

RECEIVED

MAY 16 2013

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

Water Supply Bank No. _____
(For Department Use Only)

APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Name of Renter Old Cutters Homeowners Association, Inc. Phone (208) 578-7700 928-7100

Mailing address P.O. Box 986, Hailey, ID 83333 Email jc@idahotower.com

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) 0.25 cfs Maximum Volume (ac-ft) _____ Nature of Use irrigation Period of Use April 15 to October 31

_____ to _____
_____ to _____

Total: _____

2. Source of water Big Wood River tributary to Malad River

3. Point(s) of Diversion:

Twsp	Rge	Sec	Lot	¼	¼	¼	County
3N	18E	20			SW	NW	BLAINE

4. Lands to be irrigated or place of use: SEE ADDENDUM

Twsp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	18E	3											1.4						1.4
2N	18E	4													0.7	0.1		1.8	2.6

If the use is for irrigation, show total number of acres proposed through rental. Total Acres 4.0

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☐ No ☒

If no, list owner, contact information, and provide documentation of the authority to use the proposed point of diversion. See Addendum

2. Do you own the land at the proposed place of use? Yes ☐ No ☒

If no, list owner, contact information, and provide documentation of the authority to use the proposed place of use. See Addendum

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

D. GENERAL INFORMATION

1. Please provide a description of the proposed diversion system. Hiawatha Canal headgate and canal, High Ditch
2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.
See IDWR records for other water rights diverted through the Hiawatha Canal system.
3. Will the proposed place of use receive water from any other source? Yes ☒ No ☐
If yes, describe. In the event rented water rights are the subject of a priority cut, water from the City of Hailey municipal water system will provide supplemental irrigation.
4. If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of water required. Attach additional sheets if needed. N/A
5. Are there any other applications pending before the Department, such as an application for permit or transfer, for the same use(s) proposed by this rental? Yes ☐ No ☒
If yes, describe. _____
6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation? Yes ☐ No ☒
If yes, describe. _____

E. RENTAL TERM

1. Do you wish to rent water from the Board's bank for more than one (1) year? Yes ☒ No ☐
If yes, please specify the number of years desired through proposed rental. 5

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

If this application is approved, the applicant agrees to the following:

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. Renter shall comply with all applicable state and federal laws while using water under this agreement.
3. Renter shall hold the Board, the Director, and the state of Idaho harmless from all liability on account of negligent acts of the renter.
4. The Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
5. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
6. Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director.

J. Campbell
Signature of Applicant

John Campbell, President
Printed Name and Title*

5/14/13
Date

Signature of Applicant

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

APPLICATION TO RENT WATER
MAP OF DIVERSION AND DELIVERY SYSTEM - P.1

Parcel Information

Print Results Find Owner

Find Parcel

Find Address

Find Legal

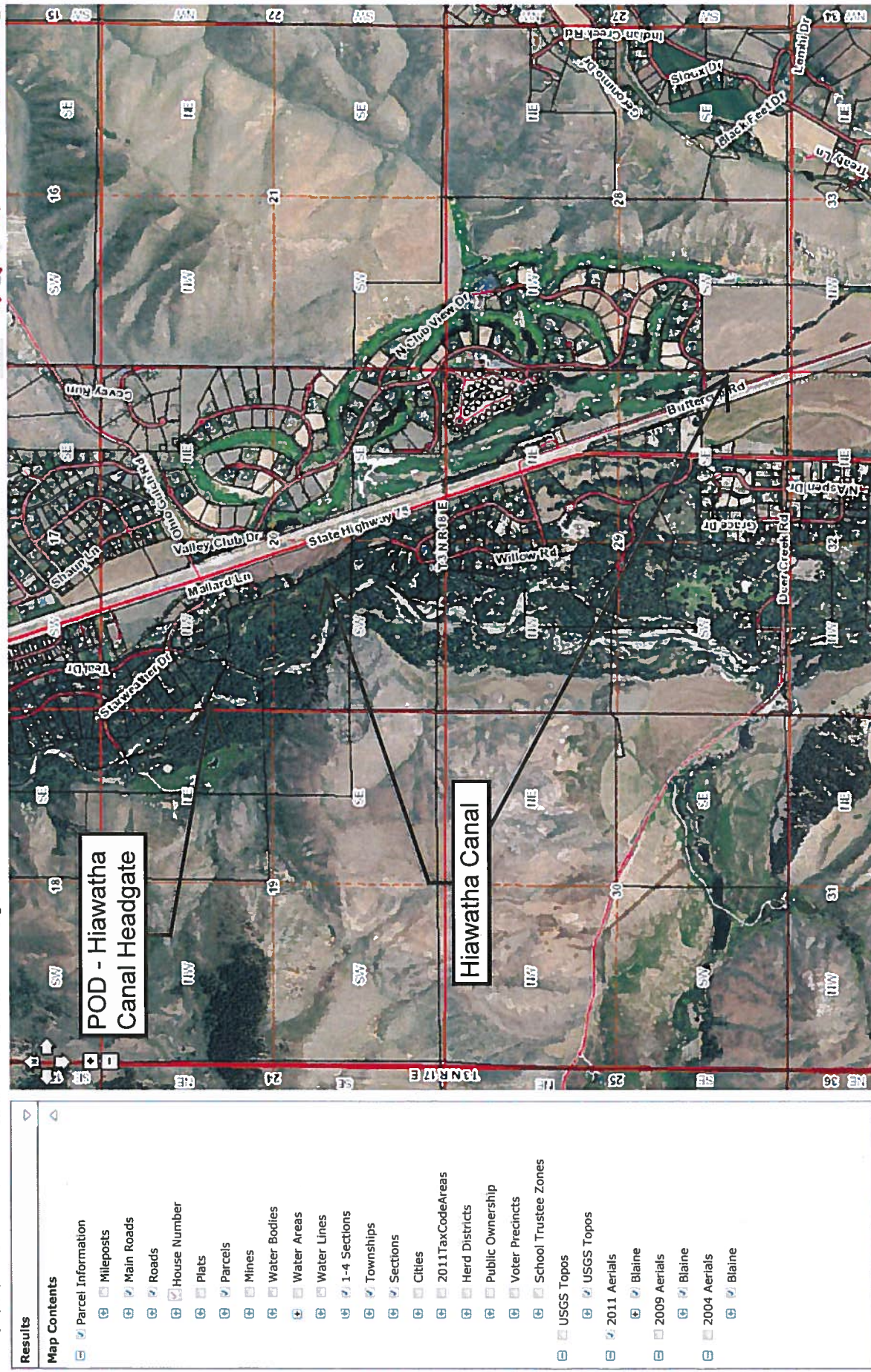
1:18,724

Go

Help

Blaine County Web Page

Blaine County GIS Map Services



OLD CUTTERS HOMEOWNERS ASSOCIATION, INC.
APPLICATION TO RENT WATER
MAP OF DIVERSION AND DELIVERY SYSTEM - P.2

Help Blaine County Web Page Blaine County GIS Map Services

Parcel Information

Print Results Find Owner Find Parcel Find Address Find Legal

1:18,724



Results

Map Contents

☒ Parcel Information

☒ Mileposts

☒ Main Roads

☒ Roads

☒ House Number

☒ Plats

☒ Parcels

☒ Mines

☒ Water Bodies

☒ Water Areas

☒ Water Lines

☒ 1-4 Sections

☒ Townships

☒ Sections

☒ Cities

☒ 2011TaxCodeAreas

☒ Herd Districts

☒ Public Ownership

☒ Voter Precincts

☒ School Trustee Zones

☒ USGS Topos

☒ USGS Topos

☒ 2011 Aerials

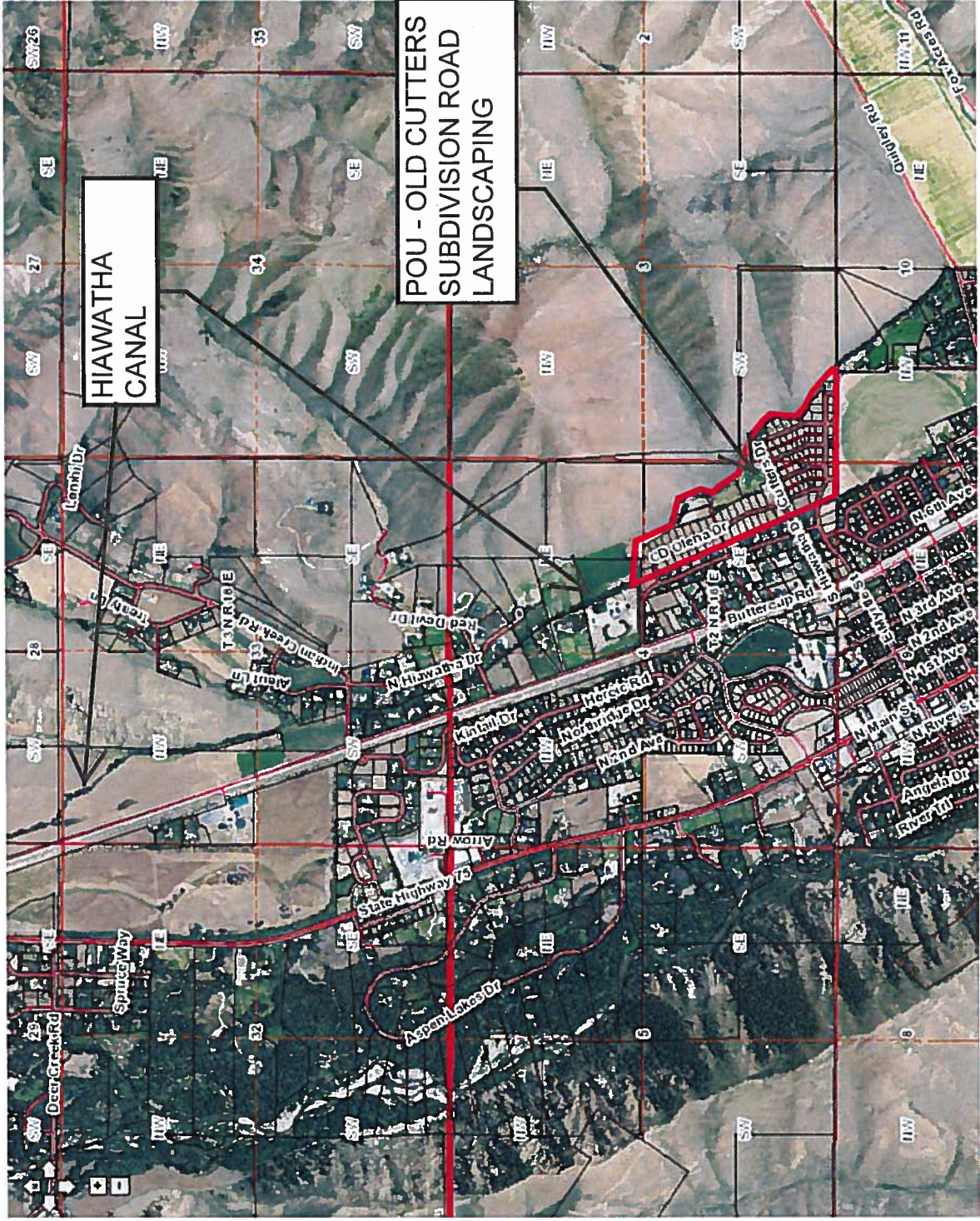
☒ Blaine

☒ 2009 Aerials

☒ Blaine

☒ 2004 Aerials

☒ Blaine



**ADDENDUM TO APPLICATION TO RENT WATER
FROM WATER SUPPLY BANK
BY
OLD CUTTERS HOMEOWNERS ASSOCIATION, INC.**

A.4. Attached as Exhibit 1 is a map depicting the location of the landscaping within Old Cutters Subdivision (the "Subdivision") and the calculation of the total area of that landscaping which will be irrigated by the rented water rights. The areas listed for each quarter-quarter section are estimates of the portions of the 4.0 acre total.

B.1. Applicant requests the rental of water rights delivered through the Hiawatha Canal for the irrigation of three lots in the Subdivision owned by Old Cutters, Inc. (0.21 cfs which is all of 37-22309, 37-22314 & 37-22319) and Scott & Tyra MacGuffie (0.04 cfs of 37-22364). Applications to lease these water rights to the Water Supply Bank are being filed simultaneously with this Application. The rented water rights will continue to be delivered through the same system to the Subdivision to be used to irrigate the grass and trees planted between the sidewalks and the streets as depicted on Exhibit 1.

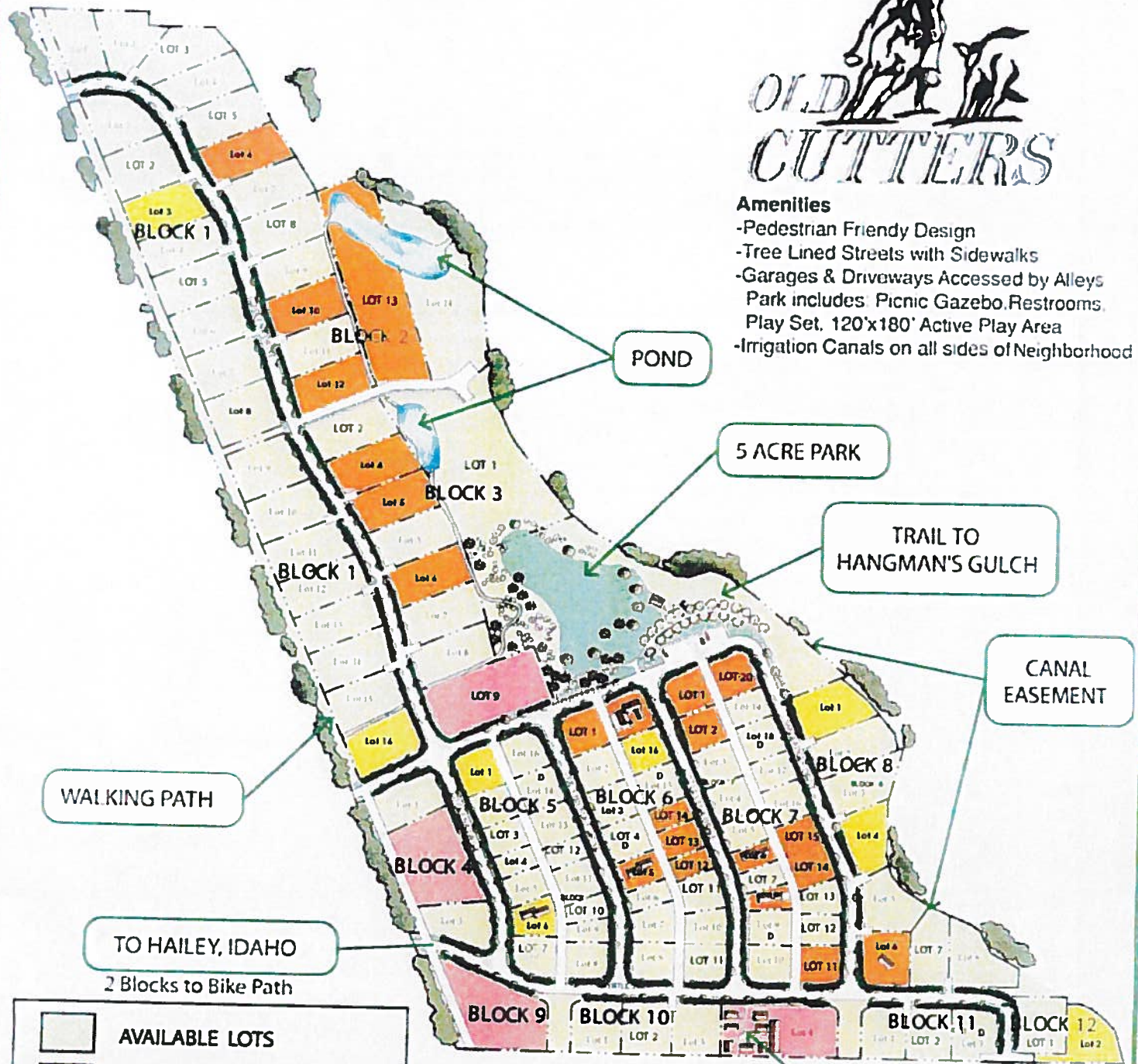
B.2. Section 3.5.2.5 of the Declaration Establishing Covenants, Conditions and Restrictions for Old Cutters Subdivision (copy attached as Exhibit 2) requires the Applicant to irrigate the landscaping consisting of grass and trees planted between the sidewalks and the streets within the Subdivision.

EXHIBIT 1



Amenities

- Pedestrian Friendly Design
- Tree Lined Streets with Sidewalks
- Garages & Driveways Accessed by Alleys
- Park includes Picnic Gazebo, Restrooms, Play Set, 120'x180' Active Play Area
- Irrigation Canals on all sides of Neighborhood



WALKING PATH

TO HAILEY, IDAHO

2 Blocks to Bike Path

AVAILABLE LOTS

SOLD LOTS

RESERVED- BUILD TO SUIT

COTTAGE/DUPLEX LOTS

D DUPLEX LOT

POND

5 ACRE PARK

TRAIL TO
HANGMAN'S GULCH

CANAL
EASEMENT

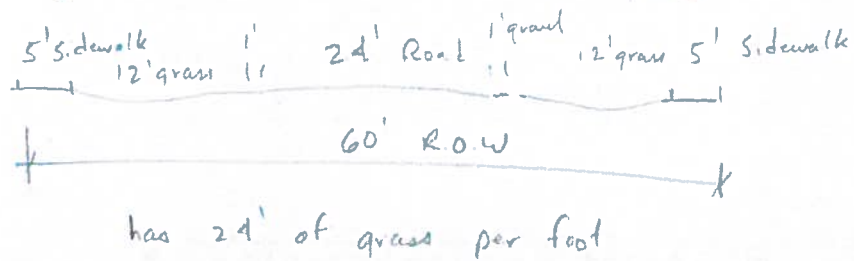
RIMROCK COTTAGES

— Denotes 12' wide irrigated area between sidewalk & road shoulder

Total irrigated = 175,488 sq. ft.
= 4.03 Acres

Cutlery

Square footage of Road shoulder grass



CD Olona - N end

2,180' long less 18 driveway cuts @ 20'

$$2,180 \times 24 = 52,320 - (18 \times 20 \times 12) = 48,000 \text{ sq ft}$$

Cutlery Drive

$$1,050 \times 24 = 25,200 - \begin{matrix} 4 \text{ Street cuts @ } 30 \times 12 \\ 3 \text{ alley cuts @ } 24 \times 12 \end{matrix} = 22,896 \text{ sq ft}$$

CD Olona - S end

$$520' \times 24 =$$

$$= 12,480 \text{ sq ft}$$

Doc's Highway

$$680' \times 24 =$$

$$= 16,320 \text{ sq ft}$$

Little Lena

$$800' \times 24 =$$

$$= 19,200 \text{ sq ft}$$

San Badger

$$920 \times 24 =$$

$$= 22,080 \text{ sq ft}$$

Myrtle

$$1,600 \times 24 = 38,400 \text{ less } \begin{matrix} (6) \text{ streets @ } 30 \times 12 \\ (6) \text{ alleys/drives @ } 24 \times 12 \end{matrix} = 34,512 \text{ sq ft}$$

$$\text{Total irrigated} = 175,488 \text{ sq ft} = 4.03 \text{ acres}$$

EXHIBIT 2

Instrument # 553633

HAILEY, BLAINE, IDAHO

2007-11-29 09:58:54 No. of Pages: 38

Recorded for : ALPINE ENTERPRISES INC

JOLYNN DRAGE Fee: 114.00

Ex-Officio Recorder Deputy

Index to: COVENANTS & RESTRICTIONS



DECLARATION ESTABLISHING COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
OLD CUTTERS SUBDIVISION

**DECLARATION ESTABLISHING COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
OLD CUTTERS SUBDIVISION**

This Declaration is made this 5th day of November, 2007, by OLD CUTTERS, INC., an Idaho corporation, (hereafter referred to as "Declarant"), with reference to the following facts:

RECITALS

A. The Declarant is the owner of the following described real property (the "Property"):

Lots 1 through 16, Block 1, Lots 1 through 14, Block 2, Lots 1 through 9, Block 3, Lots 1 through 3, Block 4, Lots 1 through 15, Block 5, Lots 1 through 17, Block 6, Lots 1 through 20, Block 7, Lots 1 through 8, Block 8, Lot 1, Block 9, Lots 1 through 4, Block 10, Lots 1 through 3, Block 11, Lots 1 and 2, Block 12, Parcels C, D and E, and all alleys and private roads, OLD CUTTERS SUBDIVISION, City of Hailey, Blaine County, Idaho, according to the official plat thereof recorded at the Office of the County Recorder for Blaine County, Idaho as Instrument No. _____;

and

B. The Declarant proposes to develop the Property in accordance with the maps and plans approved under the zoning and subdivision ordinances and regulations of the City of Hailey, Idaho.

NOW THEREFORE, it is hereby declared that the Property shall be held and conveyed subject to the following covenants, conditions and restrictions:

1 - DEFINITIONS

1.1. "Articles" shall mean the Articles of Incorporation of the Association which have been filed in the office of the Secretary of the State of Idaho, as amended from time to time.

1.2. "Association" shall mean Old Cutters Homeowner's Association, a nonprofit corporation organized under the laws of the State of Idaho and composed of the owners of the

Lots.

1.3. "Board" shall mean the Board of Directors of the Association.

1.4. "Building Envelope" shall refer to the designated area in each Lot shown in the Plat.

1.5. "Bylaws" shall mean the Bylaws of the Association which have been or shall be adopted by the Board, as such Bylaws may be amended from time to time.

1.6. "Cottage Association" shall mean a nonprofit corporation organized under the laws of the State of Idaho and comprised of the owners of the townhouse units constructed on one of the four Cottage Lots.

1.7. "Cottage Lot" shall mean Lot 9, Block 3, Lot 2, Block 4, Lot 1, Block 9 and Lot 4, Block 10, which shall be divided into nine (9), nine (9), eight (8) and nine (9) townhouse sub-lots, respectively. On each Cottage Lot a duplex shall be constructed on two (2) of the townhouse sub-lots. A "Cottage," which is a single building containing a single townhouse unit, shall be constructed on each of the other townhouse sub-lots.

1.8. "Declarant" shall mean OLD CUTTERS, INC., an Idaho corporation, or any person, persons, entity or entities to whom the rights of the Declarant under this Declaration are specifically transferred by the Declarant.

1.9. "Deed Restricted Sub-lot" shall mean a townhouse sub-lot, as defined in the Hailey zoning and subdivision ordinances, created by the subdivision of one of the Duplex Lots or Cottage Lots, and encumbered by a deed restriction in favor of either the Blaine County Housing Authority or the City of Hailey limiting the transferability and use of the sub-lot.

1.10. "DRC" shall mean the Design Review Committee established under Article VII hereof.

1.11. "Duplex Lot" shall mean Lot 14, Block 5, Lot 4 and 15, Block 6, Lots 9 and 18, Block 7 and Lot 3, Block 11, each of which may be divided into two (2) townhouse sub-lots.

1.12. "Guidelines" shall mean the Old Cutters Subdivision Design Guidelines appended to this Declaration as Exhibit A.

1.13. "High Ditch" shall mean the irrigation ditch that delivers water from the Hiawatha Canal to property owners south of the Subdivision and to certain Lots and the park within the Subdivision, and which runs along the eastern boundary of the Subdivision.

1.14. "Hiawatha Canal" shall mean that portion of the Hiawatha Canal which runs

along the western boundary of the Subdivision.

1.15. "Improvement" shall mean all things constructed upon, above, or below the Property and appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning, irrigation devices, antennae, sport courts, satellite dishes, and water softener fixtures or equipment, whether temporary or permanent, fixed or removable. Improvement shall also mean any excavation or fill for any purpose and any diversion dam, ditch, fill, or other device which affects or alters the natural or existing flow of water.

1.16. "Lot" shall mean a portion of the Subdivision which is a separate, legally described parcel of real property, or is designated as a Lot on the Plat or any other recorded subdivision plat affecting the Property, whether or not improved. Lot shall not mean or include any common area or open space designated on the plat of any subdivision of the Property, nor shall it mean or include any Townhouse Sub-lot.

1.17. "Member" shall mean any person who is a Member of the Association.

1.18. "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title of any of the Lots, and shall include contract buyers but exclude those having such interest merely as security for the performance of an obligation.

1.19. "Plat" shall mean the official Plat of the Subdivision, recorded in the records of Blaine County, Idaho, as the same may be amended by duly recorded amendments.

1.20. "Property" shall mean the land included in the Subdivision, the legal description of which is set forth above in the Recitals.

1.21. "Subdivision" shall mean Old Cutters Subdivision, as shown and depicted on the Plat.

1.22. "Supplemental Declaration" shall mean another declaration recorded to impose additional covenants, conditions and restrictions relating to the townhouse development for each Cottage Lot or for a Duplex Lot.

1.23. "Townhouse Sub-Lot" shall mean the separate, legally described parcel of real property created by the subdivision of a Duplex Lot or a Cottage Lot into a townhouse development pursuant to the City of Hailey subdivision ordinance and designated as a sub-lot on the townhouse plat for the townhouse development. Sub-lot shall not mean or include any common area or open space designated on the plat of any subdivision of a Duplex Lot or Cottage Lot.

2 - USE REGULATIONS AND RESTRICTIONS

2.1. Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration.

2.1.1. Use and Size of Dwelling Structure. All Lots shall be used exclusively for residential purposes and such home occupations as may be permitted by applicable zoning ordinances. The total gross living area of any primary residence located on a single family residential Lot which is greater than 8,000 sq. ft. in Lot area, shall be not less than 1,800 sq. ft., exclusive of decks, open porches, carports, garages and basements, and at least 400 sq. ft. of living area must be on a second story. The total gross living area of any primary residence located on a single family residential Lot which is equal to or less than 8,000 sq. ft. in Lot area shall be not less than 1,200 sq. ft., exclusive of decks, open porches, carports, garages and basements. The total gross living area of any townhouse unit constructed on a Duplex Lot shall be not less than 1,100 sq. ft., exclusive of decks, open porches, carports, garages and basements, and at least 400 sq. ft. of living area must be on a second story. The total gross living area of any townhouse unit constructed on a Cottage Lot shall be not less than 450 sq. ft., and not greater than 1,200 sq. ft., exclusive of decks, open porches, carports, garages and basements.

2.1.2. Garage Setbacks. Garages which are accessed from an alley shall be setback to allow for snow storage. If the garage is oriented perpendicular to the alley it shall be setback at least twenty (20) feet. If it is oriented parallel to the alley it shall be set back at least ten (10) feet.

2.1.3. Driveways. All access driveways shall have a wearing surface approved by the DRC of asphalt, concrete, or other hard surface materials, and shall be properly graded to assure proper drainage. The driveways to access each Lot in Blocks 5, 6 and 7 of the Subdivision shall only be constructed from the adjacent alley into the Lot and shall not be constructed from the adjacent street.

2.1.4. Fencing. All fencing within Blocks 1, 2, 3, 8 and 12 shall be post and rail with a maximum top rail height of forty-two (42) inches and a minimum bottom rail height of eighteen (18) inches above the finished grade surface of the Lot. Within Blocks 4, 5, 6, 7, 9, 10 and 11, fences along property boundaries that front streets shall be not more than forty-two (42) inches high, all other fences shall be not more than sixty (60) inches high, and solid fences shall have features every sixteen (16) feet.

2.1.5. Lighting. Exterior lighting, including flood lighting, shall be part of the architectural concept of the Improvements on a Lot. Fixtures, standards, and all exposed accessories shall be harmonious with building design, and shall be as approved by the DRC. Lighting shall be restrained in design, and excessive brightness shall be avoided.

2.1.6. Wood Stoves. All wood burning stoves must be equipped with catalytic converters.

2.2. Antennae. No exterior radio antenna, television antenna or other antenna of any type shall be erected or maintained on the Property unless it is approved by the DRC. No satellite dishes shall be allowed on the Property; provided, however, that small dishes of approximately three (3) feet or less diameter may be placed in an appropriate portion of a Lot not visible from the street if allowed by the DRC, and subject to all terms and conditions, including screening, which may be imposed in the sole discretion of the DRC.

2.3. Signs. No sign of any kind shall be displayed to the public view without the approval of the DRC, and the City if otherwise so required, except:

- (A) such signs as may be used by Declarant in connection with the development of the Property and sale of Lots;
- (B) temporary signs naming the contractors, the architect, and the lending institution for particular construction operation; and
- (C) one (1) sign of customary and reasonable dimensions not to exceed three (3) feet by two (2) feet may be displayed by an Owner other than Declarant on or from a Lot advertising the residence for sale or lease

2.4. No Mining or Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas, or other hydrocarbons, minerals, rocks, stones, sand, gravel or earth. This paragraph 2.4 shall not prohibit exploratory drilling or coring which is necessary to construct a residential structure or Improvements.

2.5. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, vacant Lots, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes which have been approved by the DRC), flashing lights, or search lights, shall be located, used, or placed on the Property without the prior written approval of the DRC.

2.6. Exterior Maintenance: Owner's Obligations. No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair.

2.7. Drainage. There shall be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the DRC. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Property is completed by Declarant, or that drainage which is shown on any plans approved by the DRC, which may include drainage from the Association Property over any Lot.

2.8. No Hazardous Activities. No activities shall be conducted on the Property, and improvements constructed on any property which are or might be unsafe or hazardous to any person or property.

2.9. No Burning. Burning refuse such as household garbage or landscape trimmings is prohibited.

2.10. No Wildlife Feeding. Feeding game species or predatory wildlife is prohibited. Lot Owners shall be responsible for controlling wildlife depredation of ornamental plants and gardens on their Lots. Any actions taken to alleviate such depredation shall be that prescribed by the Idaho Department of Fish and Game. Any hay or other livestock feed shall be stored in a manner that does not attract big game or other wildlife species.

2.11. Unsightly Articles. No unsightly articles shall be permitted to remain on any Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage, and trash shall be kept at all times in such containers and in areas approved by the DRC. No clothing or fabrics shall be hung, dried, or aired in such a way as to be visible to other property, and no equipment, treat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse, or trash shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or as appropriately screened from view. No vacant residential structures shall be used for the storage of building materials.

2.12. No Temporary Structures. No house trailer, mobile home, yurt, tepee, tent (other than for short term individual use which shall not exceed one (1) week unless approved by the Association), shack or other temporary building, improvement, or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property. Temporary, recreational use of tepees, tents or similar structures may be permitted.

2.13. No Unscreened Boats, Campers, and Other Vehicles. No boats, trailers, campers, all-terrain vehicles, motorcycles, recreational vehicles, bicycles, dilapidated or unrepaired and unsightly vehicles, or similar equipment shall be placed upon any portion of the Property (including, without limitation, streets, parking areas, and driveways) unless the same are

enclosed by a structure concealing them from view in a manner approved by the DRC. To the extent possible, garage doors shall remain closed at all times.

2.14. Energy Devices. No energy production devices, including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any portion of the Property without the written approval of the DRC, except for heat pumps shown in the plans approved by the DRC. This paragraph 2.14 shall not apply to passive solar energy systems incorporated into the approved design of a residential structure; however, they must be mounted flush with the roof and no tanks shall be mounted on a roof.

2.15. Containers. All containers, trash cans, receptacles of any description and/or tanks (whether for gas, oil or any other substance) shall be enclosed or screened from view.

2.16. Storage. No lumber, metals, bulk materials, refuse, trash, abandoned or non-operational vehicles and/or equipment shall be kept, stored or allowed to accumulate on any Lot except building materials during the course of construction or materials or substances used in reasonable agricultural activities and kept in a reasonable and orderly manner. Additionally, no machinery or equipment shall be placed or operated upon any Lot except such machinery as is customarily and ordinarily used in the maintenance of a private residence located on a similar size parcel of real property.

2.17. Livestock and Pets. No horses or other livestock, including, but not limited to poultry, cows, pigs or sheep, nor exotic or dangerous pets or animals may be kept on any or in any Lot, provided that this covenant shall not operate to prohibit the keeping of a reasonable number of household pets. When outdoors all pets shall be either in a kennel or on a leash at all times. All outdoor kennels shall be completely enclosed, including a roof, to prevent mountain lion depredation. All pet food shall be stored and fed in a manner that does not attract nuisance wildlife, such as skunks and raccoons. Lot Owners shall be responsible for controlling nuisance wildlife, and any actions taken to alleviate nuisance wildlife problems shall be those prescribed by the Idaho Department of Fish and Game.

2.18. Landscaping. A landscaping plan must accompany all plans submitted to the DRC. Landscaping is required, although it may be low maintenance in nature. The objective of the landscaping is to permit a pleasant visual transition from the Improvements to the natural ground cover. A reasonable number of trees and shrubs are required. Failure to adhere and/or complete the landscaping plan within two years from obtaining design review approval from the DRC for an Improvement requiring design review approval will constitute express authorization for the Association to take any and all action necessary to complete the landscaping plan, including, but not limited to hiring a landscaper to complete the landscaping plan and assessing the Lot Owner for the cost of completing the landscaping plan.

2.18.1.1. Cottage Lot Landscaping Plans. Landscaping on each Cottage Lot and townhouse sub-lot thereon shall be further restricted by the terms and conditions of a Landscape

Plan that shall be incorporated into the Design Guidelines for each such Cottage Lot.

2.19. Noxious Weeds. No noxious weed shall be allowed to accumulate on any Lot.

2.20. Underground Utilities. All facilities upon any Lot for the transmission of utilities and all pipes for water, gas, sewer, drainage, or other purposes, shall be installed and maintained below the surface of the ground.

2.21. No Further Subdivision. No single family residential Lot may be further subdivided. No Duplex Lot may be subdivided into more than two (2) townhouse sub-lots. No Cottage Lot may be subdivided into more than the number of townhouse sub-lots described in Section 1.7, above.

2.22. Hiawatha Canal and High Ditch. Nothing shall be done to restrict or impede the flow of water in either the Hiawatha Canal or the High Ditch. No reeds, rushes, cattails or cottonwoods shall be planted within the easements for the Hiawatha Canal and High Ditch, or within the easement for the stream and pond system extending from the High Ditch on Lot 14, Block 2 to the Hiawatha Canal on Lot 15, Block 1.

2.23. Shared Access Easements; Driveways. Whenever a driveway is installed within the shared access easements designated on the Plat to serve more than one Lot, the Owner of each Lot served or to be served by such driveway shall be entitled to full use and enjoyment of the portion of the driveway easement lying on such other Lot as required to service such Owner's Lot or to repair, replace, or maintain such driveway. The Owners of all Lots served by such driveway shall be equally responsible for all costs and expenses relating to the maintenance, snow removal from, repair and replacement of the driveway.

3 - OLD CUTTERS HOMEOWNERS ASSOCIATION, INC.

3.1. Association. The Association is a nonprofit Idaho corporation charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall, for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

3.2. Membership.

3.2.1. Qualifications. Each Owner (including Declarant), by virtue of being an Owner of a Lot and for so long as he is such an Owner, shall be deemed a Member of the Association.

3.2.2. Transfer of Membership. The Association Membership of each Owner (including Declarant) shall be appurtenant to said Lot and shall not be transferred, pledged, or alienated in any way except upon the transfer of legal and equitable title to said Lot, and then

only to the transferee of such title. Any attempt to make a prohibited transfer shall be void. Any transfer of legal and equitable title to said Lot shall operate automatically to transfer said Membership to the new Owner thereof.

3.3. Voting.

3.3.1. Number of Votes. The Association shall have one class of voting Membership consisting of all Owners, and shall be entitled to one vote for each Lot owned. The Owner of each Lot may, by notice to the Association and signed proxy, designate a person (who need not be an Owner) to exercise the vote for such Lot. Said proxy shall be revocable at any time by notice to the Association by the Owner. Such proxy may be granted or revoked by the guardian of an Owner's estate or by his conservator, or in the case of a minor having no guardian, by the parent entitled to his custody, or during the administration of an Owner's estate, by his personal representative or administrator where the latter's interest in said property is subject to administration in his estate.

3.3.2. Joint Owner Disputes. The vote for each such Lot shall, if at all, be cast as unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they are acting with the authority and consent of all other Owners of the same Lot. The owners of the two (2) townhouse units on a Duplex Lot shall be treated as joint Owners of that Lot for the purposes of this paragraph. The Cottage Association shall cast the vote for each Cottage Lot.

3.3.3. Cumulative Voting. In any election of the Members of the Board, every Owner (including Declarant) entitled to vote at such an election shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of votes to which that Owner is entitled in voting upon other matters multiplied by the number of directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board Members to be elected, shall be deemed elected.

3.4. Board and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint, in accordance with the Articles and the Bylaws, as the same may be amended from time to time. The initial Board of the Association shall be designated in the Articles and shall hold office until the first annual meeting, at which time a new Board may be elected in accordance with the provisions set forth in the Bylaws.

3.5. Powers and Duties of the Association.

3.5.1. Powers. The Association shall have all the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the

Bylaws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to the proper management and operation of the Association Easements and the performance of the other responsibilities herein assigned, including without limitation:

3.5.1.1. Assessments. The Association shall have the power to levy Assessments on the Owners of Lots and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

3.5.1.2. Right of Enforcement. The Association shall have the power and authority from time to time in its own name, on its own behalf or in behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws, including the Association Rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise, all provisions hereof.

3.5.1.3. Delegation of Powers. The Association shall have the authority to delegate its power and duties to committees, officers, employees, or to any Person, firm or corporation to act as manager, and to contract for the maintenance, repair, replacement and operation of the Association Easements. Neither the Association nor the Members of its Board shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.

3.5.1.4. Association Rules. The Association shall have the power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable (the "Association Rules"). The Association Rules shall govern the use of the Association Easements and any common areas within the Subdivision owned or controlled by the Association, by the Owners, by the families of the Owners, or by an invitee, licensee, lessee, or contract purchaser of an Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

3.5.1.5. Emergency Powers. The Association or any Person authorized by the Association may enter upon any Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association.

3.5.1.6. Licenses, Easements and Rights-of-Way. The Association shall have the power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Association Property as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of the health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating, or maintaining public or quasi-public utilities, facilities or other improvements.

3.5.1.7. Legal and Accounting Services. The Association shall have the power to retain and pay for legal and accounting services necessary or proper for the operation of the Association, enforcement of the Restrictions and the Association Rules, or performance of any other duties or rights of the Association.

3.5.2. Duties of the Association. In addition to powers delegated to it by the Articles, without limiting the generality thereof, the Association or its agent, if any, shall have the obligation to conduct all business affairs of common interest to all Owners, and to perform the duties described below.

3.5.2.1. Operation and Maintenance of the Association Property. The Association shall operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Association Property, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired (by easement or otherwise) by the Association.

3.5.2.2. Insurance. Unless otherwise determined by the Board, the Association shall obtain, from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect the following policies of insurance:

(a) Fire insurance covering those risks embraced by coverage of the type now known as "all risk" or special extended coverage endorsement on a blanket agreed amount basis for the full insurable replacement value of all Improvements, equipment and fixtures located within the Association Property;

(b) Comprehensive public liability insurance insuring the Board, the Association, the Declarant and the individual Owners and agents and employees of each of the foregoing against any liability incident to the use of the Association Property, with limits of liability as follows: not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) per occurrence with respect to personal injury or death, and property damage.

(c) Full coverage directors and officers liability insurance with a limit of One Million Dollars (\$1,000,000);

(d) Such other insurance, including workmen's compensation insurance, to the extent necessary to comply with all applicable laws, and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property. The Association shall be deemed trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith. In the event of damage to or destruction of the property of the Association, or any part thereof, the Association shall repair or replace the same from the insurance proceeds payable to it by reason of such damage or destruction. If any such damage or destruction was insured against and the repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment in accordance with the provisions of this Declaration, to cover the additional cost of the repair or replacement not covered by the insurance proceeds. Such Special Assessment is not in addition to any other Regular Assessments made against Owners and is subject to the rules herein relating to Special Assessments. If any damage or destruction is caused by a casualty not insured against, then the repair or reconstruction shall be accomplished in the manner provided by a written agreement approved by the majority vote of the Owners after the plans for any repairs or reconstruction have been approved by the Association. Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.

3.5.2.3. Design Review Committee. The Association shall elect and remove Members of the Design Review Committee, subject to the provisions of this Declaration.

3.5.2.4. Enforcement of Restrictions and Rules. The Association shall perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration and the Association Rules, if any.

3.5.2.5. Trees and Grass Along Streets. The Association shall maintain and replace as needed the trees planted along the streets in the Subdivision to correct damage due to snowplowing or disease. Tree replacement shall be completed within four (4) weeks of the date the Association is notified that a tree has died, except that trees damaged by snowfall shall be replaced by the following July 1. The replacement tree shall be either maple or elm. The Association shall also irrigate, mow, weed and otherwise maintain in good condition the grass planted between the sidewalks and the streets in the Subdivision.

3.5.2.6. Parcel E, Alleys and Sidewalks. The Association shall maintain and repair and provide snow removal services for Parcel E, all of the alleys and all sidewalks. However, the expenses incurred for Parcel E shall be paid solely by the Owners of Lots 12, 13 and 14, Block 2, and Lots 1 and 2, Block 3, in equal shares.

3.5.2.7. Hiawatha Canal and High Ditch. The Association shall be responsible for

certain maintenance obligations for the Hiawatha Canal and High Ditch as fully described in the Hiawatha Canal/Old Cutters Subdivision Maintenance Agreement and Hiawatha High Ditch/Old Cutters Maintenance Agreement recorded in the records of Blaine County, Idaho as Instruments Nos. 548870 and 548869, respectively. The Association shall also be responsible for maintaining the culverts at the CD Olena Drive, S. Hiawatha Drive/Cutter's Drive and Myrtle Street crossings of the Hiawatha Canal.

3.6. Personal Liability. No Member of the Board, or any committee of the Association, or any officer of the Association, or the Declarant, or any Member of the DRC, or the manager of the Association, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, the Declarant or the DRC, or any other committee, or any officer of the Association, or the Declarant, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct. The Association shall, at its expense, defend any of the above-named persons or entities against any claim or cause of action for which the defendant is exempt from liability pursuant to this Section 3.6.

3.7. Financial Statements. Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared and delivered to each Owner, a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for its fiscal year.

4 - ASSESSMENTS

4.1. Covenant to Pay Assessments. Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular and Special Assessments or charges made by the Association. Such Assessments, together with interest, costs and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time the Assessment fell due. The personal obligation of an Owner for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

4.2. Regular Assessments. Regular Assessments against each Lot shall commence on the first day of the first month following the closing of the first sale of a Lot (the "Initiation Date"). From and after the Initiation Date until January 1 of the calendar year immediately following the Initiation Date, there shall be assessed against each Lot a Regular Assessment per Lot as determined by the Association. Not less than thirty (30) nor more than sixty (60) days prior to the beginning of each calendar year following the Initiation Date, the Board shall estimate the total amount of funds necessary to defray the expenses of the Association and shall assess the

Owner of each Lot subject therein in December of each year for the following year. Said Assessment shall be pro-rated in accordance with the total number of Lots which are subject to Assessment by such Association. Regular Assessments shall include an amount allocated to an adequate reserve fund which is to be established for maintenance and repairs of and replacement of any Improvements to the Association Easements and any common areas within the Subdivision owned or controlled by the Association.

4.3. Special Assessments.

4.3.1. In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will become inadequate to meet the expenses of such Association for any reason, including but not limited to costs of maintenance and unexpected repairs upon the Association Easements or any common areas within the Subdivision owned or controlled by the Association, the Board shall determine the approximate amount necessary to defray such expenses and levy a Special Assessment. However, any Special Assessment in excess of twenty-five percent (25%) of the total Regular Assessment for such year must first be approved by a majority of the voting power of the Members.

4.3.2. Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments.

4.4. Uniform Rate of Assessment. Unless otherwise specifically provided herein, Regular and Special Assessments must be fixed at a uniform rate for all Lots.

4.5. Assessments for Lots with One or More Deed-Restricted Sub-Lots. The portion of any Regular or Special Assessment against a Duplex Lot or a Cottage Lot which is allocated to a Deed-Restricted Sub-Lot shall be subject to the following additional restrictions:

4.5.1. The Regular Assessment may only be increased, if at all, once every twelve (12) months. Such an increase shall be limited to the percentage increase in the Consumer Price Index over the same twelve month period. Thus, the new, annual Regular Assessment shall be calculated by multiplying the current, annual Regular Assessment by a fraction the numerator of which is the most recently published Consumer Price Index as of the end of the twelve month period, and the denominator of which is the most recently published Consumer Price Index as of the beginning of the twelve month period. By way of an example, if the initial annual Regular Assessment for a Duplex Lot which includes a Deed-Restricted Sub-Lot is \$1,200 commencing June 1, 2008, the annual Regular Assessment allocated to the Deed-Restricted Sub-Lot for the twelve month period commencing June 1, 2009 shall not be more than \$600 multiplied by a fraction, the numerator of which is the Consumer Price Index as of June 1, 2009 and the denominator of which is the most recently published Consumer Price Index as of the June 1, 2008. For purposes of these restrictions, the Consumer Price Index shall be the U.S. City Average All Items Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics of the United States Department of Labor.

4.5.2. The owner of a Deed-Restricted Sub-Lot may pay any Special Assessment against his or her Sub-Lot in twelve (12) equal monthly installments without any interest accruing.

4.6. Assessment Period. The Regular Assessment period shall commence on January 1 of each year and terminate December 31 of such year; provided, however, the initial Regular Assessment period shall commence on the Initiation Date and terminate on December 31 of the year in which the Initiation Date occurs.

4.7. Notice and Assessment Due Date. Not less than fifteen (15) days prior written notice of Regular and Special Assessments shall be sent to the Owner of every Lot subject thereto. The due dates for Regular Assessments and Special Assessments shall be established by the Board. Each installment of the Regular Assessment or Special Assessment shall become delinquent if not paid within thirty (30) days after the due date thereof. There shall accrue with each delinquent installment and Special Assessment, a late charge of Fifty Dollars (\$50.00), together with interest at the maximum rate permitted by law calculated from the date of delinquency to and including the date full payment is received by the Association. Each Owner is personally liable for said Assessments and no Owner of a Lot may exempt himself from liability for his contribution by a waiver of the use or enjoyment of any of the Association Easements or any common areas within the Subdivision owned or controlled by the Association or by abandonment of his Lot.

4.8. Estoppel Certificate. The Association, upon not less then twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular Owner is in default under the provisions of this Declaration, and further stating the dates to which Assessments have been paid by said Owner, it being intended that any such certificate delivered pursuant to this Section may be relief upon which any prospective purchaser or mortgagee of said Owner's Lot may rely, but reliance on such certificate may not extend to any default as to which the signer shall have had no actual knowledge.

5 - ENFORCEMENT OF ASSESSMENTS; LIENS

5.1. Right to Enforce. The right to collect and enforce the Assessments made by the Association is vested in the Association. Each Owner of a Lot upon becoming an Owner of such Lot is and shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration, agrees to the enforcement of all Assessments in the manner herein specified, and agrees that all other Owners may be notified in the event any Owner fails to timely pay any Assessment. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees or any other relief or remedy obtained against said Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay the Assessments provided for in

this Declaration by commencement and maintenance of a suit at law or in equity or such Board may exercise the power of sale pursuant hereto to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

5.2. Assessment Liens.

5.2.1. Creation. There is hereby created a claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against any and all Lots in the Property pursuant to this Declaration, together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney's fees. Upon default of any Owner in the payment of any Regular or Special Assessment required hereunder, the Association may cause to be recorded in the Office of the Blaine County Recorder a claim of lien. Said claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Lot against which the same has been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Said lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Lot and Assessments on any Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and relief of such delinquent sums and charges. The Association may demand and receive the cost of recordation of such release before recording the same. Any purchaser or encumbrancer, acting in good faith and for value, may rely upon such notice of satisfaction and relief as conclusive evidence of the full satisfaction of the sums paid in the notice of delinquent sums.

5.3. Method of Foreclosure. Such lien may be foreclosed by appropriate action in court or by a non-judicial sale by the Association, its attorney or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of Idaho Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or Director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale foreclosure.

5.4. Required Notice. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim, whether judicially by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot described in such notice of delinquency and claim of lien, and a copy thereof is recorded by the Association in the Office of

the Blaine County Recorder.

5.5. Subordination to Certain Trust Deeds. The lien for the Assessments provided for herein in connection with a given Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Article with respect to a first mortgagee who acquires title to a Lot, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether prior to, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

5.6. Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat and render invalid the rights of the beneficiary under any deed of trust or mortgage upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Lot shall remain subject to this Declaration as amended.

6 - WATER RIGHTS FOR LARGE LOT IRRIGATION AND PONDS

Declarant shall convey to the Owners of Lots 13 and 14, Block 2, and Lot 1, Block 3 (the "Large Lots") water rights for the diversion of water from the Big Wood River through the Hiawatha Canal and High Ditch to ponds and streams on the Large Lots, for irrigation and aesthetic purposes (the "Water Rights"). The Owners of the Large Lots shall be responsible for maintenance and repair of the ponds and the irrigation systems serving each of their Lots, and shall indemnify and hold all of the other Owners harmless from all costs, expenses and liabilities relating to the Water Rights and the use, maintenance and repair of the ponds and the irrigation systems serving each of their Lots. The Water Rights shall be and forever remain appurtenant to the Large Lots and may not be conveyed or transferred off of the Large Lots. Water from the City of Hailey municipal water system may be used to irrigate no more than one-half (1/2) acre on each the Large Lots.

7 - DESIGN CONTROL

7.1. Design Review Committee. The Design Review Committee (DRC) shall be composed of three (3) persons appointed by the Board. One (1) member shall be a registered Idaho architect residing in Blaine County. The other two (2) members must be Owners. The following persons are designated as the initial DRC members: John Campbell, Steven R. Brown and Matthew Luck. Each DRC member shall hold office until such time as he has resigned or has been removed or his successor has been elected, at the annual meeting of the Board. Members of the DRC may be removed by the Board at any time without cause. In the event of death or resignation of any member of the DRC, the Board shall designate a successor.

7.2. Duties of DRC. Except as to changes by Declarant in the Property for the development of the Property and sale of the Lots, no changes in the existing state of any Lot shall be made or permitted without the prior written approval of the DRC. For purpose of this paragraph, "changes in the existing state" of any Lot include, but are not limited to, construction of dwellings, Improvements, (including utilities), the excavation, filling, or similar disturbance of the surface of the land, (including without limitation, change of grade, stream bed, ground level, or drainage pattern), the removal of trees, shrubs, or other growing things, the landscaping or planting of trees, shrubs, lawns, or plants, and any change in color, texture, or exterior appearance of any previously approved change in the existing state of the Property. The DRC shall have sole authority to determine the proper use, appearance, design and aesthetic quality of any proposed Improvement. The DRC shall issue guidelines setting forth procedures for the submission of plans for approval, requiring a fee to accompany each application for approval or additional factors which it will take into consideration in reviewing submissions and additional standards for approval. The DRC Guidelines are attached hereto as Exhibit B and incorporated herein by reference as if restated in full and may be amended from time to time in accordance with their terms. The DRC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, landscape plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the DRC of any required plans and specifications, the DRC may postpone review of any plan submitted for approval. Any Owner desiring DRC approval of any Improvement or other change in the existing state of any Lot shall make application in writing together with two (2) sets of all plans required by the DRC for review. All approvals or disapprovals shall be in writing and sent to the Owner.

7.3. Meetings of the DRC. The DRC shall meet from time to time as necessary to perform its duties hereunder. It may from time to time by resolution, unanimously adopted in writing, designate one of its members to take any action or perform any duties for and on its behalf, except the granting of variances. In the absence of such designation, the vote of any two (2) Members of the DRC, or the written consent of any two (2) members of the DRC taken without a meeting, shall constitute an act of the DRC.

7.4. No Waiver of Future Approvals. The approval of the DRC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring its approval and consent, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matter whatever subsequently or additionally submitted for approval or consent.

7.5. Compensation of Members. The Members of the DRC shall be entitled to reasonable compensation from the Association for services rendered, together with reimbursement for expenses incurred by them in the performance of their duties hereunder. Such compensation shall be determined by the Board.

7.6. Final Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

7.6.1. Upon the completion of any work for which approved plans are required under this Article, the Owner shall give written notice of completion to the DRC.

7.6.2. Within sixty (60) days thereafter, the DRC or its duly authorized representative may inspect such Improvement. If the DRC finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.

7.6.3. If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the DRC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board ruling within such period, the Board, at its option, may in addition to its other legal remedies, either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board may enforce the collection of such expenses through the assessment lien procedures in this Declaration.

7.6.4. If the DRC fails to notify the Owner of any noncompliance within sixty (60) days after the receipt of said written notice of completion from the Owner, the Improvement shall be deemed to be in accordance with said approved plans.

7.7. No Liability of DRC Members. Neither the DRC nor any member thereof shall be liable to the Association, or to any Owner for any loss, damage, or injury arising out of or in any way connected with the performance of the DRC's duties hereunder, unless due to the willful misconduct or bad faith of such member. The DRC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes or any warranty that the Improvement is fit for any particular purpose of habitation.

7.8. Variances. The DRC may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, floor area, set backs or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the DRC, and shall become effective upon recordation in the Office of the County Recorder of

Blaine County. If such variances are granted, no violation of the covenants, conditions, and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including but not limited to zoning ordinances the Lot set-back lines or requirements imposed by any governmental or municipal authority.

8 ARTICLE - ASSOCIATION PROPERTY

The Association shall own, operate, maintain and repair the following-described property and easements (the "Association Property") and any Improvements thereto for the benefit of the Association and its Members:

8.1. Alleys. The alleys designated on the Plat are private road parcels reserved and created by Declarant for the benefit of all Owners to provide access to the Lots from the dedicated public streets within the Subdivision for all uses permitted by this Declaration and subject to all of the restrictions set forth in this Declaration.

8.2. Drainage and Utility Easements. Declarant expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Lots, and Association Property, resulting from the normal use of adjoining Lots or Association Property, and for necessary maintenance and repair for any improvement including fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees, and landscaping. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Declarant for the installation and maintenance of utilities and drainage facilities that are required for the development of the property.

8.3. Utility Easement. The rights and duties of the Owners of the Lots within the Property with respect to utility easements and utilities shall be governed by the following:

8.3.1. Within ten (10) feet of 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 utilities, or which may obstruct or retard the flow of water through any drainage channels in such easements. The utility 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 or utility company is responsible.

8.3.2. Wherever utility house connections, if any, are installed within the Property,

which connections or any portions thereof lie in or upon Lots other than the Lot served by said connections, the Owners of the Lot served by said connection shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots or to have their agent enter upon the Lots within the Property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary.

8.4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Association Property adjacent thereto or as between adjacent Lots due to the unwillful placement or settling or shifting of the sidewalks and driveways constructed, reconstructed or altered thereon in accordance with the terms of this Declaration. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the owners of each Lot agree that minor encroachments over adjoining Lots that existed prior to the encroachment may be reconstructed pursuant to the easement granted by this paragraph 8.4.

8.5. Parcels C and D. Parcel C is the land designated on the Plat encumbered by the ten (10) foot wide public pedestrian easement and the twenty (20) foot wide Hiawatha Canal easement extending from Cutters Drive to the north boundary of the Subdivision, and encumbered by the twenty (20) foot wide public pedestrian easement and driveway right-of-way from CD Olena Drive. The owners of Lots 8 and 9, Block 1 shall be responsible to pay in equal shares all costs of improvement to, and maintenance and repair of, the driveway within Parcel C that serves their Lots. Parcel D is the twenty-six (26) foot wide alley and the adjacent land encumbered by the twenty (20) foot wide Hiawatha Canal easement extending from Cutters Drive to the south boundary of the Subdivision.

9 – DUPLEX LOT PARTY WALL

9.1. Party Wall. Where a single building containing two (2) townhouse units is constructed on a Duplex Lot it shall have one (1) common party wall is situated on the common lot line between the two townhouse sub-lots. The general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to these party walls to the extent they are consistent with the provisions of this Declaration.

9.2. Maintenance. The cost of maintaining said party wall shall be borne equally by the Owners of the townhouse units on either side of such wall.

9.3. Damage to a Party Wall. In the event of damage to or destruction of such party wall from any cause, other than the negligence of either Owner, or his or her tenants or guests, then the Owners of the duplex unit containing said Party Wall shall, at their joint expense, repair and

rebuild said wall, and each party shall have the right to the full use of said wall so repaired or rebuilt. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share or all of such costs in the case of negligence, the other party may have the wall repaired and restored and shall be entitled to have a mechanic's lien filed and foreclosed on the townhouse unit of the party so failing to pay for the amount of such defaulting party's share of the repair or replacement costs.

9.4. Repair. Either of the Owners shall have the right to break through a party wall for the purpose of repairing or restoring utilities within the wall, subject to the obligation to restore the wall to its previous structural and aesthetic condition, at said party's expense and the payment to the adjoining Owner of any damages caused thereby.

9.5. Easement. No Owner shall alter or change any party wall in any manner, interior decoration excepted, and any party walls shall always remain in the same location as when erected, and each Owner shall have a perpetual easement in that part of the adjoining townhouse unit on which said party wall is located for party wall purposes.

9.6. Right to Contribution. The right of either Owner to contribution from the other Owner under this paragraph shall be appurtenant to the townhouse unit and shall pass to such Owner's successors in title.

10 - MISCELLANEOUS PROVISIONS

10.1. Term. The covenants, conditions, and restrictions of this Declaration shall run for a period of fifty (50) years from the date hereof, unless amended as herein provided. After such date, such covenants, conditions, and Restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by at least three-fourths (3/4) of the Owners, and such written instrument is recorded with the Blaine County Recorder.

10.2. Amendment.

10.2.1. By Owners. Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying that such amendment has been approved by the vote or written consent of at least three-fourths (3/4) of the Owners, and such an amendment shall be effective upon its recordation with the Blaine County Recorder. In addition, an amendment to any of the following provisions shall require the written consent of the City of Hailey as voted on by the City Council: 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.6, 2.4, 2.13, 2.14, 2.19, 2.21, 2.22, 3.5.2.5, 3.5.2.6, 3.5.2.7, 4.5, the last sentence of Article 6, this last sentence of Section 10.2.1, and paragraphs 3.B, 3.C, 3.G, 3.H and 4.D of Exhibit A, the Design Guidelines.

10.2.2. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or the residence of such person, if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

10.2.3. Mortgage Protection. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat or render invalid the rights of the beneficiary under any first deed of trust upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after foreclosure of any such first deed of trust such Lot shall remain subject to this Declaration, as amended.

10.3. Interpretation; Governing Law. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and preservation of the Property in a manner designed to protect and enhance the aesthetic and economic value of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

10.4. Enforcement and Nonwaiver.

10.4.1. Right of Enforcement. Except as otherwise provided herein, any Owner of any Lot within the Property shall have the right to enforce any or all of the provisions of the Declaration upon any Lot within the Property and the Owners thereof.

10.4.2. Violations and Nuisance. Every act or omission whereby any provision of the Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action by Declarant or the Association or any Owner or Owners of Lots within the Property.

10.4.3. Violation of Law. Any violation of any state, municipal or local law, ordinance, or regulation pertaining to the Ownership, occupation, or use of any property within the Property, is hereby declared to be a violation of the Restrictions and subject to any or all of the enforcement procedures set forth in said Declaration.

10.4.4. Remedies Cumulative. Each remedy provided by the Declaration is cumulative and not exclusive.

10.4.5. Nonwaiver. The failure to enforce any of the provisions of the Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provisions of said Declaration.

10.5. Construction.

10.5.1. Restrictions Construed Together. All of the provisions of the Declaration shall be liberally construed together to promote and effectuate Declarant's goals in making this Declaration as set forth in the preamble.

10.5.2. Restrictions Severable. Notwithstanding the provisions of the foregoing section, each of the provisions of the Declaration shall be deemed independent and severable and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

DATED this 5 day of NOVEMBER, 2007.

“DECLARANT”

OLD CUTTERS, INC., an Idaho corporation

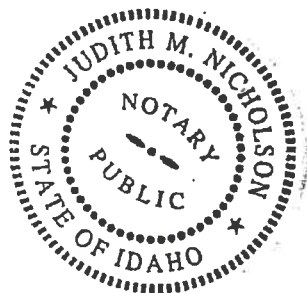
Date: 11/5/07

By: John Campbell
John Campbell, President

STATE OF IDAHO)
) ss.
County of Blaine)

On this 5th day of November, 2007, before me, the undersigned notary public in and for said state, personally appeared John Campbell, known or identified to me to be the president of OLD CUTTERS, INC., and the person who executed the foregoing instrument on behalf of said corporation and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.



Notary Public for Idaho
Residing at: Harley
Commission expires: 8/11/2011

EXHIBIT A

OLD CUTTERS SUBDIVISION DESIGN GUIDELINES

1. INTRODUCTION

The following Design Guidelines describe the considerations the Design Review Committee ("DRC") will apply in reviewing the site planning, architectural design, and landscaping plans for your new home in Old Cutters Subdivision (the "Subdivision"). They also detail the Construction Regulations that your builder must observe while your home is under construction. Then, they set out the exact procedure that should be followed during the design review process. Finally, they explain the composition and operation of the DRC itself.

There are a few general points you should keep in mind when reading these Guidelines. First, remember that the DRC's responsibility is to accommodate creativity and appropriateness of home design while maintaining standards of quality and integrity. To do this best, these Guidelines set out generally broad indications of goals and objectives, combined with some clear prohibitions and requirements. This approach has left a relatively large area open for the DRC's judgment. In exercising that judgment, the DRC will use its best efforts to make decisions in keeping with the design objectives of the Subdivision. However, there may be individual decisions affecting your home or others with which you do not agree. Hopefully, there will be very few of those and you will understand the difficult balances that must be made. But please let the DRC know your thoughts, because its goal is to build a community of which you are tremendously proud.

Second, the focus of these Guidelines is the outward perception of the Subdivision, and of the homes and land within that community. Therefore, the scope of design review is limited exclusively to what can be seen, heard, or otherwise sensed from outside each property. In using terms like "visible" or "screened," these Guidelines refer only to visibility from the street, common areas of the Subdivision or from neighboring properties.

2. SITE PLANNING

The following Guidelines are intended to ensure environmentally sound and aesthetically pleasing development at the Subdivision, in harmony with the natural environment and with itself.

A. FENCES AND WALLS

Fencing (other than front and side perimeter fences) must be designed to appear as an extension of the architecture and architectural materials and used only where necessary. Fences utilized as sight screens must be conceived as an integral part of the overall design of the building and not simply a tacked-on element dictated solely by function. Fences along property boundaries that front streets shall be limited to 42 inches in height.

It is understood that walls or fences may define pet runs or small yards, courtyards or terraces attached to the residence for the purpose of privacy. Privacy or screen walls must not exceed five feet in height, measured from existing natural grade, may not encroach into any required setback, and must be in pleasing proportion to the size of the home. Ornamental iron is

discouraged and may not be used without specific approval of the DRC. Chain link or wire fencing is prohibited.

B. DECKS

Decks should be very carefully designed to preserve the beauty of the home as seen from the adjacent street. Great care must be taken to aesthetically consider the finish of decks and terraces, especially as to railings. Where the vertical distance from the underside of a ground floor deck structure (along its perimeter edge) exceeds 30 inches above finish grade below, the deck edge must be skirted with wood siding, masonry, or other finish to screen any cavity beneath the deck. In all cases, great care must be taken to support the deck with elements of sufficient visual substance, that they appear to be architecturally integrated with the residence itself. Simple posts or similar support systems for such decks will not be acceptable.

C. EXTERIOR LIGHTING

Outdoor lighting will be carefully reviewed to assure that neighboring properties are protected from the view of bright light sources. No floodlighting will be permitted, and illumination necessary for evening activities must be directed downward and be only bright enough to provide for the safe traverse of steps and paths. Subtle lighting of architectural elements will be encouraged, while more ornate lighting types such as colored lights (except temporary holiday lights) or extensive yard lighting will be prohibited. Along the same lines, exposed light sources are not permitted in favor of a softer downlighting that reduces glare and better lights the surfaces of roads and walks. No driveway lighting fixtures will be permitted, other than the lot identification sign, within 50 feet of roadways. Finally, all outdoor lighting must comply with any applicable provisions of the City of Hailey Zoning Ordinance.

D. OUTDOOR STORAGE

Outdoor areas housing trash containers, firewood, or maintenance or service equipment such as lawnmowers and snow blowers or overflow storage shall be screened from all adjacent properties by a wall or fence conforming with Section A above.

E. HEATING AND COOLING EQUIPMENT

No roof mounted or wall mounted heating or cooling equipment visible to others will be permitted. Any exterior heating and/or cooling system components must be ground mounted adjacent to the residence and hidden from view of the roadway, or neighboring properties. Such equipment must also be insulated for noise so as not to be heard from neighboring properties.

F. UTILITIES

Utility services for electrical, telephone, cable and gas are all stubbed to a property line of each site. The extension of services from these stub locations to the residence shall be the

responsibility of each Owner. All utility extensions must be underground. All disturbed areas of the site must be treated as described in Section 3 of these Guidelines. All meter panels must be placed in an enclosure so that they are not visible. The gas meter shall be screened by landscaping.

3. ARCHITECTURAL DESIGN

A. GENERAL ARCHITECTURAL CHARACTER

Residences in the Subdivision are intended to look like the older, traditional homes in Old Hailey

B. ROOFS

Roofs for all structures except entry porches shall be no flatter than 6:12 pitch and no steeper than a 12:12 pitch. Entry porch roofs may be flatter than a 6:12 pitch. Every roof must have a minimum of a one (1) foot overhang. Permissible roof materials are limited to non-reflective materials.

C. FRONT PORCHES

A front porch must be constructed facing the street and be a minimum of six (6) feet by twelve (12) feet in size for every single family home and duplex townhouse unit.

D. GARAGES

Garages must be located off and accessed from an adjoining alley. If there is no adjoining alley for access, then garage doors must not face the adjoining street. Garages which are accessed from an alley shall be setback to allow for snow storage. If the garage is oriented perpendicular to the alley it shall be setback at least twenty (20) feet. If it is oriented parallel to the alley it shall be set back at least ten (10) feet.

E. CHIMNEYS

Due to fire danger, all chimneys must be equipped with a U.L. or I.C.B.O. approved spark arrestor, including outdoor fireplaces.

F. SOLAR APPLICATIONS

Passive solar design is encouraged. Active solar applications can result in excessive glare and reflection, and will only be approved by the DRC if the hardware is integrated into the structure or landscaping of a lot.

G. EXTERIOR MATERIALS

Fascia, window and corner trim shall be a different color than the body of the house.

H. WINDOWS

All windows which face a street must be taller than they are wide.

I. CHANGES, ALTERATIONS, OR ADDITIONAL CONSTRUCTION

All changes or additions to the approved plans before, during, or after the construction must first be approved by the DRC.

Required information for Design Review Application Submittal shall be as described in Paragraph 6B.

4. LANDSCAPING

Following are specific guidelines for landscaping of home sites.

A. IRRIGATION

Yardscape and private areas of each site shall be fully irrigated with an underground sprinkler system with automatic controls. Sprinkler systems will be zoned to minimize water use. When possible trees and shrubs will be dripped or bubbled.

B. NOXIOUS WEEDS

C. Owners shall remove from their lot plants designated as noxious weeds in accordance with local, state and federal requirements.

D. LANDSCAPE PLANS

Before the installation of any landscaping or any underground sprinkler system begins, a landscape plan and sprinkler system must be submitted to and approved by the DRC. All landscape plans must include trees, the number and type of which must be approved by the DRC.

5. CONSTRUCTION REGULATIONS

In order to ensure nuisances inherent to any construction process are kept to a minimum, the following regulations will be enforced during the construction period of all

improvements at the Subdivision. Any violation of these regulations by an Owner's agent, representative, builder, contractor or subcontractor will be treated as a violation by the Owner.

A. OSHA COMPLIANCE

All applicable Occupational Safety, and Health Act (OSHA) regulations and guidelines must be observed at all times.

B. CONSTRUCTION TRAILERS

Upon commencement of construction a small construction trailer or portable field office may be located on the building site at a location approved by the DRC, clear of all setbacks. The field office may not be placed on-site earlier than two weeks prior to the actual onset of continuous activity. A construction trailer may not remain on a site for a period of time exceeding twelve months without written approval of the DRC.

C. TRASH RECEPTACLES AND DEBRIS REMOVAL

Owners and builders shall clean up all trash and debris at the end of each day. An approved trash receptacle must remain on the site at all times for this purpose to contain all lightweight materials or packaging. The receptacle must be positioned on the site alongside the access drive, clear of side and rear setbacks, adjacent road right(s)-of-way and neighboring properties. Trash receptacles must be emptied on a timely basis to avoid overflow of refuse. Disposal shall be at a suitable off-site facility. Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the site or elsewhere in the Subdivision. Heavy debris, such as broken stone, wood scrap, and the like, must be removed from the site immediately upon completion of the work of each trade that has generated the debris.

All concrete washout from both trucks and mixers must occur within the building envelope of the lot in a location where it will be ultimately concealed by structure or covered by backfill. Washout in road rights-of-way, setbacks or on adjacent properties is strictly prohibited.

During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore or detriment to other lots or open space. Any clean-up costs incurred by the DRC or the Association in enforcing these requirements shall be payable by the Owner. The DRC may use the Compliance Deposit described in Section 6 of these Guidelines to pay any costs it may incur in this connection.

D. SANITARY FACILITIES

Each Owner or builder shall be responsible for providing adequate sanitary facilities for construction workers. Portable toilets must be located within the building envelope, clear of all setbacks.

E. DUST AND NOISE CONTROL

The contractor shall be responsible for controlling dust and noise from the construction site, including the removal within 24 hours of dirt and mud from public or private roads that is the result of construction activity on the site.

F. RESTORATION OF PROPERTY

Upon completion of construction, each Owner and builder shall clean his construction site and repair all property which has been damaged, including but not limited to, restoring grades, planting shrubs and trees as approved or required by the DRC, and repair of streets, driveways, pathways, drains, culverts, ditches, signs, lighting and fencing.

In addition, the Owner and general contractor shall be held financially responsible for site restoration/revegetation and refuse removal necessitated on any and all adjacent properties as a result of trespass or negligence by their employees or subcontracted agents.

G. DAILY OPERATION

Daily working hours for each construction site shall be from 30 minutes before sunrise to 30 minutes after sunset. Construction activity which generates excessive noise, such as hammering, sawing, excavation work, concrete delivery, etc., must be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 7:00 p.m. on Saturday. Noisy activity should be curtailed on Sunday of each week.

H. SITE VISITATIONS

Due to the inherent danger associated with an active construction site, visitors to any site should be limited to those persons with official business relating to the construction activity, such as construction workers and tradesmen, building officials, security staff, design review observers, sales personnel, and the Owner. Construction personnel should not invite or bring family members or friends, especially children, to the job site.

I. CONSTRUCTION INSURANCE REQUIREMENTS

All contractors (including Owners acting as their own contractor) and subcontractors must post evidence of insurance with their Lot Owner and the DRC, prior to entering the construction premises. Confirmation shall be evidenced in the form of a valid Certificate of Insurance naming both the lot owner and the Subdivision as the certificate holders. The required insurance must provide coverage not less than the applicable limits of coverage relating to comprehensive general liability, automobile liability and workmen's compensation. The minimum limits of liability shall not be less than \$1,000,000 each for general liability and automobile liability. General liability coverage shall contain provisions for contractual liability

and broad form property damage. The certificate shall provide for 30-day notice to the certificate holders in the event of cancellation or material change in the limits of coverage.

6. DESIGN REVIEW PROCEDURES

In order to establish a framework for periodic review and comment on each residence as it proceeds through the design development and review process, the following procedures have been established by the DRC. Plans and specifications shall be submitted to the DRC in accordance with the following conference and submittal requirements and review procedures.

A. PRE-DESIGN CONFERENCE

Prior to preparing preliminary plans for any proposed improvement, the Owner and/or the Owner's architect should meet with a representative of the DRC to discuss proposed plans and to resolve any questions regarding building requirements at the Subdivision. The purpose of this informal review is to obtain guidance from the DRC concerning the possibilities and sensitivities of the site prior to initiating preliminary design. These meetings should occur on-site whenever possible.

B. PRELIMINARY DESIGN SUBMITTAL

When the preliminary design is complete, plan submittals must include all of the following and must be presented in two formats. First, two (2) regular sets of blueprint size plans in 24" x 36" format or larger and at a scale appropriate to such size presentation. These sets will be returned to the applicant once the plans have received final design approval. Second, to facilitate handling and storage, a third set of the plans reduced to 11" x 17" paper should also be submitted. This set will be retained by the DRC. No review will commence until the submittal is complete.

1. Site plan, showing the entire property, and the location of the proposed building envelope; the residence and all buildings, driveways, and parking areas; existing and proposed topography, proposed finished floor elevations; and special terrain features to be preserved.
2. Survey of the site, prepared by a registered land surveyor or licensed civil engineer showing lot boundaries and dimensions, topography (2 foot contours or less), major terrain features, edge of pavement or curb, and utility locations.
3. Floor plans showing proposed finished floor elevations.
4. All exterior elevations showing both existing and proposed grade lines, plate heights, ridge heights, roof pitch, and a preliminary indication of all exterior materials and colors.

5. In addition to the exterior elevations in Item 4 above, a "conceptual drawing" showing the most prominent and descriptive view of the home in perspective and on the actual site. This drawing must show all major existing site features and topography in scale. It must also clearly show all architectural elements, with major building elements labeled for identification. (This requirement may be waived if applicant can persuade the DRC that it is not necessary.)
6. If the DRC deems it appropriate due to complexity of design, a study model may be required (same scale as site plan) which accurately depicts all the proposed improvements and their relationship to the site.
7. Any other drawings, materials, or samples requested by the DRC.
8. A design review fee in the amount of \$500.00. An applicant may not advance to Final Design Review unless this fee has been paid in full. This fee may be re-imposed at the discretion of the DRC if excessive resubmittals are necessary to obtain a design which complies with all Design Guideline requirements.

The submittal shall consist of three sets of prints in the formats described above, one of which shall be retained by the DRC.

C. PRELIMINARY DESIGN REVIEW

The DRC will review the preliminary plans described in Section B above and will respond in writing no later than 30 days after a submittal is complete.

No Owner, architect or builder shall have the right to attend any meeting of the DRC unless specifically requested by the DRC. Any response an Owner may wish to make regarding the results of a design review must be addressed to the DRC in writing.

D. FINAL DESIGN SUBMITTAL

After preliminary plan approval is obtained from the DRC, the following documents are to be submitted for final review in both size formats outlined for the preliminary design review process. No review will commence until the submittal is complete.

1. Site plan, showing the entire property; and the location of the building envelope; the residence and all buildings, and the driveway, and parking areas; existing and proposed topography; finished floor elevations; all protected plants or special terrain features to be preserved; terrain features to be removed; all utility sources and connections; and all site walls, fences, or similar structures.

2. Floor plans showing finished floor elevations.
3. Roof plan showing all roof pitches.
4. Building section, indicating existing and proposed grade lines.
5. All exterior elevations showing both existing and proposed grade lines, plate heights, roof pitch and an indication of exterior materials and colors.
6. Samples, paint chips and photographs or illustrations depicting or describing all exterior materials, finishes, and colors.
7. Complete landscape plan showing location, size, and type of all existing and proposed plants, irrigation system facilities, decorative materials, paving or other impervious surfaces, walls, steps, fences, or borders.
8. On-site staking of all building corners and other improvements, if requested by the DRC.

The submittal shall consist of three sets of prints in the formats described above, one of which shall be retained by the DRC.

E. DEFERRAL OF MATERIAL OR COLOR SELECTION

An applicant may wish to delay the confirmation of landscaping plans and final color selections until some point in time after the start of construction in order to better visualize landscape considerations or to test an assortment of potential colors with actual materials intended for use. The DRC will cooperate with the applicant in this regard, provided that no landscape work may be started, nor color or material applied, until such time as the DRC has had the opportunity to review and consent to the final selections. The resubmittal must occur before the placement of any orders for materials in order to avoid potential restocking costs in the event of denial of the submitted item(s). Any Final Design Approval shall be conditional on the Owner obtaining DRC approval of any materials or colors on which approval was deferred at the time of the Final Design Submittal. Application of any material, coating or finish without the requisite resubmittal to the DRC shall have the effect of voiding the Final Design Approval in its entirety.

F. SITE INSPECTION

As soon as the submission of final plans is complete, a representative of the DRC will inspect the site to determine that the conditions as depicted in the Final Design Submittal are accurate and complete.

G. FINAL DESIGN REVIEW

The DRC will review the final plans and respond in writing within 10 days after the review, but no later than 30 days after a submittal is complete. If, in the opinion of the DRC, the submittal is a logical and direct development of the approved preliminary drawings and is otherwise in compliance with these Design Guidelines, approval will be granted. Should the design be at substantial variance with the preliminary drawings or violate any of these Guidelines, disapproval may result, and a revised submittal will be required.

No Owner, architect or builder shall have the right to attend any meeting of the DRC unless specifically requested by the DRC. Any response an Owner may wish to make regarding the results of a design review must be addressed to the DRC in writing.

H. RESUBMITTAL OF PLANS

In the event of any disapproval by the DRC of either a preliminary or a final submittal, a resubmission of plans should follow the same procedures as an original submittal.

I. PRE-CONSTRUCTION CONFERENCE

Prior to commencing construction, the builder must meet with a representative of the DRC to review construction procedures and coordinate his activities in the Subdivision.

J. COMPLIANCE DEPOSIT

To assure the Owner's and builder's compliance with these Guidelines and their agreement to build all structures, landscaping, and other improvements in complete conformance with approved plans, the Owner shall deliver to the DRC a Compliance Deposit in the amount of \$5,000. This deposit must be delivered prior to commencement of construction and will be held by the DRC until the final release described below has been issued by the DRC. If the Owner or builder fails to comply in any way with these Design Guidelines, with approved plans, or with the Construction Rules described in Section 5, then the funds held as the Compliance Deposit or the native plant protection bond, as the case may be, may be used to pay the costs of correcting such failure.

Any funds remaining in such deposit after the final release has been issued will be promptly returned to the Owner.

K. COMMENCEMENT OF CONSTRUCTION

Upon receipt of final approval from the DRC, payment of the Compliance Deposit, and satisfaction of all governmental review processes, the Owner shall satisfy all conditions and commence the construction of any work pursuant to the approved plans within

one year from the date of such approval. If the Owner fails to begin construction within this time period, any approval given shall be deemed revoked.

The Owner shall, in any event, complete the construction of any improvement on his lot within 18 months after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to labor strikes, fires, national emergencies or natural calamities.

L. INSPECTIONS OF WORK IN PROGRESS

The DRC may inspect all work in progress and give notice of noncompliance. Absence of such inspection or notification during the construction period does not constitute an approval by the DRC of work in progress or compliance with these Design Guidelines.

M. SUBSEQUENT CHANGES

Additional construction or other improvements to a residence or lot, or changes during construction or after completion of an approved structure, including landscaping and color modification, must be submitted to the DRC for approval prior to making such changes or additions.

N. FINAL RELEASE

Upon completion of any residence or other improvement, the Owner shall give written notice of completion to the DRC. Within sixty (60) days of such notification, a representative of the DRC may inspect the residence or other improvements for compliance. If all improvements comply with these Design Guidelines, the DRC may issue a written approval to the Owner, constituting a final release of the improvements by the DRC. Final release is to be issued within 30 days of the final inspection.

If it is found that the work was not done in strict compliance with the approved plans or any portion of these Design Guidelines, the DRC shall notify the Owner in writing of such non-compliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same. Thereafter, the provisions of Section 7.6 of the Declaration of Covenants, Conditions and Restrictions for Old Cutters Subdivision (the "CCR's") shall govern the enforcement procedures.

O. NONWAIVER

The approval by the DRC of any plans, drawings, or specifications for any work done or proposed shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing or specification subsequently or additionally submitted for approval. Failure to enforce any of the development standards shall not constitute a waiver of same.

P. RIGHT OF WAIVER

The DRC reserves the right to waive or vary any of the procedures set forth herein at its discretion.

Q. RELATIONSHIP WITH ASSOCIATION

The DRC shall serve as an agent of the Association concerning the review, enforcement, and other matters described in these Guidelines. All funds held or disbursed as or from Design Review fees, Compliance Deposits, payments of fines, and payment or reimbursements of expenses of enforcing compliance with these Guidelines will be held and/or paid for the account of the Association and will in all instances be the property of the Association.