

Fidelity National Title # 6002160102

Mail Tax Statements To:

No Change

REEL 3827 PAGE 295
MARION COUNTY
BILL BURGESS, COUNTY CLERK
06-14-2016 01:25 pm.
Control Number 415737 \$ 91.00
Instrument 2016 00027713

After Recording Return To:

John D. Miller
Wildwood, Inc.
4985 Battlecreek Road SE #200
Salem, OR 97302

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WOODSCAPE GREEN PHASE 2**

This Declaration of Covenants, Conditions and Restrictions for a portion of WOODSCAPE GREEN PHASE 2, a Subdivision (the "**Declaration**"), is made on June 13, 2016, by **WILDWOOD, INC.**, an Oregon corporation (hereinafter the "**Declarant**"), effective upon the date of recordation of this instrument in the real property records of Marion County, Oregon.

RECITALS:

A. Declarant is the owner of certain real property located in Marion County, Oregon which is described as follows (the "**Subject Property**"):

Lots 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61, WOODSCAPE GREEN PHASE 2, in the City of Salem, recorded May 31, 2016 as Volume H47, Page 75 in the Marion County Book of Town Plats, Marion County, Oregon.

B. Declarant has created a subdivision to be known as Woodscape Green Phase 2 (the "**Subdivision**") which, in addition to the Subject Property, includes Lots 62 and 63. A plat of the Subdivision was recorded in the real property records of Marion County, Oregon on May 31, 2016 as Volume H47, Page 75 in the Marion County Book of Town Plats, Marion County, Oregon. The portion of the Subdivision consisting of the Subject Property is to be subject to this Declaration, and this Declaration is recorded by Declarant for that purpose.

C. Declarant has deemed it desirable for the preservation of the value and desirability of the Subject Property, to subject the Subject Property to the following covenants, conditions, restrictions to promote the health, safety, and welfare of the Subject Property. Declarant does not intend for this Declaration to apply to Lots 62 and 63 of the Subdivision.

NOW, THEREFORE, the Declarant hereby declares that each parcel of the Subject Property shall be sold, conveyed, owned and occupied subject to the provisions of this Declaration. Each person or entity, upon acceptance of a deed or land sale contract to purchase, covenants and agrees to comply with said provisions of this Declaration.

1. Recitals

The recitals set forth above are incorporated herein by this reference.

2. Covenants with the Land

All of the Covenants contained in this instrument shall run with the land described in Recital A (the Subject Property). No land, parcel, or lot within the Subject Property shall be conveyed, except subject to all this Declaration. The Declaration is declared inserted by reference in any and all deeds to any part of Subject Property. The Declaration is for the benefit of the owners of land within the Subject Property.

3. Governing Law

Woodscape Green Phase 2 is a community in which owners are not collectively responsible for the maintenance, operation, insurance or other expenses relating to any property within the planned community, including common property, if any, or for the exterior maintenance of any property that is individually owned and, therefore, under Oregon Law is not subject to the Oregon Planned Community Act.

4. Phased Development

Declarant may develop and plat portions of Declarant's property included in the Subdivision in several phases. As each phase is developed, Declarant will record a plat of the phase and each plat will identify the property included in that phase. There is no limit on the number of phases that may be included. Declarant is not obligated to subject all or any particular portion of the Declarant's property to this Declaration. If additional lots or units are annexed or added and made subject to this Declaration, each such additional lot, unit and member shall, upon recording of a supplementary declaration, automatically be subject to this Declaration. The owners shall have no power to adopt procedures, requirements, standards, restrictions, obligations, assessments, charges or fees for any annexed property which are different from those affecting the Subject Property.

Any annexations made pursuant to this Section, or otherwise, shall be made by recording a supplementary declaration of covenants, conditions and restrictions in the land records for Marion County, Oregon and the supplementary declaration shall extend the scheme of this Declaration to any annexed property. Such supplementary declaration may contain additions and modifications to this Declaration, as may be necessary, in the sole discretion of Declarant.

5. Architectural and Landscape Review

There is hereby established an Architectural Control Committee ("**ACC**") for the Subject Property. The ACC shall have the powers and duties as provided herein.

5.1 Members

The Declarant shall serve as, or appoint, the initial ACC (which shall initially consist of one or more members), who shall serve until the last home is built or any earlier time Declarant chooses. At such time, the Declarant shall call a meeting of the homeowners for the purpose of turning over administrative control of the ACC to the homeowners and, following such date, there shall be two (2) or more members of the ACC and Declarant will no longer have any responsibility or right to serve on or appoint the ACC. Determinations to be made by the ACC shall be final and may not be overturned by legal action except in the case of fraud, bad faith, or

failure to exercise honest judgment by so many members of the ACC as would result in a different result if the actions of the members engaged in fraud, bad faith, or failure to exercise honest judgment was disregarded. The burden shall be on the party alleging such fraud, bad faith or failure to exercise honest judgment to prove the existence of facts establishing the fraud, bad faith or failure to exercise honest judgment by clear and convincing evidence. Neither the ARC nor any member thereof will be liable to any owner, occupant, or builder for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act of the ARC or a member thereof, as long as the ARC or the member has, in accordance with its or his or her actual knowledge, acted in good faith.

5.2 *Approved Builders*

Any homes constructed on a lot shall be built by a builder approved by the ACC. The ACC shall develop and adopt procedures for processing applications for approval of home builders and criteria for approval of home builders. Until such procedures and criteria are adopted, the approved builder shall be Banner Homes LLC.

5.3 *Building Plans*

No owner of any lot within the Subject Property shall erect, place or alter any building or other structure, including fences, walls, patios, exterior repainting or restaining, exterior remodeling, or paving, on a lot until the building plans, specifications, exterior design, color or color palate, and plot plan have been approved in writing by the ACC. The ACC review shall include, but be not limited to, review of the size, conformity, value, location, and harmony of the external design with the existing structures in the Subject Property, and as to the location of the building with respect to the topography, conformance with surrounding buildings, and finished ground elevation.

5.4 *Tree Preservation Plan*

The Developer has established a tree preservation plan for the Subject Property. Trees designated for removal under the tree preservation plan shall be removed by the lot owner, at the lot owner's expense, prior to commencement of construction of a home on the lot. No other trees identified on the tree preservation plan may be removed.

5.5 *Landscaping Plans*

No owner of a lot within the Subject Property shall commence landscaping until the landscaping plans and specifications have been approved in writing by the ACC. The ACC shall review the plans and specifications for those items it deems necessary, including but not limited to the location, size and type of all trees greater than six (6) inches in diameter at ground level to be removed, the species of plants to be used, placement of trees and anything else the ACC may determine. The front landscaping shall have a common theme throughout the development. No landscape material, if planted, when mature shall exceed fifty (50) feet in height at any time. Height shall be measured from the highest curb location abutting the lot.

5.6 *Approval*

The ACC shall have the right to require all applications for approval be submitted on forms to be provided by the ACC, or in a format which facilitates its review of proposed structures. The ACC may charge a fee for the review of applications submitted pursuant to this

Section. All plans applications submitted to the ACC shall be deemed approved if the ACC does not advise the applicants in writing of objections within thirty (30) days following submission.

5.7 *Building Materials*

All building materials to be incorporated into the structure of any single family dwelling or other structure in the Subject Property may be regulated by the ACC. The following materials and standards shall be required on structures within the Subject Property unless other materials or standards are approved in advance by the ACC:

- 5.7.1 All roofing material shall be of wood (shake or shingle), tile, or a twenty five (25) year or better composition architectural shake with ridge caps.
- 5.7.2 All siding materials shall be natural wood, brick, cement fiber board, or stone. If other man-made lap siding materials are used, the material must be pre-approved by the ACC. Siding material must be nailed on 16-inch centers. No T1-11 or other vertical plywood type siding will be applied.
- 5.7.3 All exterior finishes shall be approved in advance by the ACC. A minimum of ten percent (10%) of front elevation (not counting windows and doors) must consist of brick, masonry stone, or other design features, such as porches, decorative rails, posts, columns, or siding material acceptable to ACC.

The ACC may, from time to time, provide written guidance to owners concerning approved building materials and techniques. Such written guidance may include a list of pre-approved substitute materials for roofing and siding, together with the approved applications of those materials.

5.8 *Completion of Improvements and Landscaping*

All structures constructed within the Subject Property shall be erected and completed within one year after the commencement of construction. All remodeling, reconstruction, or enhancement of structures shall be completed within one year of the commencement of construction. Commencement of construction shall be deemed to be the date upon which a building permit was first issued for the construction, or, if no building permit was obtained, the date on which lot clearing, demolition or remodeling commenced. Front and side yard landscaping shall be completed within either six (6) months of occupancy of a dwelling or one (1) year of commencement of construction, whichever is earlier.

Breach of this provision will result in a fine imposed on the offending lot owner by the Declarant. The minimum fine shall be Five Hundred Dollars (\$500.00) per month or part of a month in which any structure is deemed incomplete by the Declarant after one (1) year following commencement of construction.

6. *Use Restrictions and Obligations*

6.1 *Size of Structures*

All buildings within the Subject Property shall be single family residences or ancillary structures customarily constructed in conjunction with a single family residence. No multiple unit structures shall be built within the Subject Property.

No dwelling house shall be commenced, erected or completed which occupies fewer square feet of livable floor area than is specified in the following table without prior approval of the ACC:

ONE STORY . . . a minimum of 1,400 square feet, plus an attached garage.

TWO STORY . . . a minimum of 1,800 square feet, plus an attached garage.

Total garage door frontage facing any street shall not exceed 20 lineal feet per dwelling and shall be designed in such a way that no three car garage is facing the street. Garages that accommodate three vehicles will need to be a tandem design. All setbacks are to comply with applicable government laws and rules.

6.2 *Interference with Other Lots*

Owners or occupants within the Subject Property shall not engage in nor continue uses that unreasonably interfere with the use of other lots within the Subject Property. Such interference can be monitored or enforced by affected lot owners or the ACC. The following activities shall conclusively be deemed to unreasonably interfere with the other lots in the Subject Property:

- 6.2.1 construction and maintenance of flag poles more than eighteen (18) feet tall, radio transmission and reception towers and antenna and the like;
- 6.2.2 construction and maintenance of exterior radio and television antennae and other receptors (satellite dish type antennae larger than twenty four (24) inches in diameter must be screened from street view in the Subject Property);
- 6.2.3 outdoor laundry visible from a street; and
- 6.2.4 placement of a window or wall-mounted air conditioning unit visible from any street.

6.3 *Improvements, Landscape, Hedges, Drainage, and Fences*

Improvements and the exterior of homes shall be maintained in a clean and attractive condition, and in good repair, by the owner.

All grounds and related structures shall be maintained in harmony with surrounding landscaping. All landscaping shall be maintained with proper irrigation and care in a healthy and growing condition. No weeds, noxious plants, or unsightly vegetation shall be allowed to grow. The Declarant or the ACC may require the owners of lots to plant street trees of species as directed by Declarant or the ACC on or in the public rights-of-way on all streets adjacent to the lots within the Subject Property or within fifteen (15) feet of said streets. Such trees may be planted as the Declarant or the ACC may determine and the owners of said lots shall accept the placement and planting of said street trees. If a street tree is planted in the right-of-way abutting an owner's lot, the owner shall thereafter be responsible for maintaining the tree and promptly replacing it with the same size and species if it should die. In the case of the death of a mature tree, the replacement shall be a minimum 2-inch caliper. The owner of a lot may be required by Declarant to plant a maximum of three (3) trees (4 on a corner lot). Declarant reserves the right to plant street trees itself in addition to any trees which owners of lots may be required to plant.

No property may be altered which would result in blocking the flow of water across that property and/or affecting the drainage on other property. The drainage swales must be kept free of all debris and in conformance with their original shape so that storm water will be unobstructed and in its natural state.

Subject to location standards set out in any governmental code or rule, fences shall not exceed six (6) feet in height and shall be approved prior to construction by the ACC, provided, however, that any fencing closer to the street than the garage shall not exceed three (3) feet in height and, in addition, shall comply with any "clear vision area" requirements of any governmental code or rule. Fences shall be well constructed of suitable materials and shall not detract from the appearance of the adjacent structures and buildings. No cyclone fences shall be allowed without approval of the ACC.

No high output exterior lighting, including but not limited to mercury vapor and halide lights, shall be installed without prior approval of the ACC. All other exterior lighting on the front and side yards shall be consistent with the other lots in the Subject Property and the design and style approved by the ACC.

6.4 *No Animals*

No animals of any kind shall be raised, bred or kept in the Subject Property, except dogs or cats or other household pets may be kept so long as they are not bred, maintained or kept for commercial purposes. No animal of any kind, including dogs and cats, shall be allowed to interfere with the quiet enjoyment of the other residents in the Subject Property, or permitted untended upon the streets or upon premises of other occupants of the Subject Property.

6.5 *No Commercial Use, Vehicles*

No property in the Subject Property shall be used for business or commercial purposes, except that an owner shall be permitted to conduct a business on the owner's property if and to the extent that such use is permitted outright (and not by conditional use or variance) within a single family residential zone under City Ordinances. No occupant of property within the Subject Property shall park, nor permit to be parked, any commercial vehicle, recreational vehicles, campers, motor homes, trailers, boats, equipment, dump trucks, tractor trailer rigs, or any other vehicle except passenger automobiles (including pickups less than ¾ ton in weight) upon property, including streets, in the Subject Property for greater than twenty-four (24) hours unless fully contained in a garage. No owner or occupant shall permit, initiate, or carry on any obnoxious or offensive activities within the Subject Property nor allow conditions on the lot or parcel owned or occupied to become a nuisance or annoyance to the neighborhood.

6.6 *Screening*

Trash, garbage and other waste shall not be kept except in sanitary containers, screened from public view. No lot shall be used as a dumping ground for trash, garbage, waste or debris. All heat pumps and condenser units (or other utilities and devices commonly placed out of doors) shall provide both visual screening and noise attenuation.

6.7 *Signs*

Except for temporary signs or the Declarant's entrance or monument sign, no signs may be erected or displayed without the prior approval of the ACC. A sign is "temporary" if it is (a) a

single "for sale" sign not more than 24 inches high and 36 inches wide located on the front lawn or a single "for rent" sign not more than 24 inches high and 36 inches wide located inside a house visible through a window; (b) a single lawn sign not more than 24 inches high and 36 inches wide displayed for not more than 10 consecutive days; or (c) a political election sign not more than 24 inches high and 36 inches wide which is displayed for the period beginning 120 days prior to the date of a primary election through the date of the ensuing general election or, in the case of a special election, for the period beginning 120 days prior to the date of the special election through the date of the special election. An entrance sign or signs not to exceed 20 square feet may be placed by the Declarant on lot 54 or 55, or both, for a period of 18 months from date hereof and may be replaced with a permanent entrance monument sign not to exceed 10 square feet on said lot(s). The Declarant reserves an easement for the installation and maintenance of such entrance sign or signs and the owners of the burdened lots shall maintain their landscaping so as not to obscure or interfere with the visibility of such sign or signs.

6.8 *Restoration*

If all or a portion of the improvements or home on a lot is damaged by fire or other casualty, the owner must either (a) restore the damaged improvements or (b) remove all damaged improvements, including foundations, and leave the lot in a clean and safe condition. Any restoration proceeding under (a) in this section 6.8 must be performed so that the improvements are in substantially the same condition that they were in before the damage, unless the owner complies with the provisions of Article 5. The owner must commence such work within 60 days after the damage occurs and must complete the work within six months thereafter.

6.9 *Vehicles*

No owner may permit any vehicle that is in a state of disrepair or that is not currently licensed to be abandoned or to remain parked on any street on or adjacent to the Property at any time and may not permit them on a lot for a period in excess of 48 hours. A vehicle will be deemed in a "state of disrepair" when its presence reasonably offends the occupants of the neighborhood.

6.10 *Specific Lot Conditions*

Any lot identified on the Plat as having responsibility for shared maintenance of an adjoining private street or private court shall not be obligated to contribute to the maintenance expense of such private street or private court unless the driveway for such lot provides ingress and egress to and from such private street or private court.

7. Declarant's Easements

Easements for the installation and maintenance of utilities, drainage facilities, landscaping, entry monument signs, and other facilities are reserved for Declarant or the City of Salem, as shown on the plat of the Subdivision. Within these easements no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the purpose of the easement, or obstruct the flow of waters in any drainage channel or pipeline. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for those improvements for which a public authority may be responsible.

8. No Rezoning or Redivision

No property within the Subject Property may be rezoned or re-divided, nor may a lot line or boundary line of a lot be altered, without the prior written consent of the ACC.

9. Right of Entry

The Declarant or any member of the ACC may at any reasonable time during the construction phase enter upon any unit within the Subject Property for the purpose of determining whether or not the use of such unit or improvement thereon is then in compliance with this Declaration. This right of entry shall cease upon issuance of occupancy permits.

10. General Provisions

10.1 Enforcement

The Declarant, the owner or lot within the Subject Property, and/or the holder of any recorded mortgage on any lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to said bodies or Owners by any proceeding at law or in equity. Failure by any of them to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration, the prevailing party shall be entitled to its attorneys' fees and costs in such suit or action to be fixed by the trial court, and in the event of an appeal, the cost of the appeal, together with reasonable attorneys' fees, to be set by the appellate court.

10.2 Joint owners

In any case in which two or more persons share the ownership of any unit, regardless of the form of ownership, the responsibility of such persons to comply with the provisions of this Declaration shall be a joint and several responsibility. The act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest provided, however, that in the event that such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Declarant, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

10.3 Waiver

Election by the Declarant to pursue any remedy provided for the violation of any provision of the Declarations of the Subject Property shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder or which is permitted by law. The remedies provided in this Declaration are not intended to be exclusive but shall be in addition to all other remedies, including actions for damages or suits for injunctions or for specific performance available under applicable law.

10.4 Notices

Any notice permitted or required by the Covenants may be delivered either personally or by mail. Delivery by mail shall be deemed to have been accomplished forty-eight (48) hours after

the notice has been deposited as certified or registered mail in the United States mail, with the postage prepaid, addressed as follows:

10.4.1.1 If to the ACC or Declarant:

Wildwood, Inc.
4985 Battlecreek Rd. SE, # 200
Salem, OR 97302

10.4.1.2 If to a unit owner, at the address given by him at the time of his purchase of a unit or at the address of his unit within the Subject Property, at the option of the person giving the notice.

10.4.1.3 The address of any person may be changed by him at any time by notice in writing delivered as provided herein.

10.5 Severability

Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

10.6 Term

These covenants are to run with the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they automatically extend for successive periods of ten (10) years each unless rescinded by a vote of at least seventy-five percent (75%) of the owners. This Declaration shall be binding on all parties and all persons coming under them from the date this Declaration is recorded.

11. Amendments to Declaration

11.1 Amendment by Owners

The Declaration may be amended by affirmative vote of not less than Seventy-Five percent (75%) of all owners; provided, however, that until such time as all of the lots have been sold to someone other than the Declarant, no amendment shall be effective without the approval of the Declarant.

11.2 Declarant's Right to Amend

Notwithstanding the provisions of Section 10.1, the Declarant may amend the Declaration in order to comply with requirements of any department, bureau, board, commission or agency of the United States, the State of Oregon or the City of Salem.

11.3 Recordation of Amendments

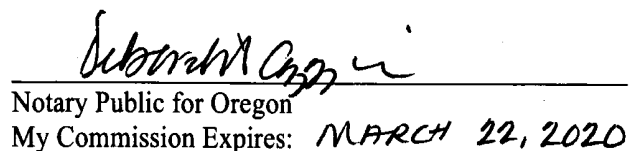
Amendments to the Declaration shall be executed by all of the Owners approving such amendments and recorded in the deed records of Marion County.

For the purpose of voting on any change in these covenants or termination of this Declaration, there shall be one for each lot, and a person who is the record owner of more than one lot may cast one vote for each such lot. The buyer under a land sale contract shall be deemed the record owner rather than the seller if the contract or a memorandum thereof, is recorded.

WILDWOOD, INC.

State of Oregon)
County of Marion) ss.

Before me:



REEL: 3827

PAGE: 295

June 14, 2016, 01:25 pm.

CONTROL #: 415737

State of Oregon
County of Marion

I hereby certify that the attached
instrument was received and duly
recorded by me in Marion County
records:

FEE: \$ 91.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.