

State of Oregon, County of Klamath  
Recorded 02/18/2005 3:21 p m  
Vol M05 Pg 11229-33  
Linda Smith, County Clerk  
Fee \$ 44.00 # of Pgs 5

**RECORDING COVER SHEET  
FOR CONVEYANCES PER ORS 205.234**

*THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON  
PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING.  
ANY ERRORS IN THIS COVER SHEET DO NOT AFFECT THE  
TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.*

**AFTER RECORDING RETURN TO:**

*Described in the attached instrument. Required by ORS 205.234(a)*

*of*  
Five Development, LLC  
8425 Agate Rd.  
White City, OR 97503

**NAME(S) OF THE TRANSACTION(S),** *as described in the attached instrument  
and required by ORS 205.234(a)*

**Declarations of Conditions and Restrictive Covenants**

**GRANTOR,** *as described in ORS 205.160*

Five Development, LLC

Unofficial Copy

**DECLARATION OF CONDITIONS AND RESTRICTIVE COVENANTS**  
**TRACT 1428**

**Situated in E1/2 NW1/4 of Section 12, T39S, R9EWM, Klamath County, Oregon**

Five Development, LLC, owners and developers of Lots 26 through 61 of Tract 1428 Subdivision, located in Klamath County, Oregon hereby declare the following conditions and restrictions governing the construction, development and use of said real property. These conditions shall run with the land and shall be binding on all persons claiming an interest (ownership or leasehold) in the property.

**GENERAL PROVISIONS:**

- 1. Land Use and Building Codes:** All lots shall be used for single-family residential purposes only. All structures must be "stick-built" construction. No manufactured, modular, or factory homes will be allowed. All setback regulations shall be strictly adhered to. Structures are prohibited on utility easements. No structures of temporary character including but not limited to tents, shacks, garages, sheds, manufactured homes, recreational vehicles, or other out buildings shall be used on any lot as a residence.
- 2. Dwelling Sizes:** All dwellings, exclusive of open porches and garages, shall not be less than 1350 square feet in size. Homes may be single story, split level, or two story. Each residence must have an attached garage large enough to accommodate two (2) passenger vehicles.
- 3. Building Materials & Design:** Residential buildings shall be "craftsman" style (a well recognized architectural style), which often include features such as low-pitched roof, wide eaves, exposed rafter tails, decorative bracing, porches with columns, dormers, shutters, corbels or similar trim, etc. All house construction shall be completed within six (6) months from the start of construction of the individual house. Building plans must be approved by the Architecture Committee described below.

Minimum construction standards shall include horizontal lap siding on all building surfaces facing street frontages; architectural-grade composition roofing in dark brown, gray, or black tones; exterior paint colors must be earth tones (no white, yellow, pastels, etc.); and decorative trim with contrasting colors (white or cream allowed). Each parcel shall have driveways and sidewalks. Rocks, cinders, or any loose material are not allowed for driveways or sidewalks for residences.

**4. Parking/Storage:** Parking and storage of boats, trailers, motor homes, campers, recreational vehicles, like equipment, wood piles or accumulation of any materials is prohibited unless confined within a garage, storage port, or behind a screening fence, and in no event shall project beyond the front walls of any dwelling or garage. No junked or wrecked vehicles will be permitted anywhere within the subdivision.

**5. Commercial Uses:** No commercial use is permitted on any lot within the subdivision. This prohibition specifically includes the parking of any tractor-trailer, semi-truck, heavy equipment, storage of materials used in a business, or use of a residence as a daycare facility.

**6. Sidewalks:** Purchaser (or owner if dwelling has not sold) is required with 30 days after completion of dwelling or one year after purchase of lot, whichever occurs first, to construct sidewalks along the front (and side in the case of corner lots) of the property in conformity with the standards of Klamath County or the City of Klamath Falls standard specifications (upon annexation to the City).

**7. Landscaping/Fences:** Within six (6) months of completion of residential construction, purchaser (or owner of the lot if the dwelling has not been sold) is required to complete the landscaping of the front yard of the property. Landscaping shall include grass, plants, shrubbery, and at least one tree. No privacy fences are permitted in the front yard. Privacy fences are permitted between houses and around back yard areas. Fencing and landscaping plans must be approved by the Architecture Committee.

**8. Miscellaneous:**

No noxious or offensive activity is permitted. No signs are permitted except for "for sale", political yard signs, or similar size temporary signs. The size of any signs shall be limited to nine square feet. No animals, livestock or poultry may be raised, bred, or kept on any lot. Household pets are allowed, provided they are controlled and contained and maintained per County or City laws. Trash, garbage, rubbish, unused equipment and materials shall not be allowed to accumulate and at all times must be contained within enclosures outside of public view. No outdoor overhead wires, poles, towers, or similar structures are permitted.

**ARCHITECTURE COMMITTEE:**

The Architecture Committee (AC) is responsible for reviewing and approving structure design, building materials, landscaping plans, and all other questions or disputes related to the CC&R's. The AC will be comprised of three (3) members. Initial members will include two representatives from the developer, Five Development, LLC, and a third person selected by agreement of the first two members. Members may resign or be removed by a majority vote of the subdivision property owners. Vacancies will be filled with individuals who are subdivision property owners, appointed by the remaining AC members.

Procedures: Plans for proposed structures, swimming pools, landscaping, fences, etc., clearly showing the nature, height, shape, materials, colors, and site location must be submitted to the AC at least 15 days prior to the commencement of construction. The AC must review and formally approve (by at least a 2/3 majority vote indicated by placing their initials on the plan documents) such plans before construction begins. Disapproval by the AC must be in writing with an explanation of the reasons for disapproval. Inaction (failure to approve or disapprove) by the AC after 30 days following submission of plans shall be deemed to constitute approval.

AC members are charged with acting in good faith for the benefit of the overall subdivision under the guidelines of these CC&R's. No AC member shall be held personally liable for exercising judgment, providing they act in good faith.

**ENFORCEMENT & REMEDIES:**

Any violation of these conditions and restrictive covenants can result in civil liability. All real property owners within the subdivision shall have the full power and authority to prosecute a civil claim against anyone violating these CC&R's. The prevailing party shall be entitled to injunctive relief, money damages for diminished value to real estate, and all enforcement costs including award of attorney's fees.

**AMENDMENT:**

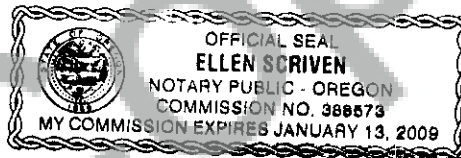
These conditions and restrictive covenants may not be terminated, revoked, or amended for a period of two (2) years (until February 15, 2007). Thereafter, these CC&R's may be amended by a majority vote of the owners of the platted lots.

Date: 2/18/05

FIVE DEVELOPMENT, LLC

By: James F. Servoss  
James F. Servoss, Manager/Member

STATE OF OREGON           )  
  SS.  
County of Jackson        )



On this 18<sup>th</sup> day of February, 2005, personally appeared the above named Manager/Member of Five Development, LLC, James F. Servoss, and acknowledged the foregoing instrument to be its voluntary act and deed.

Subscribed and Sworn before me:

Ellen Scriven  
Notary Public for Oregon