport constructed contemporaneously therewith. Residential accessory structures such as a hot tub or spa enclosure, garden sheds and greenhouses are permissible. Each dwelling must contain a habitable floor area, exclusive of open porches of at least 1,200 square feet.

E. TEMPORARY STRUCTURES

No temporary structures, trailer, camper, motor home, basement, partially completed dwelling, garage, accessory building, tent, shack or other enclosure may be used on any lot at any time as a temporary or permanent residence. The temporary and occasional parking of a camper, trailer or recreational vehicle on a lot shall be allowed. For the purpose of this Section, the term "temporary" shall mean a single period not to exceed one week in length, and the term "occasional" shall mean up to and including four occurrences per year. Construction trailers or temporary offices for the use of Declarant, Contractor or another building contractor during the construction of any home, apartment building or commercial structure shall be exempt from this paragraph.

F. PARKING

Subject to the provisions of this Declaration, Owners and occupants may keep and maintain such vehicles on their residential Lots as may be permitted in accordance with the codes, ordinances and statutes of the city. No vehicle, boat or trailers shall be permitted to remain upon any front yard area of a residential Lot, or on the street, or within a paved parking area, including the driveway that is located adjacent to the Dwelling for any period in excess of four days in any calendar month.

No Owner may engage in any vehicle restoration or maintenance work beyond any continuous period of forty-eight (48) hours, unless such work is performed within an enclosed garage. The foregoing shall not be deemed to prevent the washing or polishing of motor vehicles together with those activities normally incidental to such activity, but shall prevent the extended overnight parking of non-daily use vehicles in the driveway of any Lot. Declarant may maintain trailers or temporary structures within the Property which are incidental to the completion of the project. No such trailer shall be used as a residence by an Owner during construction of a dwelling.

Garages shall be used only for the purpose of parking automobiles and other vehicles and equipment and storing an Owner's household goods; provided, however, that all such uses shall be accomplished so that garage doors can be closed. Garages shall not be converted into any use (such as a recreational room or for storage) that would prevent its use as a parking space for the number of vehicles the garage was designed to contain. Except for purposes of ingress and egress, all garage doors shall remain closed. There shall be no parking of vehicles on unpaved surfaces, such as lawns or dirt surfaces. Garage doors shall not exceed nine feet in height.

G. TRASH

No lot shall be used as a dumping ground for waste, trash, yard trimmings or garbage. Residential refuse must be kept in sanitary containers which are screened from view, maintained in a sanitary condition and emptied weekly. No incinerators may be use on any Lot at any time.

H. ANIMALS

No livestock or poultry may be raised, bred or kept on any Lot. Other household pets are permitted, provided however, that no household pet of any kind may be allowed to constitute or

become a hazard or annoyance to other residents of the Property. No animal of any kind may be kept, bred or raised on any Lot for commercial purposes.

I. TREE CUTTING

Except as required to comply with other provisions contained in this Declaration, no tree shall be cut or willfully damaged without first obtaining any required permits from the City of Bend or any other public entity claiming jurisdiction over tree cutting on the property.

J. SIGNS

No sign visible to the public view may be displayed on any Lot, except the following:

- (1) One "Block Parent" or "Neighborhood Watch" or equivalent window sign;
- (2) One home occupation window sign no larger than one hundred forty four (144) square inches;
- (3) One temporary "For Sale" sign no larger than five hundred seventy six (576) square inches in area, advertising the Lot upon which the sign is placed;
- (4) One temporary "For Rent" sign displayed only in the window of the property offered for rent.

The Declarant is exempt from this paragraph of this Declaration, and may erect or maintain such signs and advertising devices as it deems necessary for the conduct of its business.

K. YARD OR GARAGE SALES

No more than two (2) yard or garage sales may be conducted on any Lot during a calendar year. No yard or garage sale may exceed three (3) days in duration.

L. FENCES

Any fence constructed shall not exceed seventy-two (72) inches in height. Fencing materials shall consist of 1"x6" cedar mounted vertically on a 2"x4" frame with pressure treated posts in a size 4"x4" minimum dimension or steel "C" posts with a wood covering. Fences shall be stained a natural wood color and shall not be painted. Under no circumstances shall any chain-link or barbed wire fences be erected. All fences must be constructed, placed and maintained in conformity with setbacks and standards imposed by the City of Bend.

M. NUISANCE

No noxious or offensive activity shall be conducted on any Lot, nor shall anything be done on any Lot which may be or become a nuisance or annoyance to any resident of any Lot.

VII. PROPERTY MAINTENANCE

A. STANDARD OF MAINTENANCE

Each and every Lot, whether vacant or improved, must be maintained in a reasonable neat, orderly and inoffensive manner at all times. All Lots must be kept free of brush, invasive or offensive seeds and dead plant material. All improvements including walks and driveways, exterior building surfaces, fences and landscaping shall be kept in good repair at all times. Roofs and gutters shall be kept clear of leaves and conifer needles. Damage caused by fire, flood, storm, earthquake, riot vandalism or other causes shall be promptly repaired by the Owner of the affected Lot.

B. RIGHT OF DECLARANT OR OWNER TO PERFORM MAINTENANCE AND/OR REPAIRS

In the event an Owner or resident of any lot shall fail to maintain and/or repair the Lot or improvements situated hereon in a manner which is consistent with the majority of the other Lots or which adversely affects the safety or desirability of surrounding Lots, the Declarant or any Owner, their agents or employees shall have the right, fifteen calendar days after giving notice as provided herein, to enter onto the offending Property and perform such maintenance and/or repairs as are necessary in order to ameliorate the offensive condition.

C. NOTICE OF INTENTION TO PERFORM MAINTENANCE AND/OR REPAIRS

Notice of intention to perform maintenance and/or repairs shall be deemed to have been given when it is addressed to the last known mailing address of the Owner of the Lot upon which the maintenance and/or repairs are needed and deposited for delivery with the United States Postal Service as Certified Mail, with a return receipt requested. Such notice must contain the name(s) and address(es) of the party(ies) giving the notice, a detailed list of maintenance and/or repairs which must be performed, and the date upon which, if not performed by the Owner of the offending Lot, the maintenance and/or repairs will be performed by the party(ies) giving the notice.

VIII. CREATION OF MAINTENANCE LIEN

In the event Declarant or its designee performs maintenance and/or repairs to a Lot belonging to another party pursuant to this Declaration, the cost of performing said maintenance and/or repairs shall be paid by the Declarant or its designee and assessed to the Owner of the Lot upon which the work was performed, and shall be in a lien which shall encumber the offending Lot and benefit the party (ies) recording the lien. This lien may be foreclosed in the manner, provided by Oregon law for construction liens.

IX. GENERAL PROVISIONS

A. ENFORCEMENT

The Declarant (whether still an Owner of a Lot or thereafter), its vendees, successors and assigns or any Owner shall have the right to enforce, by any proceeding at law or in equity, all

provisions of this Declaration and any amendments to this Declaration, including any liens created pursuant hereto. This right specifically includes the right to seek injunctive relief for the prevention of a violation of any portion of this Declaration.

B. SEVERABILITY

Invalidation of any portion of this Declaration by judgment or court order shall in no way affect the validity or enforceability of any other provision of this Declaration, which shall remain in full force and effect.

C. AMENDMENT

This Declaration shall run with and bind the land in perpetuity. So long as the Declarant owns a Lot or holds a security interest in a Lot, this Declaration may not be altered without the written consent of the Declarant. After such times as the Declarant no longer owns a Lot or and no longer holds a security interest in a Lot, this Declaration may, at any time, be amended by an instrument executed by two thirds of the Owners.

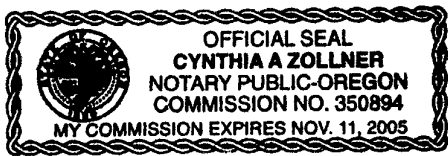
D. TRANSFER OF DECLARANT'S RIGHTS

The Declarant shall have the right to transfer or assign any or all of its rights under this Declaration to another party.

E. INTERPRETATION

If the Covenants, Conditions and Restrictions contained herein do not apply to a situation, then regulations promulgated by the City of Bend and/or Deschutes County shall control the interpretation or decision. If a conflict arises as to the proper interpretation of the Covenant, Condition and Restrictions of this Declaration, the opinion of the Declarant shall be final in resolving the conflict.

IN WITNESS WHEREOF, the undersigned Declarant has signed this Declaration of Covenants, Conditions and Restrictions on February 16, ~~2007~~ 2005

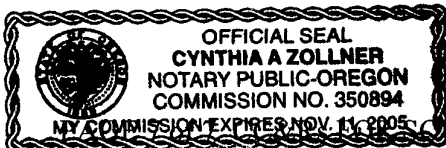


DIAMOND BUILT HOMES, LLC

[Signature]
BY: STEVE SCHLAM
ITS: MANAGING MEMBER

State of Oregon, County of Deschutes) ss

The foregoing instrument was acknowledged before me this 16th day of February 2005, ~~2007~~ by STEVE SCHLAM, as Managing Member of DIAMOND BUILT HOMES, LLC.



[Signature]
Notary Public for Oregon
My Commission Expires: 11-11-05