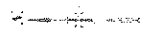
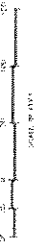
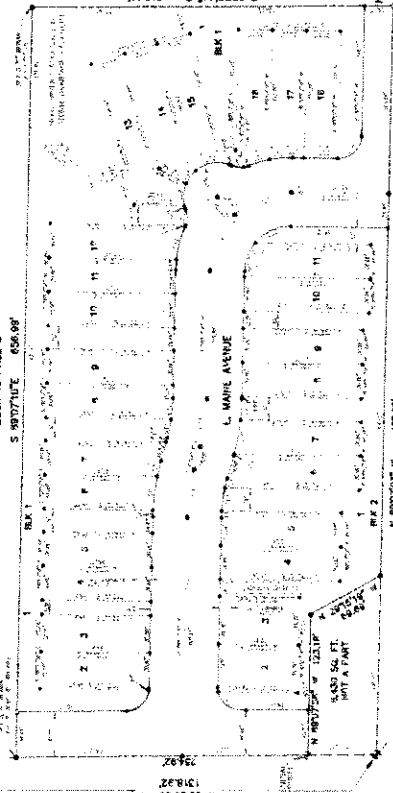


PLAT OF  
**THE HICKORIES**  
SUBDIVISION OF 140 ACRES OF LAND IN THE COUNTY OF  
SOUTHERN DISTRICT OF NEW YORK, 1995



UNANIMOUS ORDER No. 1  
SUBDIVISION  
BOOK 19 PAGE 5  
S 89°07'41"E 656.89'

UNPAVED  
SUNDRIDGE ROAD  
N 60°00'25" W  
1318.22'



**CURVE TABLE**

STATION	BEARING	DISTANCE	CHORD BEARING	CHORD DISTANCE	ARC DISTANCE	CHORD BEARING	CHORD DISTANCE	ARC DISTANCE	CHORD BEARING	CHORD DISTANCE	ARC DISTANCE	CHORD BEARING	CHORD DISTANCE	ARC DISTANCE
1	N 89°07'15" W	489.28'												
2	S 89°07'15" E	489.28'												
3	N 89°07'15" W	489.28'												
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6	S 89°07'15" E	489.28'												
7	N 89°07'15" W	489.28'												
8	S 89°07'15" E	489.28'												
9	N 89°07'15" W	489.28'												
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12	S 89°07'15" E	489.28'												
13	N 89°07'15" W	489.28'												
14	S 89°07'15" E	489.28'												
15	N 89°07'15" W	489.28'												
16	S 89°07'15" E	489.28'												
17	N 89°07'15" W	489.28'												
18	S 89°07'15" E	489.28'												
19	N 89°07'15" W	489.28'												
20	S 89°07'15" E	489.28'												

- NOTES:**
1. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  2. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  3. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  4. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  5. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  6. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  7. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  8. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  9. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.
  10. THE PROPERTY BOUNDARIES WILL BE INDICATED BY IRON PIPES, 1 1/2" DIA. AND 48" LONG, SET AT 3" INTERVALS.

UNPAVED  
SUNDRIDGE ROAD

MARK AVENUE

L MAIR AVENUE

DANCOFF PARK (L.S.)  
BOOK 23 PAGE 24

SUBDIVISION

LOT 1-20

UNPAVED  
SUNDRIDGE ROAD

MARK AVENUE

L MAIR AVENUE

DANCOFF PARK (L.S.)  
BOOK 23 PAGE 24

SUBDIVISION

LOT 1-20

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SUNDRIDGE ROAD

MARK AVENUE

L MAIR AVENUE

DANCOFF PARK (L.S.)  
BOOK 23 PAGE 24

SUBDIVISION

LOT 1-20

THE HICKORIES SUBDIVISION

CERTIFICATE OF OWNERS

WE, THE UNDERSIGNED, THE OWNERS OF THE SEVERAL LOTS, PARCELS AND TRACTS OF LAND HEREIN DESCRIBED, DO HEREBY CERTIFY THAT THE SAID LOTS, PARCELS AND TRACTS OF LAND ARE SEVERALLY OWNED BY THE UNDERSIGNED AS SET FORTH IN THE FOLLOWING LIST: ...

CERTIFICATE OF CITY ENGINEER

I, JOHN W. HARRIS, CITY ENGINEER, DO HEREBY CERTIFY THAT THE LOTS, PARCELS AND TRACTS OF LAND HEREIN DESCRIBED ARE SEVERALLY OWNED BY THE UNDERSIGNED AS SET FORTH IN THE FOLLOWING LIST: ...

John W. Harris  
City Engineer

CERTIFICATE OF CITY PLANNING AND ZONING COMMISSION

THE PLANNING AND ZONING COMMISSION HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE SUBDIVISION HEREIN DESCRIBED AND HAS APPROVED THE SAME AS BEING IN ACCORDANCE WITH THE CITY ZONING ORDINANCES AND THE CITY PLANNING AND ZONING COMMISSION HAS HEREBY PASSED THE FOLLOWING RESOLUTION: ...

John J. Nichols  
Chairman

John J. Nichols  
Chairman

CERTIFICATE OF HEALTH DEPARTMENT

THE HEALTH DEPARTMENT HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE SUBDIVISION HEREIN DESCRIBED AND HAS APPROVED THE SAME AS BEING IN ACCORDANCE WITH THE CITY HEALTH ORDINANCES AND THE HEALTH DEPARTMENT HAS HEREBY PASSED THE FOLLOWING RESOLUTION: ...

CERTIFICATE OF COUNTY SURVEYOR

I, JOHN W. HARRIS, COUNTY SURVEYOR, DO HEREBY CERTIFY THAT THE LOTS, PARCELS AND TRACTS OF LAND HEREIN DESCRIBED ARE SEVERALLY OWNED BY THE UNDERSIGNED AS SET FORTH IN THE FOLLOWING LIST: ...



John W. Harris  
County Surveyor

CERTIFICATE OF SURVEY

I, JOHN W. HARRIS, COUNTY SURVEYOR, DO HEREBY CERTIFY THAT THE LOTS, PARCELS AND TRACTS OF LAND HEREIN DESCRIBED ARE SEVERALLY OWNED BY THE UNDERSIGNED AS SET FORTH IN THE FOLLOWING LIST: ...



John W. Harris  
County Surveyor

CERTIFICATE OF COUNTY TREASURER

THE COUNTY TREASURER HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE SUBDIVISION HEREIN DESCRIBED AND HAS APPROVED THE SAME AS BEING IN ACCORDANCE WITH THE CITY FINANCIAL ORDINANCES AND THE COUNTY TREASURER HAS HEREBY PASSED THE FOLLOWING RESOLUTION: ...

John W. Harris  
County Treasurer

9517812

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE HICKORIES SUBDIVISION

---

THIS DECLARATION, made on the date hereinafter set forth by JUNIPER DEVELOPMENT, INC., hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Nampa, County of Canyon, State of Idaho, which is more particularly described as:

A parcel of land situated in the NW 1/4 of the SE 1/4, Section 34, Township 3 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

Commencing at the southwest corner of the NW 1/4 of the SE 1/4 (center-south 1/16), Section 34, T.3N., R.2W., B.M.;

Thence N 0° 30' 35" W 60.26 feet along the west line of said NW 1/4 of the SE 1/4, Section 34 to the Real Point of Beginning of this description;

Thence N 0° 30' 35" W 254.92 feet, continuing along the west line of said NW 1/4 of the SE 1/4, Section 34, to a point;

Thence S 89° 07' 10" E 656.99 feet to a point;

Thence S 0° 19' 44" E 315.18 feet to a point;

Thence N 89° 07' 03" W 499.29 feet to a point;

Thence N 29° 15' 19" W 69.69 feet to a point;

Thence N 89° 07' 58" W 123.18 feet to the Real Point of Beginning of this description;

Said parcel contains 198,427 square feet (4.55 acres), more or less.

SUBJECT TO:

All easements and road rights-of-way of record on the above described parcel of land.

**NOW, THEREFORE,** Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## **ARTICLE I DEFINITIONS**

Whenever used in this declaration, the following terms shall have the following meanings:

**Section 1.** "Association" shall mean **THE HICKORIES HOMEOWNERS' ASSOCIATION, INC.**, a nonprofit corporation organized under the laws of the State of Idaho, its successors and assigns.

**Section 2.** "Said Property" or the "Property" or the "Project" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 3.** "Common Area" shall mean all real property, and appurtenances thereto, now or hereafter owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area to be owned by the Association upon its incorporation is described as follows:

Lot 1 Block 1 and Lot 1 Block 2 of THE HICKORIES SUBDIVISION

**Section 4.** "Limited Common Area" means that portion of the particular Lots as those terms are herein defined and as set forth in Article III, Section 3.

**Section 5.** "Lot" shall mean and refer to every legal subdivision lot of The Hickories Subdivision (according to the official plat thereof) with the exception of the Common Area.

**Section 6.** "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner of a fee simple title to any such Lot (including contract sellers), whether one or more persons or entities, excluding those having such interest merely as security for the performance of any obligation.

Section 8. "Building Site" shall mean and refer to a Lot, exclusive of Setbacks and utility easements.

Section 9. "Setback" means the minimum distance between the dwelling unit or other structures referred to and given street, road or lot line, all of which shall be in accordance with the applicable zoning regulation of the City of Nampa.

Section 10. "Mortgage" shall mean and refer to any mortgage or deed of trust, and "Mortgagee" shall refer to the mortgagee or beneficiary under a deed of trust, and "Mortgagor" shall refer to the mortgagor or grantor of a deed of trust.

## **ARTICLE II**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. The Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owner. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes in Class B membership, or

(b) on December 31, 1998.

### ARTICLE III PROPERTY RIGHTS

Section 1. Common Property Ownership. Subject to the rights of individual Owners regarding Limited Common Area, the Common Area shall be owned by the Association.

Section 2. Member's Easements of Enjoyment to Common Area. Every Member of the Association shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association to limit the number of Members permitted to use a particular part of the Common Areas at any one time.

(b) The right of the Association to suspend any Member's voting rights and/or right to use any of the recreational facilities owned by the Association, for any period during which any assessments against said Member's property remains unpaid, and for a period not to exceed thirty (30) days for each infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such condition or transfer shall be effective, less an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the membership has been recorded in the appropriate county deed records, agreeing to such dedication or transfer, and unless written notice of proposed actions is sent to every Member not less than thirty (30) days nor more than ninety (90) days prior to such dedication or transfer.

(d) The right of the Directors of the Association to promulgate reasonable rules and regulations governing such rights to said use, from time to time, in the interest of securing maximum safe usage of such Common Areas by the Members of the Association without unduly infringing upon the privacy or enjoyment of the Owner or occupant of any part of said property, including, without being limited thereto, rules restricting persons under or over designated ages from using certain portions of said property during certain times, and reasonable regulations and restrictions regarding parking.

Section 3. Limited Common Areas. There are hereby created Limited Common Areas which are reserved for the exclusive use of the Owners of Lots to which they relate and are assigned, and in connection therewith there is hereby granted and reserved for the use and benefit of the Owners of the Lots to which said Limited Common Areas related an

exclusive easement for the use and benefit of said Limited Common Areas. The Limited Common Areas are patio areas on lots at the side or rear of units where required, to be determined by the board of directors.

Section 4. Declaration of Use. Any Member may delegate in accordance with the rules and regulations adopted from time to time by the directors, his right or enjoyment to the Common Areas and facilities to the members of his family, his tenants or contract purchasers, providing they reside on the Property.

Section 5. Reciprocal Easement. Each and every Owner purchasing a Lot with the subdivision is purchasing it with the full understanding that each Lot is subject to certain reciprocal easements which are appurtenant thereto. Each Owner by purchase of Lot within the subdivision agrees that they shall be subject to the following reciprocal easements:

(a) An easement for drainage is hereby declared to exist on each Lot for the benefit of the adjoining Lot(s); provided, that the Owner installing any drainage pipe, conduit or other facility shall pay for any and all such improvements and cause the Property upon which the improvements are located to be restored to their original state at the sole cost of the Owner employing the use of the reciprocal easement.

(b) Each Lot shall be subject to the minimum building Setback requirements as applicable to the Said Property under the ordinances of the City of Nampa.

(c) All Lots within the subject Property, including but not limited to, the Lots in the Common Area, shall be subject to a general utility and sanitary sewer easement, which shall include, but not be limited to, access for ingress and egress for maintenance or repair by the utility provider.

(d) All Lots shall be subject to a permanent public utility, irrigation, drainage and access easement which shall be for ingress and egress for installation, maintenance and repair for any public utility, irrigation district, drainage district, or any other utility providing utilities and/or having an easement in, to and through the said subdivision, except within the area of foundation for residences. Such easements shall have a minimum width of ten feet. 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 the public utilities, irrigation or drainage.

**ARTICLE IV**  
**MAINTENANCE ASSESSMENT AND MORTGAGE RIGHTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant and the Association hereby covenant for all of Said Property, and each owner of any lot by acceptance of a deed or contract or purchase therefor, whether or not it shall be expressed in any such deed or other conveyance or agreement for conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Regular annual assessments or charges, and
- (b) special assessments to be fixed, established, and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Property at the time such assessment was levied. The obligation shall remain a lien on the Property until paid or foreclosed, but shall not be a personal obligation of successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall not be used for any purpose other than promoting the economic interest, recreation, health, safety and welfare of the residents in Said Property and, in particular, for the improvement and maintenance of Said Property, any Common Area or Limited Common Area, all improvements constructed thereon, fencing along the exterior and within the interior of the Project, the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area or Limited Common Area, and including without being limited thereto, the payment of taxes (on Common Area only), and the provision of insurance on all or any part of Said Property, including insurance on individual Lots and Improvements, including fire and general casualty, liability and directors and officer insurance, and for exterior maintenance of all structures built on the Lots. The Association shall also establish and maintain a reserve account as provided in Section 11 of this Article, and any Assessment may include a sum for such reserve. Subject to the above provision, the Association shall determine the use of assessment proceeds.

**Section 3. Initial Annual Assessment; Subsequent Limitations.** The initial annual assessment shall be established by the board of directors of the Association, based upon the budget of the Association adopted by the board. The initial budget shall be for the calendar 1995.



(a) From and after January 1, 1996, the annual assessment may be increased each year by not more than twenty percent (20%) above the annual assessment for the previous year without a vote of the membership, at a meeting called for such purpose.

(b) The board of directors may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including extraordinary expenses incurred by the Association; provided that, in the event special assessments exceed, in the aggregate, five percent (5%) of the budgeted gross expenses of the Association for the fiscal year, the vote or written consent of a majority of the voting power of the Association residing in Members shall be required to approve such assessments at a meeting called for such purpose. Special assessments shall be levied on the same basis as regular assessments.

Section 4. Uniform Rate of Assessment. Both regular assessments and any special assessments must be fixed at a uniform rate for all Lots, and may be collected on an annual, quarterly, or monthly basis in the discretion of the board of directors of the Association; except, that assessments may be levied applicable to some Lots only, with prior consent by the Owners of such Lots, if such procedure is considered equitable in the discretion of the board in order to construct facilities to be available only to the Members desiring to pay for the cost thereof. In establishing that all assessments shall be equal, it is acknowledged that the dwelling units may be of different sizes and that the actual cost of exterior maintenance may vary. However, such assessments shall be equal for all Lots unless this declaration be amended to provide otherwise. Notwithstanding the foregoing provision, no assessment shall be payable by or assessed against any Lot upon which a dwelling structure has not been constructed.

Section 5. Quorum for Any Action Authorized Under Section 3. At any meeting called, as provided in Section 3 hereof, the presence at the meeting of Members or of proxies to cast fifty-one percent (51%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 3 and the required quorum at such subsequent meeting. No such subsequent meeting shall be held more than sixty (60) days following the date of the meeting at which no quorum was forthcoming.

Section 6. Date of Commencement of Annual Assessments: Due Dates. Except as provided in Section 9 of this Article IV, all Lots upon which buildings have been constructed shall be subject to the annual or monthly assessments provided for herein on the first day of the month following the issuance of a certificate of occupancy permit by the City of Nampa for the particular unit on the Lot. No assessment shall be levied against or payable

by any Lot on which no dwelling has been constructed. The board of directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period (provided that the assessment for calendar year 1995 may be fixed, and notice thereof given, at a later day, effective for the full calendar year). Written notice of the assessment dates shall be established by the board of directors. The Association shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a particular Lot have been paid. A reasonable charge may be made by the board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the legal rate of interest as set out at Sec. 28-22-104 Idaho Code or as it may be amended from time to time. The secretary of the said Association shall file in the office of the County Recorder for Canyon County, Idaho, a lien reflecting the amount of any such charges or assessments, together with interest, as aforesaid, which have become delinquent with respect to any lot on Said Property, and upon payment in full thereof, shall execute and file a proper release of the lien releasing the same. The aggregate amount of such assessments, together with interest, costs and expenses and a reasonable attorney's fee for the filing and enforcement thereof, shall constitute a lien on the whole Lot (including any improvement located thereon), with respect to which it is fixed from the date the lien is filed in the office of said County Recorder for Canyon County, Idaho, until the same has been paid or released as herein provided. Such lien may be enforced by said Association in the manner provided by law with respect to liens upon real property. The Owner of Said Property at the time said assessment is levied shall be personally liable for the expenses, costs and disbursements, including attorney's fees of the Declarant or of the Association, as the case may be, or processing and if necessary, enforcing such liens, all of which expenses, costs, disbursements and attorney's fees shall be secured by said lien, including all aforementioned expenses, costs, disbursements and attorney's fees on appeal, and such Owner, at the time such assessment is levied, shall also be liable for any deficiency remaining unpaid after any foreclosure sale. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his dwelling unit.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be inferior, junior and subordinate to the lien of all Mortgages now or hereafter placed upon Said Property or any part hereof. The sale or transfer of any Lot or any other part of Said Property shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any Mortgage, pursuant to a judgment or decree

of foreclosure thereof, shall extinguish the lien of such assessments as to amounts thereof which became due prior to such sale or transfer; and such lien shall attach to the net proceeds of sale, if any, remaining after such Mortgages and other prior liens and charges have been satisfied. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due.

**Section 9. Exempt Property.** The following Property subject to this Declaration shall be exempt from the assessments created herein:

- (a) all properties expressly dedicated to and accepted by a local public authority; and
- (b) any Common Areas.

**Section 10. Notice to Mortgagees.** The Association shall give to the Mortgagee of any recorded Mortgage, which has furnished to the Association its name and current address, written notification of any default by the Mortgagor of performance with respect to such Mortgagor's obligations under this Declaration, By-Laws of the Association or any duly-adopted rules or regulations of the Association, at least twenty (20) days prior to the filing of suit by the Association to enforce these remedies with respect to such default.

**Section 11. Association Budget.** The Association shall prepare an annual budget which shall indicate anticipated management, operating, maintenance, repair and other common expenses for the Association's next fiscal year, and which shall be sufficient to pay all estimated expenses and outlays of the Association for the next calendar year growing out of or in connection with the maintenance and operation of the Common Area improvements, and may include, among other things: the cost of exterior maintenance; management taxes; assessments; irrigation assessments; special assessments; fire, casualty and public liability insurance; common lighting; irrigation; landscaping and care of the grounds; repairs, renovations and paintings to Common Areas; snow removal; wages; water charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; the payment of any deficit remaining from a previous period, and the creation of any reasonable contingency or other reserve or surplus fund, as well as all costs and expenses relating to the Common Area and improvements. As part of the regular annual assessments for maintenance authorized above, the board of directors shall annually fix the amount to be contributed pro rata by each Member to reserve funds for the purposes of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position. The board shall maintain a separate account for those funds. The board shall fix the

method of payment of such assessments and shall be empowered to permit either lump sum or monthly payments. Separate records shall be maintained for all funds deposited to said account, which shall be designated as reserve account.

The initial budget to be adopted by the board pursuant to this Declaration shall be for the calendar year 1995. Thereafter, each budget shall be for the ensuing calendar year, which shall be the Association's fiscal year.

Section 12. Repair, Etc. If any of the property located in the Common Area and/or improvements located upon other property located within the subdivision owned by the Association is damaged or destroyed, the Members shall, at a special meeting called for that purpose, determine whether to rebuild, repair, restore or otherwise take action with regard to such damage or destruction. A quorum shall be necessary for any such decision, in accordance with the provision of Section 3 and 5 hereof, and, further, any such action shall be approved by the affirmative vote of not less than fifty-one percent (51%) of the votes of Members who are voting in person or by proxy at such meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting, unless waived in writing.

## **ARTICLE V** **ARCHITECTURAL CONTROL**

Section 1. Approval. No building, fence, wall, hedge, structure, addition, painting, improvement, obstruction, ornament, or planting shall be placed upon, added or permitted to remain upon any part of Said Property unless a written request for approval thereof containing the plans and specifications therefor, including exterior color scheme, has been approved, in writing, by the Architectural Control Committee which shall consist of the board of directors or as they may otherwise appoint. Applications for approval shall be made to the Architectural Control Committee. In the event said committee fails to approve or disapprove such design or location within thirty (30) days after said plans and specifications have been submitted in writing, approval shall not be required and this article will be deemed to have been fully complied with.

## **ARTICLE VI** **MAINTENANCE AND INSURANCE**

Section 1. Maintenance of Common Areas, Etc. The Association shall maintain or provide for the maintenance of the Common Areas and Limited Common Areas, including, but not limited to, sanitary sewer, water lines and drainage facilities and lines upon Lots privately owned within the subdivision.

**Section 2. Interior Maintenance.** Each Owner shall be responsible for maintaining and keeping in good order and repair the interior of his own dwelling unit, decks, balconies and the surface of patio areas.

**Section 3. Exterior Maintenance.** The Association shall maintain or provide for the maintenance of the exterior of all residence and fences constructed on Lots which shall be a common expense of the Association, excluding, however, door exteriors and windows.

**Section 4. Types of Insurance.** The Association shall obtain and keep, in full force and effect at all times, the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

(a) **Casualty Insurance.** Each Lot, improvements constructed thereon, and carports, if any, shall at all times be insured for the full replacement thereof in the event of damage or destruction, including fire and extended coverage, which policy or policies shall be purchased by the Association and show the Association, the Owners and Mortgagees as named insured as their interest may appear. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as, in the Association's opinion, are consistent with good business practice. No individual Owner shall be excused from assessments attributable to such policy for any reason and the existence of such a blanket policy is declared to be in the mutual interests of all Members who are entitled to vote two-thirds (2/3) of all votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

(b) **Public Liability and Property Damage Insurance.** The Association shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall include, without limitation, liability for the personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project.

(c) **Workmen's Compensation and Employer's Liability Insurance.** The Association shall purchase workmen's compensation and employer's liability insurance, and all other similar insurance, in respect of employees of the Association in the amounts and in the forms now or hereafter required by law for any employees of the Association.

(d) Fidelity Insurance. The Association shall purchase, in such amounts and in such forms as it shall deem appropriate, coverage against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(e) Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature as it shall deem appropriate with respect to the Project, including any personal property of the Association located thereon.

(f) Form. Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, unit number, the appurtenant undivided interest in the Common Area), and which policy or policies shall provide a standard loss payable clause providing for payments of insurance proceeds to the Association, as trustee for the Owners, and for the respective first Mortgagee which from time to time shall give notice to the Association of such first Mortgagees, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after ten (10) days' prior written notice is first given to each Owner and to each first Mortgagee. The Association shall furnish to each owner and Declarant a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy, as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Public liability and property damage insurance shall name the Association as the insured, as trustee for the Owners and shall protect each Owner against liability for acts of the Association, its agents and employees, in connection with the ownership, operation, maintenance or other use of the Project.

(g) Owner's Responsibility. Insurance coverage on the furnishings initially placed in the unit by Declarant, and casualty and public liability insurance coverage within each individual unit, and for activities of the Owner not acting by the Association with respect to the Common Area; insurance coverage against loss from theft on all personal property, and insurance coverage on items of personal property placed in the unit by the Owner, shall be the responsibility of the respective Owners.

(h) Insurance Proceeds. The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this article. The Association shall apportion the proceeds to the portions of the proceeds attributable to damage to the Common Area. To the extent that reconstruction is required herein, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed to the Owners equally. Each Owner and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant thereto.

(i) Owner's Own Insurance. Notwithstanding the provision of Section 4 hereof, each Owner may obtain insurance at his own expense providing coverage upon his lot, his personal property, for his personal liability, and covering such other risks as he may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this article. All such insurance shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents and guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation.

## **ARTICLE VII**

### **CASUALTY DAMAGE OR DESTRUCTION**

Section 1. Affects Title. Title to each Lot is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquires his Lot.

Section 2. Association as Agent. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute such appointment.

Section 3. General Authority of Association. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of improvements as used in the succeeding sections mean restoring the Project to substantially the same condition in which it existed prior to damage, with each dwelling unit and improvements, having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the

Association for the purpose of repair or reconstruction unless the Owners and all first Mortgagees unanimously agree not to rebuild in accordance with the provisions set forth hereinafter.

In the event any Mortgagee should not agree to rebuild, the Association shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if the Owners are in unanimous agreement to rebuild. The Association shall obtain the funds for such purpose by special assessments under Article IV of the Declaration.

Section 4. Estimate of Costs. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of the part of the Project damaged or destroyed.

Section 5. Repair or Reconstruction. As soon as practicable after receiving these estimates, the Association shall diligently pursue to complete the repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent to other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any unit may not vary by more than five percent (5%) from dwelling units as originally constructed pursuant to such original plans and specifications and the location of the buildings shall be substantially the same as prior to damage or destruction.

Section 6. Funds for Reconstruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article IV hereof, may levy in advance a special assessment of repair or reconstruction. Such assessment shall be allocated and collected as provided in that article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

Section 7. Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Article IV constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of repair or reconstruction, such balance shall be distributed to the Owners in



proportion to the contributions by each Owner pursuant to the assessments by the Association under Article IV of this Declaration.

Section 8. Decision not to Rebuild. If all Owners and all holders of first Mortgages on Lots agree not to rebuild, as provided herein, the Project shall be sold and the proceeds distributed as set out in Article VI, Section 4 (h).

## **ARTICLE VIII** **PROPERTY USE RESTRICTIONS**

The following restrictions shall be applicable to the real property subject to this Declaration and shall be for the benefit of, and limitation upon, all present and future Owners of Said Property or any interest therein:

Section 1. Unless written approval is first obtained from the board of directors, no sign of any kind shall be displayed to public view on any building or Building Site on Said Property except one professional sign of not more than five square feet advertising for sale or rent, or signs used by "Declarant" or its successors (if such successor acquires all of the remaining Lots owned by Declarant) to advertise the Property during the construction and sales period. If a Property is sold or rented, any sign relating thereto shall be removed immediately except that the Declarant, and only Declarant or its agent, may post a "sold" sign for a reasonable period following a sale.

Section 2. No animals, birds, insects or livestock shall be kept on Said Property except domesticated dogs, cats or other common household pets which do not unreasonably bother or constitute a nuisance to others. Said pets shall be allowed the use of such portions of roads and other public ways or easements as may be designated or permitted for such use from time to time by the Association and under such conditions as may be set by the Association. No dogs or cats in excess of two (2) shall be kept by any residential household within said subdivision, and no animals of any kind shall be bred or kept for commercial purposes. All dogs must be leashed when outside a dwelling unit, and shall not be allowed in the Common Area or kenneled outside the dwelling units.

Section 3. No part of Said Property shall be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash or other waste shall be kept or maintained on any part of Said Property except in a sanitary container. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be permitted to be in public view.

Section 4. No noxious, offensive or unsightly conditions shall be permitted upon any part of Said Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 5. No trailer, camper-truck, tent, garage, barn, shack or other outbuilding shall at any time be used as a residence temporarily or permanently on any part of Said Property.

Section 6. Parking of junk cars, or other unsightly vehicles, shall not be allowed on any part of Said Property nor on public ways adjacent thereto. All other parking of equipment shall be prohibited except as approved in writing by the board of directors. Automobiles shall not be parked upon the portions of the Common Area designated as street.

Section 7. No Owner shall remove or otherwise alter any plant, tree or any landscaping or improvements in any Common Area without the written consent of the board of directors.

Section 8. The Owners shall not materially change the color of paint, stain or finish from that initially placed upon the exterior of the improvements placed upon Said Property without first obtaining the approval of the board of directors.

Section 9. Each Owner shall at the Owner's sole cost and expense landscape his Lot. The Association shall, after installation of landscaping by each Owner on his Lot, maintain the installed landscaping and the Owner shall have no right to change or modify the landscaping without prior approval of the Association.

Section 10. No overhangs, wing walls or other architectural appendages shall encroach or project onto adjoining Lots.

Section 11. There shall be no television antenna, ham radio antenna, or other appurtenances or appendages to any dwelling unit except as are approved by the board of directors.

Section 12. There shall be no metal storage nor wood storage attachments to any dwelling unit except as approved by the board of directors.

Section 13. All dwelling units within the subdivision shall be used solely for residential purposes and shall be occupied by not more than one family unit.

**Section 14. Adoption of Rules.** The Association, through its board of directors, may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the Property and other Owners.

**Section 15. Use of Recreational Facilities in the Common Area.** The Association shall have the power to limit the number of an Owner's guests who may use the recreational facilities:

**Section 16. Right to Lease.** The respective individual units or any portion thereof shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as

(a) rental for any period less than thirty (30) days, or

(b) any rental if the occupants of the unit are provided customary hotel service such as room service for food and beverage, maid services, furnishing laundry and linens, and bellboy service.

Subject to the foregoing restrictions, the Owners of the respective units shall have the absolute right to lease same provided that the lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration.

**Section 17. Clothes Lines.** No exterior clothes lines shall be erected or maintained and there shall be no outside laundry or drying of clothes. Further, no clothes washers, clothes dryers, refrigerators or freezers may be kept, stored or operated on any balcony, patio, porch or other exterior area.

**Section 18. Drapes.** No portion of any drapes, blinds or curtains, which are installed on the interior of any residence, which may be seen from outside such residence, shall be of a color, texture or material which, in the reasonable opinion of the board of Architectural Control Committee, is inharmonious with the exterior appearance of all residences.

**Section 19. Basketball Standards.** No basketball standard or fixed sports apparatus shall be attached to the exterior surface of any residence or garage, or affixed to any portion of the Common Area.

## **ARTICLE IX EASEMENTS**

**Section 1. General.** All conveyances of Lots, and the Common Area, shall be subject to the foregoing restrictions, conditions, and covenants, whether or not the same

be expressed in the instruments of conveyance, and each and every such instrument of conveyance shall likewise be deemed to grant and reserve, whether or not the same be declared therein, mutual and reciprocal easements over, across and under all Common Areas and easements over all Lots for maintenance and otherwise as authorized by this Declaration, and easements as otherwise shown on the plat for the Property, and excepting any portion of Said Property which may now or hereafter be occupied by a residence. All of said easements shall be for the benefit of all present and future Owners of Property subject to the jurisdiction of the Association by covenants and restrictions recorded and approved as hereinabove provided; said easements, however, shall not be unrestricted, but shall be subject to reasonable rules and regulations governing rights of use as adopted from time to time by the directors of the Association in the interests of securing maximum safe usage of Said Property without unduly infringing upon the rights or privacy of the Owner or occupancy of any part of Said Property. The easements provided for in this article are in addition to those set forth in Article III.

Section 2. Common Area. A further mutual and reciprocal easement for sidewalk purposes is granted and reserved over and across the Common Areas in the Said Property, for the purpose of constructing, maintaining and repairing sidewalks for the benefit of the residents of Said Property, their tenants and guests, for the ingress and egress subject, however, to rules and regulations reasonably restricting the right to use thereof for the safety and welfare of the public as may be promulgated from time to time by the Association and/or public authority.

Section 3. Party Walls. The dwelling units constructed upon the Lots include party walls, being the common walls between two dwelling units, separating the units. Such party walls are intended to be constructed upon the Lot boundary lines separating adjoining Lots. To the extent any party wall exists, encroaches or overlaps upon a Lot, there is hereby created a common reciprocal easement for the location of such party wall. Each Owner shall have the right to use the surface of any party wall contained within the interior of the Owner's dwelling unit, provided that an owner shall not drive, place or cause to be drive or placed any nail, bolt, screw or other object into a party wall which penetrates the surface of such party wall more than one inch. The Owner shall respectively own to the centerline of any party wall. In the event any party wall is damaged or destroyed through the act or negligence of an Owner, that Owner shall be obligated to repair or replace the party wall.

## ARTICLE X GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, or the Owner of any recorded Mortgage upon any part of Said Property, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and

charges now or hereafter imposed by the provisions of the Declaration. Failure by the Association, or by any Owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event suit is brought to enforce the covenants contained herein, the prevailing party shall be entitled to recover a reasonable attorney's fee in addition to allowable cost.

Section 2. Irrigation and Water Rights. This subdivision is provided irrigation water through the City of Nampa and is subject to any and all assessments of said City and any and all other water districts or authority within the subdivision.

Section 3. Governmental Regulations. Approval by the City of Nampa or any other governmental entity vested with the responsibility of reviewing planning and zoning having jurisdiction over this subdivision, of any application made by any Owner which is in conflict with any covenants, conditions or restrictions of this Declaration shall in no way affect or invalidate this Declaration, but this Declaration shall remain in full force and effect, and subject to enforcement and remedies for violation hereof. In the event of a conflict between any provision of these Restrictive Covenants and zoning or building code requirements of the City of Nampa or any other governmental entity having jurisdiction over this subdivision, the more restrictive or limiting requirement shall be followed.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Term of Restrictions and Amendment. The covenants and restrictions of this Declaration shall run with the land described herein, and shall be binding upon the parties hereto and all successors in title or interest to said real property or any part thereof, for a term of twenty (20) years from the date this Declaration is recorded. During said initial term, said covenants may be amended by an instrument in writing duly signed and acknowledged by not less than two-thirds (2/3) of the Owners of the platted lots. After said initial term, said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless the Owner or Owners of the legal title to not less than two-thirds (2/3) of the platted Lots, by an instrument or instruments in writing, duly signed and acknowledged by them, shall then terminate or amend said restrictions. Such termination or amendment shall become effective upon the filing of such instrument or instruments for recording in the office of the County Recorder for Canyon County, Idaho. Such instrument or instruments shall contain proper references by volume and page numbers to the records of the plats and record of this deed in which these restrictive covenants are set forth, and all amendments thereof.

Section 6. No Right to Reversion. Nothing herein contained in this Declaration, or in any form of deed which may be used by Declarant, or its successors and assigns, in selling Said Property, or any part thereof, shall be deemed to vest or reserve in Declarant or the Association any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof.

Section 7. Benefit of Provisions - Waiver. The provisions contained in this Declaration shall bind and inure to the benefit of, and be enforceable by Declarant, the Association and the Owner or Owners of any portion of Said Property, and their heirs and assigns, and each of their legal representatives, and failure by Declarant or by the Association or by any of the Property Owners or their legal representatives, heirs, successors or assigns, to enforce any of such conditions, restrictions or charges herein contained shall in no event be deemed a waiver of the right to do so.

Section 8. Assignment by Declarant. Any or all rights, powers and reservations of Declarant herein contained may be assigned to the Association or to any other corporation or association which is now organized or which may hereafter be organized and which will assume the duties of the Declarant hereunder pertaining to any such corporation or association evidencing its intent in writing to accept such assignment and assume such duties, and it shall, to the extent of such assignment, have the same rights and powers, and be subject to the same obligations and duties as are given to, and assumed by, Declarant herein. All rights of Declarant hereunder reserved or created shall be held and exercised by the Declarant alone, so long as it owns any interest in any portion of Said Property.

Section 9. Mortgagees' Right to Satisfy Obligations of the Association. In the event that the association fails to pay any debt or sum lawfully owed by it, for which a lien has been placed against the Association common Property, or in the event that the Association fails to pay premiums due on insurance policies required by these covenants, the lapse of which would jeopardize a Mortgagee's security, a Mortgagee may pay said sum of premium after first having served five (5) days' written demand for such payment of the Association. In the event that the Association has allowed said insurance policies to lapse, a Mortgagee whose security is jeopardized thereby may secure new comparable insurance coverage. In the event that a Mortgagee makes payments allowed hereunder, it shall be entitled to prompt reimbursement from the Association.

Section 10. Annexation. Additional residential property and Common Area may be annexed to the Property with the consent of two-thirds (2/3) of each class of Members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this day of June, 1995.

JUNIPER DEVELOPMENT, INC.

By: William Naver  
President

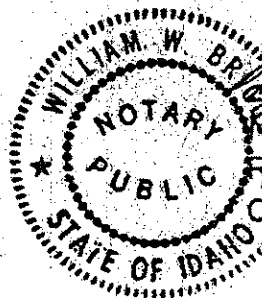
ATTESTED:

Sharon Litzbauer  
Assistant Secretary

STATE OF IDAHO )  
                                  ) SS  
County of Ada            )

On this 28<sup>th</sup> day of June, 1995, before me, the undersigned, notary public in and for said State, personally appeared William Naver and Sharon Litzbauer known or identified to me to be the President and Assist. Sec., respectively, of JUNIPER DEVELOPMENT, INC., an Idaho Corporation, the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



William W. Bragg  
NOTARY PUBLIC for Idaho  
Residing at Boise, Idaho  
Commission expires: 11/11/99

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DECLARATION OF  
SOLAR COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE HICKORIES SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by Juniper Development, Inc., hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of certain property in the City of Nampa, County of Canyon, State of Idaho, which is more particularly described on Exhibit A, incorporated herein by reference.

WHEREAS, the Declarant proposes to subdivide The Hickories Subdivision pursuant to City of Nampa and Idaho law as shown on Exhibit A, incorporated herein by reference.

WHEREAS, the City of Nampa subdivision ordinance requires that private restrictions be recorded with subdivision plats which provide the same level of solar access protection as required under the city's solar setback and new development solar access design ordinances.

NOW THEREFORE, in recognition of the economic and environmental benefits of solar energy use, the Declarant desires to provide for the preservation of solar access in the subdivision and to that end desires to impose, in the form of covenants, conditions, and restrictions running with the land, a general scheme of solar access protection upon the ownership, use, and occupation of all lots therein which shall be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

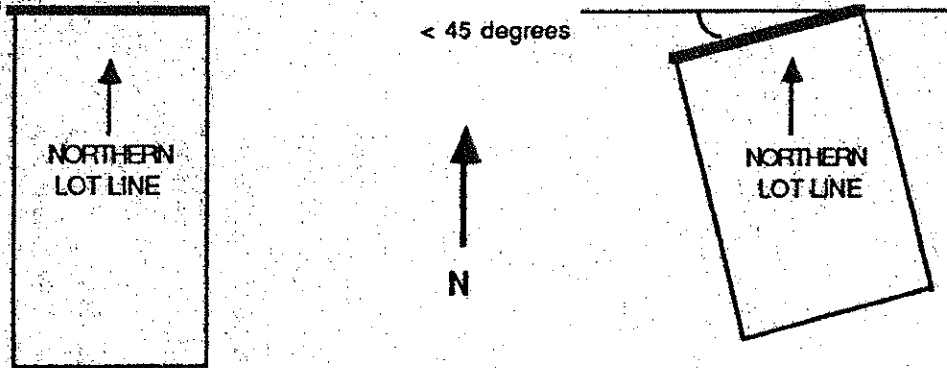
ARTICLE I  
SOLAR ACCESS DEFINITIONS

A. Exempt Tree. Any vegetation listed on Exhibits A, B or C, as exempt; also, all solar friendly vegetation.

B. Northern Lot Line. All lot lines at an angle of forty five degrees (45') or less from a line drawn due east-west and intersecting the northernmost point of the lot. The pole of flag lots is excepted. If no such line exists, the line nearest to forty five degrees (45') shall be used. If the north side of the lot adjoins an unbuildable area (e.g., rights-of-way,



private roads, commonly owned open space or parking areas) other than a required yard area the northern lot line shall be at the northerly edge of the unbuildable area.

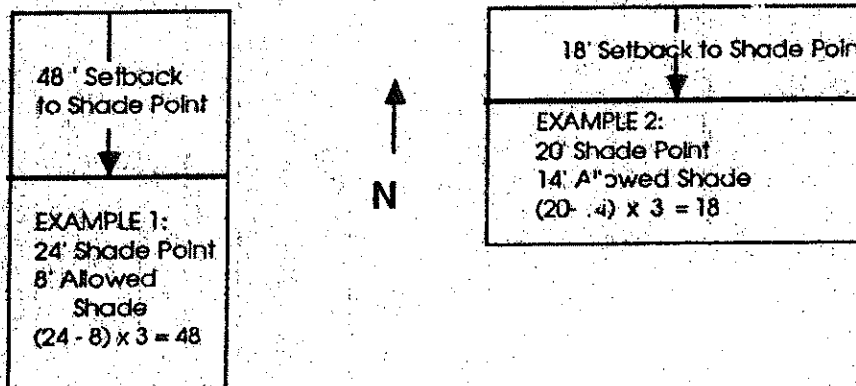


C. Protected Solar Building Line. A line on a plat which establishes the southernmost boundary for a structure on a lot.

D. Shade Point. The part of a structure or tree which casts the longest shadow at 10:00 A.M. and 2:00 P.M. on December 21.

E. Solar Friendly Tree. Any vegetation determined by the City of Nampa not to create significant shadows during the winter months because of its bare branch pattern, foliar period, and growth characteristics.

F. Solar Setback. The minimum distance the shade point of a structure, or non-exempt tree on a lot created under the provisions of Nampa New Development Solar Access Design Standard after June 1, 1987, must be set back from the northern lot line or solar building line, whichever is applicable. The distance of the solar setback shall be measured along a line running perpendicular to the northern lot line or solar building line.



ARTICLE II  
SOLAR ACCESS COVENANTS,  
CONDITIONS AND RESTRICTIONS

A. Governmental Regulation. No tree, structure, or other obstruction shall be planted, constructed, altered, installed, or otherwise maintained or undertaken unless in compliance with the solar access regulations of the City of Nampa. If at a future date city solar access regulations are amended those amendments shall be applicable and the provisions of this covenant shall not be construed to allow violation of any city solar access regulation. The City can provide property owners with information, technical specifications and assistance in complying with the solar setback requirements.

B. Solar Setbacks for Structures and Trees. A solar setback for structures and trees shall apply to every lot. The effects of the solar setback vary depending on whether the lot has been designed to meet solar options A, A1, B, C, D, D1, E or F. See Exhibit B, incorporated herein by reference, to determine which option applies to a given lot. See Exhibit C, incorporated herein by reference, for an illustration of the solar setback effects for lots complying with the different solar design options. The requirements for each of the six options are described below.

1. Option A, A1 and B: The solar setback shall be three feet (3') for every one foot (1') of shade point height over eight feet (8') measured at the northern lot line. In addition, the roof ridgeline of any dwelling located on an Option A1 lot shall be oriented within 30 degrees of a true east-west axis.

2. Option C: The solar setback shall be one foot (1') for every three feet (3') of height measured from the protected solar building line of the lot to its north. Solar building lines are shown on Exhibit A, incorporated herein by reference.

3. Option D and D1: The solar setback shall be three feet (3') for every one foot (1') of shade point height over eight feet (8') measured at the northern lot line. For Option D lots the roof ridgeline of dwellings shall be oriented within 30 degrees of a true east-west axis.

4. Option E: Only manufactured homes are allowed on these lots. The long axis for the manufactured homes must be oriented within 30 degrees of true east-west.

5. Option F: The solar setback shall be three feet (3') for every one foot (1') of shade point height over fourteen feet (14') measured at the northern lot line.

C. EXEMPT TREES. The following trees are exempt from any solar setback requirements.

1. Pre-Existing Trees: Pre-existing non-solar friendly trees listed on Exhibit D, tree map, incorporated herein by reference, are exempt from all solar setback requirements.

2. Solar Friendly Trees: All solar friendly trees, whether pre-existing or planted at any time in the future, are exempt from all solar setback requirements. A list of solar friendly trees is available from the City.

D. Multi-family Buildings. All multi-family buildings to be erected on lots designated as solar lots by the Declarant in order to obtain a density bonus under City of Nampa solar access regulations shall have a minimum of twenty five percent (25%) of their total wall area facing within thirty degrees (30°) of south and a minimum of eighty percent (80%) of the south facing wall area shall be outside of the shadow pattern of other buildings. Exhibit B, incorporated herein by reference, lists respective lots designated and approved for multi-family buildings under these provisions.

### ARTICLE III

#### SOLAR ACCESS RIGHTS, DUTIES AND ENFORCEMENT

A. Solar Access Rights. The owner(s) of any lot within The Hickories Subdivision shall have a right to solar access in accordance with the solar setback restrictions placed on neighboring lots as identified in Exhibits A and B.

B. Solar Access Duties. The owner(s) of any lot within The Hickories Subdivision shall not build, install, or otherwise allow a structure or non-exempt tree on that lot to cast more shade at the northern lot line than permitted under the above solar access covenants, restrictions and conditions.

C. Enforcement and Non-Waiver. Any lot owner, homeowner association, or the City, whether or not directly affected, shall have the right to enforce, by any proceeding at law or in equity, any violation or threatened violation

of a provision of this Declaration: The failure of any person to enforce any covenant or restriction herein contained shall not be deemed a waiver of the rights of any other person. Waiver of one breach does not constitute waiver of any other breach. There can be no waiver of the right to solar access created by this Declaration.

Planning officials of the City of Nampa will exercise reasonable care to verify that a structure for which a building or other permit is required will not violate the duties and rights created by this Declaration, based on an application for a building or other city-issued permit for a lot in the subdivision. The City may presume information in an application is correct. It is the intent of the City that private property owners take primary responsibility for enforcing the provisions of this covenant which relate to: 1) structures which do not require a building permit from the City and 2) trees.

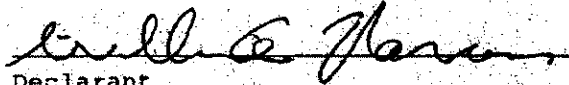
ARTICLE IV  
MISCELLANEOUS

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

B. Duration and Applicability to Successors. The covenants, conditions, and restrictions set forth in this Declaration shall be in effect perpetually, shall run with the land and shall inure to the benefit of and be binding upon the Declarants and all lot owners in the subdivision and their successors in interest.

C. Amendment. This Declaration may be amended by the action of the owners of a majority of the lots in the subdivision affected by such amendment and the amendment is approved by the City of Nampa before it becomes effective.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed this 19th day of July, 1995.

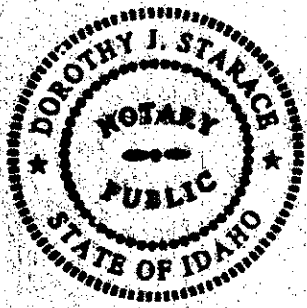
  
Declarant  
William A. Narver, President  
Juniper Development, Inc.

ACKNOWLEDGMENT

STATE OF IDAHO )  
 ) ss  
County of Canyon )

On this 19th day of July, in the year of 1995, before me DOROTHY J. STARACE personally appeared William A. Narver, President of Juniper Development, Inc., known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same for and in behalf of Juniper Development, Inc..

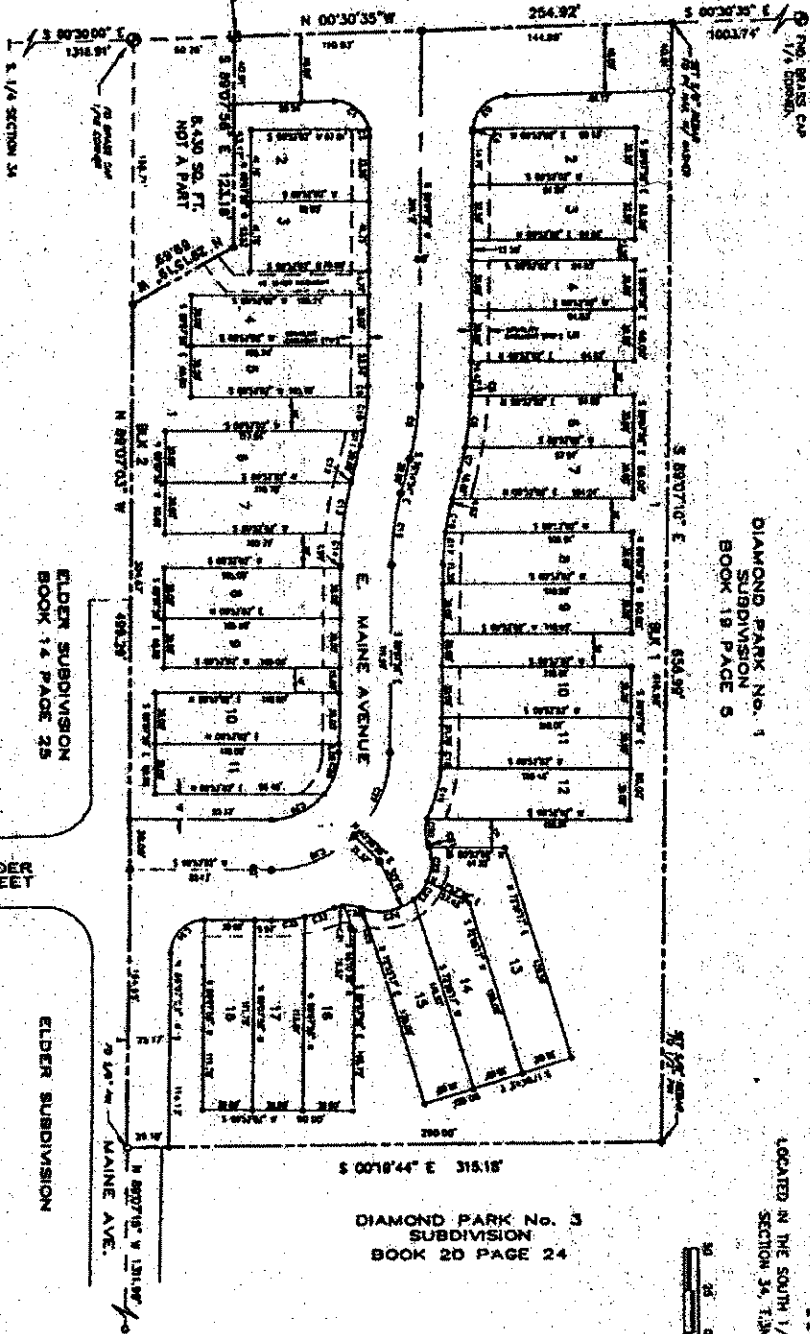
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal the day and year first above written.



Dorothy J. Starace  
Notary Public for Idaho  
Residing at Boise Idaho

Commission expires 1-27-97

UNPLATTED  
SUNNYRIDGE ROAD  
BASIS OF BEARING  
1318.82'



DIAMOND PARK No. 1  
SUBDIVISION  
BOOK 19 PAGE 5

DIAMOND PARK No. 2  
SUBDIVISION  
BOOK 20 PAGE 24

LOCATED IN THE SOUTH 1/2 OF THE SW 1/4 OF THE NW 1/4 OF THE SE 1/4,  
SECTION 34, T32N, R22W, S1E, CANTON COUNTY, IDAHO  
1994

PLAT OF  
THE HICKORIES



PLAT LEGEND

- Initial Paint Set Brass Cap
- Found Brass
- Set 5/8" x 30" Rebar with Plastic Cap
- Set 1/2" x 24" Rebar with Plastic Cap
- Found 5/8" x 30" Rebar
- Found 1/2" x 24" Rebar
- Boundary Line
- Left-Of-Way Line
- Centerline
- Utility Easement, Use as Designated

- NOTES:**
1. PRECISELY SURVEYED WILL BE PROVIDED TO EACH LOT.
  2. LOT 1 BLOCK 1 AND LOT 1 BLOCK 2 ARE CORNER LOTS FROM CHANGING APPROXIMATE.
  3. LOT 1 BLOCK 1 AND LOT 1 BLOCK 2 ARE SUBJECT TO A EASEMENT UTILITY EASEMENT.
  4. SIGN PLACEMENT AND RELATIONSHIP OF SIGNATION FACTORS SHALL BE SUBJECT TO THE APPROVAL OF TOWN-ADMINISTRATIVE REGULATION DISTRICT.
  5. ALL LOTS ARE SUBJECT TO A UTILITY EASEMENT.
  6. THIS SUBDIVISION IS SUBJECT TO A CHANGING USE PERMIT.

CURVE TABLE

Stationing	Curve Data
0+00	100' Radius
0+50	100' Radius
1+00	100' Radius
1+50	100' Radius
2+00	100' Radius
2+50	100' Radius
3+00	100' Radius
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98+00	100' Radius
98+50	100' Radius
99+00	100' Radius
99+50	100' Radius
100+00	100' Radius

**TENDER DEVELOPMENT, INC.**     **BRIGGS ENGINEERING, INC.**  
Developer                                     Consulting Engineers  
Boise, Idaho                                     Boise, Idaho

SHEET 1 OF 2

EXHIBIT B  
SUMMARY OF SOLAR ACCESS CHARACTERISTICS OF LOTS  
FOR THE HICKORIES SUBDIVISION

(See below explanations)

Block #	Lot #	N-S Lot Dimension	Shade Allowed At N. Lot Line	Opt. A Lot	Opt. A1 Lot	Opt. B Lot	Opt. C Lot	Opt. D Lot	Opt. D1 Lot	Opt. E Lot	Opt. F Lot	Pre-Existing Trees *	Multi-Family Bldg. Density Bonus
1	2	115.00'	8'	X								None	N/A
1	3	115.00'	8'	X								"	"
1	4	115.00'	8'	X								"	"
1	5	115.50'	8'	X								"	"
1	6	116.00'	8'	X								"	"
1	7	121.50'	8'	X								"	"
1	8	130.00'	8'	X								"	"
1	9	130.00'	8'	X								"	"
1	10	130.00'	8'	X								"	"
1	11	130.00'	8'	X								"	"
1	12	133.00'	8'	X								"	"
1	13	105.00'	8'					X				"	"
1	14	30.00'	14'							X		"	"
1	15	30.50'	14'							X		"	"
1	16	54.00'	14'							X		"	"
1	17	30.00'	14'							X		"	"
1	18	30.00'	14'							X		"	"
2	2	130.00'	8'	X								"	"
2	3	130.00'	8'	X								"	"
2	4	165.24'	8'	X								"	"
2	5	165.22'	8'	X								"	"
2	6	176.50'	8'	X								"	"
2	7	169.50'	8'	X								"	"
2	8	165.00'	8'	X								"	"
2	9	165.00'	8'	X								"	"
2	10	170.00'	8'	X								"	"
2	11	170.00'	8'	X								"	"

SUMMARY INFORMATION ON SOLAR ACCESS - Total Number of Residential Lots: 27

No. of Residential Lots Meeting Solar Design Standards A-E: 22  
Percent of Lots Meeting Solar Design Standards A-E: 81.1%

EXHIBIT B continued...

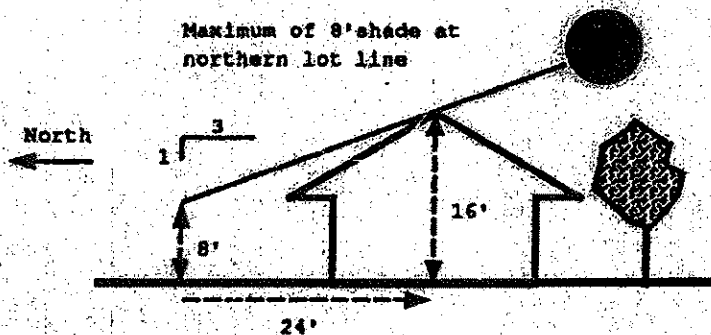
SUMMARY OF SOLAR ACCESS CHARACTERISTICS OF LOTS  
FOR THE HICKORIES SUBDIVISION

<u>Design Standard</u>	<u>Number of Lots</u>	<u>General Description of Standard</u>
Option A:	21	(Platted with a N-S lot dimension of 100' or more and front lot line oriented within 30° of E-W)
Option A1:		(Platted with a N-S lot dimension of 100' or more and ridge line to be oriented within 30° of E-W)
Option B:		(N-S lot depth 90'-99', 8' max. shade allowed at N. lot line)
Option C:		(Solar building line oriented within 30° of E-W, 48' min. to midpoint of N-S lot dimension)
Option D:		(N-S lot width 80'-99', 8' max. shade at N. lot line, ridge to be oriented within 30° of E-W)
Option D1:	1	(N-S lot width 100' or greater, 8' max. shade allowed at N. lot line, ridge to be oriented within 30° of E-W)
Option E:		(Manufactured home lot, long axis to be oriented within 30° of E-W)
Option F:	5	(Non-solar lots, 14' max. shade allowed at N. lot line)

\* If yes, see Exhibit D for listing of exempt trees.



**Illustration of Solar Setback  
for Options A, A1, B, D, and D1**



Solar Setback from Northern Lot Line to Shade Point - TYPE Misc Fee 30.00  
 $(16 - 8) \times 3 = 24'$

RECORDED

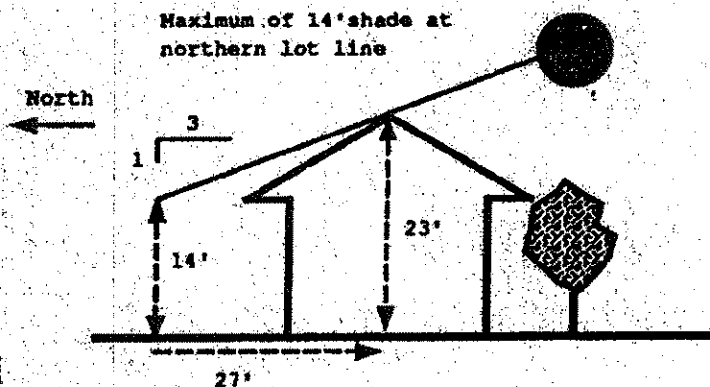
'95 JUL 19 PM 4 05

HILL CANYON COUNTY RECORDER

BY *M. Cray*

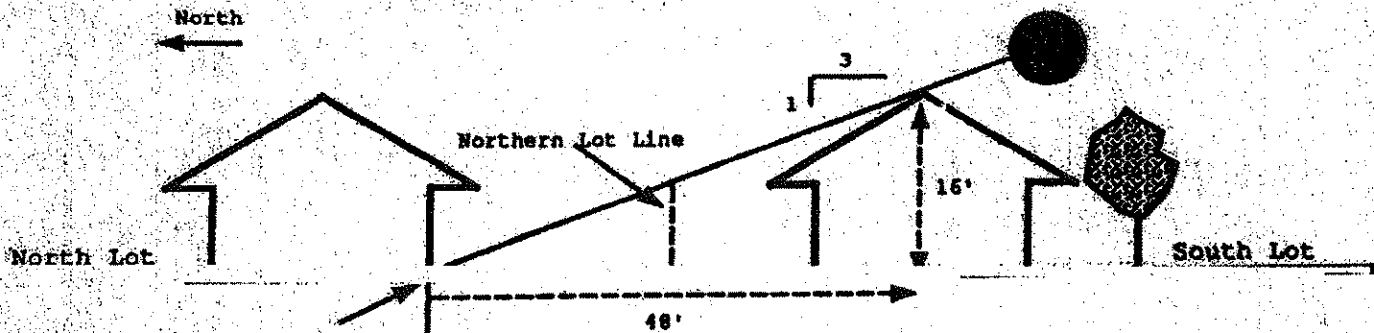
REQUEST **STEWART - NAMPA**

**Illustration of Solar Setback  
for Option F**



Solar Setback from Northern Lot Line to Shade Point -  
 $(23 - 14) \times 3 = 27'$

**Illustration of Solar Setback  
for Option C**



Solar Setback from Protected Solar Building Line to Shade Point -  
 $3 \times 16 = 48'$

