



Document Cover Sheet

For multiple or single document submissions,
please use 1 cover sheet per document.

Subject Property Description:

4091 N 4200 E, Huntsville, UT 84317

Document:

Restrictions

Escrow #:

Loan #:

MLS#:

01459-18040

Buyer/Borrower: Angie Boswell

Selling Agent/Loan Officer:

Broker/Company Name:

Seller:

Listing Agent:

Broker/Company Name:

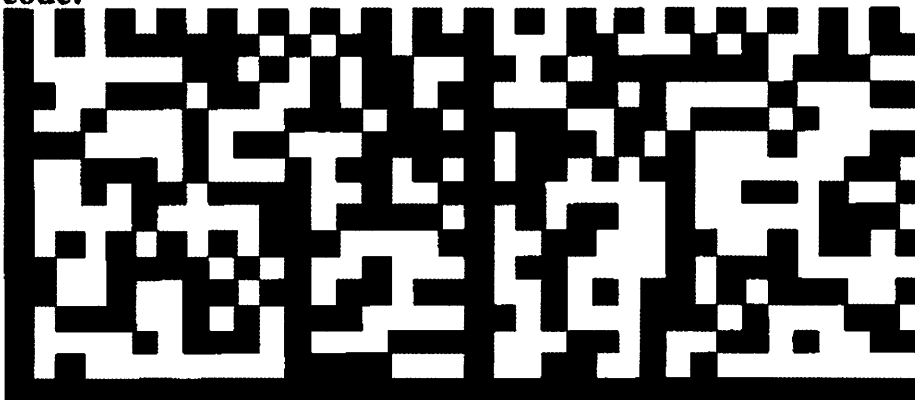
Closer:

Closer Company Name:

Lender:

Lender Company Name:

Barcode:



P-2
P-4



"W2309322"

EH 2309322 PG 1 OF 3
ERNEST D ROWLEY, WEBER COUNTY RECORDER
07-DEC-07 1251 PM FEE \$.00 DEP JKC
REC FOR: WEBER COUNTY PLANNING

DECLARATION OF GRANTING OF AN AGRICULTURAL
PRESERVATION EASEMENT OVER AND ACROSS
PORTIONS OF ASPEN FALLS ESTATES SUBDIVISION
Cluster

22-278-0001 TO 0012/

AQUILA DEVELOPMENT GROUP LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, HEREINAFTER REFERRED TO AS THE "DECLARANT", DOES HEREBY STATE, DECLARE, AFFIRM AND WARRANT THE FOLLOWING, COVENANTS, CONDITIONS, RESTRICTIONS AND GRANTING OF AN AGRICULTURAL PRESERVATION EASEMENT OVER CERTAIN PORTIONS OF ASPEN FALLS ESTATES SUBDIVISION, FOR THE PURPOSES STATED HEREIN.

1. Declarant is the owner of certain property in the County of Weber, State of Utah, which is hereinafter described as the "Property" and which is more particularly described as:

All of the Agricultural open Space, of ASPEN FALLS ESTATES SUBDIVISION, Weber County, State of Utah, according to the official plat thereof.

2. Declarant declares that the Property be leased, used, occupied and improved subject to the following requirements and restrictions. The agricultural preservation easement, stated, conveyed and granted are for the express purpose of enhancing the value and protecting the attractiveness and desirability of the Property, and that of other properties located within said Subdivision.

3. The agricultural preservation easement shall run with the property and shall be binding upon all persons having any right, title or interest in the Property and shall inure to the benefit of the Declarant and Owner of the Property and his/her or its successors, assigned heirs or nominees.

4. Declarant states, conveys and warrants to Aspen Falls Estates Home Owners Association and Weber county, State of Utah, a BODY POLITIC, a perpetual and exclusive easement of a portion of the property, legally described as the AGRICULTURAL OPEN SPACE OF ASPEN FALLS ESTATES SUBDIVISION, as a permanent Agriculture Preservation Open Space, subject to the terms, conditions and stipulations of Utah State Code and the zoning ordinances of Weber County, State of Utah and the following terms, conditions and stipulations:

- a. Title to the real property known and described as AGRICULTURAL OPEN SPACE OF ASPEN FALLS ESTATES SUBDIVISION, must be owned by the owner of another lot within ASPEN FALLS ESTATES SUBDIVISION, and may never be owned in fee by anyone or entity which does not own another lot within said subdivision.
- b. Buildings must have an agricultural design and be subject to design review from Aspen Falls Estates Subdivision Home Owners Association.
- c. Buildings may only be located on a portion of the designated Agricultural Preservation open Space, more particularly described on the attached Exhibit "A" which by reference is made a part herewith. Building location may be altered slightly to conform to local zoning and setback requirements.

d. Buildings may not be used for occupancy by humans, storage of vehicles not of agricultural intent or for the preparation, cultivation, and harvesting of the permitted crops on the Agricultural Open Space. Any intended uses must be reviewed and approved by the Aspen Falls Estates Homeowners Association.

e. Permitted crops are as follows: Wheat, barley, oats, alfalfa, any hay producing grasses, or corn. Exceptions to the permitted crops may be granted by the Home Owners Association. Harvested crops may be stored in the appropriate building located on the Agricultural Open Space.

f. Permitted animals are described as; Horses, cattle, dogs, cats. Animals and their living conditions cannot fall into a state of neglect or property owner will be subject to special assessment levy from the Home Owners Association. No more than 25 of any combination of the above animals may be boarded or permanently kept on the premises at any one time. Exceptions may be granted from the Home Owners Association if the animals do not detract from the value, desirability, or attractiveness of said property.

g. Non-permitted animals are: Reptiles, swine, mink, poultry, waterfowl, sheep, goats, or any other animal not stated above.

Waste from animals must be regularly removed from the subject property. In the event that waste is to be used as a fertilizer, the waste must be tilled or disked into the ground within 30 days of application, weather permitting.

h. Agricultural Open Space may not be used as a temporary or a permanent storage facility for non-agricultural, recreational equipment or vehicles.

5. No rubbish, trash or garbage or other waste material shall be kept or permitted upon the Agricultural open space, except in sanitary containers. No odor shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, and offensive or to any other property in the vicinity, no exterior fires will be permitted, except barbeque fires contained with appropriate receptacles and fire pits or fireplaces. No lumber, grass, silage, shrub or tree clipping, plant waste, metals, bulk material or scrap shall be allowed on the Agricultural Open Space, except within an enclosed structure or in an area appropriately screened from view.

6. Declarant grants a perpetual license for County, City, State or Federal services, including but not limited to police, ambulance, fire or other emergency service, over and across the Agricultural Open Space as required by said entities for the general welfare and protection of the owner of said Property, the owners of neighboring properties or the general public.

7. Owner of the Agricultural Open Space shall be required to comply with the terms, conditions and stipulations as required herein and as required under code or zoning. In the event that any term, condition or stipulation stated herein should be in conflict with code or zoning, it is understood that code or zoning shall supersede.

In the event that a violation of any code or zoning requirement by the owner of the property, which is the subject of this declaration, or by his/her or its guests or employees, the owner of the property will be subject to fine, special assessment or levy, by the applicable governmental authority.

In the event that any violation of any term, condition or stipulation, exclusive at code or zoning violations, as expressed in this declaration, by the owner of

the property, which is the subject of this declaration, or by his/her or its guests or employees, shall subject the owner and the property to a special assessment levied by the Homeowners Association of Aspen Falls Estates.

e. Any special assessment lien or levy shall be administered by the Trustees, duly elected and nesting in their capacities as Trustees of the ASPEN FALLS ESTATES Homeowners Association.

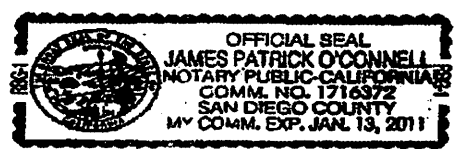
Declarant has executed this Declaration on this the 31 day of October 20 07.

Thomas M. Hussion
THOMAS M. HUSSION, Partner
Aquila Development Group LLC

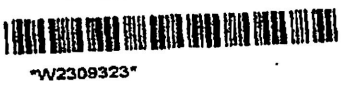
State of California
County of San Diego

On this the 31ST day of October, 20 07, personally appeared before me, Thomas M. Hussion, Partner, Aquila Development Group LLC, the signer of the foregoing document who duly acknowledged to me that they executed the same.

James Patrick O'Connell
NOTARY PUBLIC



P-1
P-2
P-4



EN 2309323 PG 1 OF 1
ERNEST O ROWLEY, WEBER COUNTY RECORD
07-DEC-07 1251 PM FEE \$6.00 DEP JKC
REC FOR: WEBER COUNTY PLANNING

**ONSITE WASTEWATER DISPOSAL SYSTEMS
DEED COVENANT AND RESTRICTION**

TO RUN WITH THE LAND

22-278-0001 TO 0012

Notice is hereby given that onsite wastewater systems are part of the development of Aspen Falls Estates Cluster Subdivision. The installation of onsite wastewater systems is governed by provisions of the Utah Administrative Code and the Weber-Morgan Health Department Rules for Individual Wastewater Disposal Systems. Pursuant to R317-4-3, Subsection 3.3, soil exploration pits and percolation tests have been made at the rate of at least one test per lot in order to establish the feasibility of this subdivision.

State and local rules and regulations affecting the installation of onsite wastewater systems may change from time to time. If an owner of any lot described herein has not made a valid application for a wastewater system permit prior to any such change, the affected lot may be subject to review by the local health department to establish that the lot complies with current state and local requirements before a wastewater system permit is issued. It is therefore recommended that the Weber-Morgan Health Department be contacted in order to determine whether this lot complies with current requirements.

Physical characteristics of lots within this subdivision may also change from the conditions under which the initial subdivision approval was granted. When, in the determination of the local health department, it appears that such physical changes may affect the suitability of the lot for the installation of an onsite wastewater system, the affected lot may be subject to review by the local health department to establish that the lot complies with current state and local requirements before a wastewater system permit is issued.

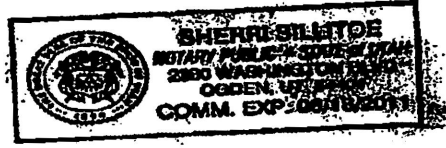
DATED this 4th day of December, 2007.

[Signature]
Subdivider
[Signature]
Subdivider

STATE OF UTAH)
) ss:
COUNTY OF WEBER)

On the 4th day of December, 2007 personally appeared before me Sherril Sillitoe and For Aspen Falls Estates the signers of the within instrument and who duly acknowledged to me that they executed the same.

[Signature]
Notary Public





"W2309322"

EH 2309322 PG 1 OF 3
ERNEST D ROWLEY, WEBER COUNTY RECORDER
07-DEC-07 1251 PM FEE \$4.00 DEP JKC
REG FOR: WEBER COUNTY PLANNING

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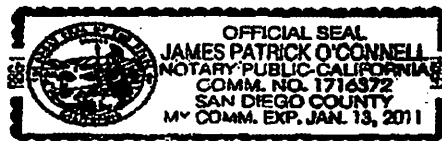
Declarant has executed this Declaration on this the 21 day of October 20 07.

Thomas M. Hussion, Partner Aquila Development Group LLC
THOMAS M. HUSSION, Partner
Aquila Development Group LLC

State of California
County of San Diego

On this the 31ST day of October, 20 07, personally appeared before me, Thomas M. Hussion, Partner, Aquila Development Group LLC, the signer of the foregoing document who duly acknowledged to me that they executed the same.

James Patrick O'Connell
NOTARY PUBLIC



P-1
P-2
P-4



"W2310353"

EH 2310353 PG 1 OF 19
ERNEST D ROWLEY, WEBER COUNTY RECORDER
13-DEC-07 1006 AM FEE \$55.00 DEP SGC
REC FOR: ASPEN FALLS EST CLUSTER SUB

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ASPEN FALLS ESTATES SUBDIVISION
CLUSTER**

22-278-0001-0012 ✓

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (THE "Declaration") is made as of the 01 day of November 2007 (the "Effective Date"), by Aquila Development Group LLC, a Limited Liability Company ("Declaring").

RECITALS:

A. Declarant is the owner of the property. The property has been subdivided into separate lots into a Subdivision known as Aspen Falls Estates Subdivision, and it is contemplated that each of the lots situated therein will or perhaps may be separately owned, encumbered, and/or leased. *CLUSTER*

B. Declarant has deemed it desirable to grant certain easements over and across the Common Area of the Subdivision and to provide for the adoption of covenants, conditions and restrictions upon the property and upon the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the property.

NOW THEREFORE, Declarant hereby covenants, agrees and declares that all of the Property shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and liens, hereafter set forth.

I.
DEFINITIONS

When used in this declaration, the following terms have the meaning indicated:

- 1.1 Plat shall mean and refer to the subdivision plat of Aspen Falls Estates Subdivision, executed and acknowledged by the developer on _____, Prepared and certified by Reeve and Associates (a duly registered Utah Land Surveyor) and filed for record in the office of the County Recorder of Weber County, Utah, concurrently with the filing of this Declaration.
- 1.2 County shall mean Weber County, Utah.
- 1.3 Property shall mean the entire tract of property covered by the Plat, a description of which is set forth in Exhibit "A" attached hereto.
- 1.4 Lot shall refer to any of the separately numbered and individually described parcels of land shown on the Plat or any subsequently recorded subdivision map of the Property.
- 1.5 Common Area shall mean and include that part of the subdivision that is not included with the individual lots, including all platted improvements other than utility lines now or hereafter constructed or located thereon.
- 1.6 Living Unit shall mean or refer to a structure or portion of a structure which is designed for use and occupancy as a single family residence, together with all improvements located on the lot concerned which are used in conjunction with such residences.
- 1.7 Owner shall mean or refer to record owner of any Lot which is a part of the subdivision. Owner may be one or more persons or entities. Notwithstanding, any applicable theory related to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.8 Association shall mean and refer to North River Ridge Subdivision Homeowners Association, a Utah non-profit corporation.
- 1.9 Member shall means and refers to any person who holds membership in the association.
- 1.10 Committee shall mean and refer to the Architectural control committee as described in Article 3 below.

1.11 Benefited Site shall mean those portions of the Subdivision that are benefited by the rights hereinafter set forth and constitute the dominant estate.

1.12 Burdened Site shall mean those portions of the Subdivision that are burdened by the rights hereinafter set forth and constitute the servient estate.

1.13 Subdivision shall mean all of the property with in Aspen Falls Estates development, including the Lots, Common Area in all of the phases, shown on the Plat.

II.

NATURE AND PURPOSE OF RIGHTS GRANTED

2.1 Rights Appurtenant. Each and all of the rights granted or created in this Declaration are appurtenances to the individual Lots situated on the Subdivision and none of the rights may be transferred, assigned, or encumbered except as appurtenances to such portions. For the purpose of such rights, the particular areas of the Subdivision which are benefited by such rights shall constitute the dominant estate, and the particular areas of the Subdivision which are burdened by such rights shall constitute the servient estate.

2.2 Nature and Effect of Covenants. Each and all of the covenants, restrictions, and provisions contained in this agreement:

- a. Are made for the direct, mutual and reciprocal benefit of the Owners;
- b. Create mutual, equitable servitudes upon each portion of the Subdivision in favor of the portions of the Subdivision;
- c. Constitute covenants running with the land and are a burden on the Burdened Sites located within the Subdivision for the benefit of the Benefited Sites located within the Subdivision; and
- d. Shall bind every person having any fee, leasehold, or other interest in any portion of the Subdivision at anytime or from time to time to the extent that such portion is affected or bound by the covenant, restriction, or provision in question, or to the extent that such covenant, restriction, or provision is to be preformed on such position.

2.3 Form for Conveyance. Any deed, lease, mortgage, deed of trust or other instrument conveying or encumbering title to a lot shall describe the interest or estate involved as follows:

Lot No. _____ contained within Aspen Falls Estates Subdivision, as the lots are identified in the Plat recorded in the "Declaration of Covenants, Conditions, and Restrictions" of Aspen Falls Estates Subdivision, recorded together with a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said declaration of Covenants, Conditions, and Restrictions.

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot in the Subdivision.

2.4 Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

a. The right of the Association, at its discretion, to suspend a Member's right to use any facilities including Common Areas for any period during which an assessment on such a Member's Lot remains unpaid and for a period not exceeding ninety (90) days for any infraction by such Member of the Provisions of this Declaration or of any rule or regulation promulgated by the Association;

b. The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

c. The right of the County and any other governmental, quasi-governmental body having jurisdiction over the Subdivision to access and rights of ingress and egress over and across the street, parking area, walkway, or open area contained within the Subdivision for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal service; and;

d. The right of the Association to dedicate or transfer all or any part of the Common Areas to the County or any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must be agreed to by the association. Any such dedication or transfer must be approved by two-thirds (2/3) of the Members present in person or represented by proxy and are entitled to cast at a meeting duly called for that purpose. Written or printed notice setting forth the purpose of the meeting and the action

proposed shall be sent to all members at least ten (10) days but not more than thirty (30) days prior to the meeting date.

III. HOME OWNERS ASSOCIATION.

3.1 Establishment of Home Owners Association. Declarant shall establish the Association to carry out the obligations so designated in this Declaration.

3.2 Voting Membership. The association shall consist of one class of membership. All of the Owners of Lots shall be "Members." When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

3.3 Architectural Control Committee. The management and maintenance of the Subdivision and the administration of the affairs of the Association shall be conducted by the Architectural Control Committee, consisting of three (3) natural persons, who need be Members of the Association. The Committee may act by any two (2) of its members, and any authorization approval or power made by the committee must be in writing signed by at least two (2) members. It is intended that Declarant shall control the Committee and may fill any vacancies therein, until such time as Declarant relinquishes control of the Committee to the Association. Declarant shall also have the right, at any time, at its sole discretion, to permit one or more of the members of the committee to be elected by a vote of the majority of the Owners. Any Member of the Committee may resign from the committee, at anytime, upon at least thirty (30) days written notice to the other Committee members. When Declarant relinquishes such control to the Association, or at such earlier times as the Declarant may determine, the members of the Committee may be removed, replaced, or elected by the majority vote of Owners, at any meeting of the Owners at which at least 51% of the Lots are present. However, nothing herein shall preclude the Declarant from relinquishing control over the Committee at an earlier date, at the Declarant's sole discretion. The number of members of the Committee may be changed by amendment of the bylaws of the association. At the first annual meeting, three (3) committee members shall be elected for a term of one (1) year as provided in the Bylaws.

The rights duties and functions of the Committee may be exercised by Declarant until the date the Articles are filed with the State of Utah, after which the initial Committee shall serve until the date of the first meeting of the Association. The Committee shall have all powers, duties, responsibilities as are now or may hereafter be provided by this Declaration, the Articles and Bylaws, including but not limited to, the following:

- a. To make and enforce all rules and regulations covering the operation and maintenance of the Subdivision;
- b. To make any necessary changes required to update the Design Guidelines in order to maintain the integrity of the overall subdivision plan;
- c. To maintain the Common Areas;
- d. To pass upon, approve or reject any plans or specifications for improvements to be made on Lots in the Subdivision, and to enforce the covenants and restrictions set forth herein, so that all structures shall conform to the restrictions and general plans of the Declarant, the Association, and of the Committee, for the improvement and development of the whole Subdivision;
- e. To enter into contracts, deeds, leases, and/or other written instructions or documents and to authorize the execution and delivery thereof by the appropriate officers;
- f. To assess and collect fees from its Members to cover the cost of the maintenance of the Common Areas and administration of the Association;
- g. To open bank accounts on behalf of the Association and to designate the signatures thereof;
- h. To bring, prosecute and settle litigation for itself and the association;
- i. To own, purchase or lease, hold, and sell or otherwise dispose of, on behalf of the Members or Owners, items of personal property necessary or convenient to the management of business and affairs of the Association or for the operation of the Subdivision, including, without limitation, furniture, furnishings, fixtures, maintenance equipment appliances and office supplies.
- j. To keep adequate books and records; and;
- k. To do all other acts necessary for the operation and maintenance of the property and the performance of its duties as agents for the Association, including the maintenance and repair of any portion of the Subdivision if necessary to protect or preserve the Subdivision.

3.4 **Liability.** Members of the Committee, the officers and any assistant officers, agents and employees of the Association shall not be liable to the Members or Owners as

a result of their activities as such for any mistake of judgment, negligent or otherwise, except for their own willful misconduct or bad faith; shall have no personal liability in contract to a Member, Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; Shall have no personal liability in tort to any Member, Owner or any person or entity, direct or imputed, by virtue of acts performed by them in their capacity as such, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and shall have no personal liability arising out of the use, misuse or condition of the Subdivision, which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

3.5 Indemnity. The Members shall indemnify and hold harmless any person, his heirs and personal representatives, from and against all personal liability and expenses, including attorney's fees, incurred, imposed or arising out of or in settlement of any threatened, pending or completed, action, suit or proceeding, whether civil or criminal, administrative or investigative, instituted by any one or more Members or Owners, or any other person or entities, to which he shall be, or shall be threatened to be, made a party by reason of the fact that he is or was a member of the Committee or an officer or assistant officer, agent or employee of the association, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided that in the case of any settlement, the Committee shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such a person may be entitled as a matter of law, by agreement, by vote of the Committee or otherwise. The indemnification as contained herein shall be paid by the committee on behalf of the Members and shall be assessed and collectible from the Members, including Declarant, on a pro rata basis in accordance with the number of votes of each Member or Declarant.

3.6 Fidelity Bond. The Committee may procure appropriate fidelity bond coverage for any person or entity handling funds for the Association.

3.7 Quorum Requirements. The quorum required for the vote of the Association for any action authorized by this Declaration shall be as follows: At any regular meeting or the first Special Meeting called for a particular purpose ("Special Meeting"), the presence of Members or of proxies entitled to cast sixty percent (60%) of all votes of each class of members shall constitute a quorum. If a quorum is not present at the first Special Meeting or any subsequent Special Meeting for the same purpose, another Special Meeting may be called (subject to the notice requirements set forth herein) at which the quorum shall be one half (1/2) of the quorum which was required at the immediately preceding Special Meeting. No such subsequent Special Meeting shall be held more than forty five (45) days following the immediately preceding meeting merely for the purpose of obtaining a required quorum.

IV ASSESSMENTS

4.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in anyway becoming vested with his interest in a Lot, be deemed to have covenanted and agreed to pay the Association the monthly and the special assessments described in this Article together with the amounts hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain (i) a charge and continuing lien upon a Lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the owner of such a Lot at the time the assessment falls due. No owner may exempt himself or his Lot from liability for payment of assessment by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

4.2 Purpose of Assessments. Assessments levied by the association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Subdivision. The use made by the Association of funds obtained from assessments may include payment of the cost of: Taxes and insurance on the Common Areas; maintenance, repair and improvement of the Common Areas; management and supervision of the Common Areas; establishment and funding of a reserve to cover major repairs or the improvements within the Common Areas; and an any expense necessary or desirable to enable the association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation provided, however, that no such assessments shall be used for the initial construction and improvement of Common Areas.

4.3 Maximum Monthly Assessment. As of the Effective Dates, each Lot shall be subject to a maximum monthly assessment of not more than \$100.00, or bare a proportionate share of the yearly operating and maintenance expenses for the Common Areas, subject to approval from Aspen Falls Estates Homeowners Association. From and one year from the Effective Date, the maximum monthly assessment may be increased so long as the change is first approved by sixty percent (60%) of the votes of the Members present in person or represented by proxy and are entitled to cast at a meeting dully called for such propose. Written notice setting forth the purpose of the meeting shall be sent to all members at least ten (10) days but no more than thirty (30) days prior to the meeting date. The Association may from time to time and at its discretion set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

4.4 Special Assessment. From and after the Effective Date, the Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (ii) the cost of any construction, reconstruction, or unexpected repair or replacement of capital improvements upon the Common Areas or any improvement of Subdivision upon the Common Areas. Any such special assessment must be first approved by sixty percent (60%) of the votes of the Members present in person or represented by proxy and are entitled to cast at a meeting dully called fro such propose.

Written notice setting forth the purpose of the meeting shall be sent to all members at least ten (10) days but no more than thirty (30) days prior to the meeting date.

4.5 Uniform Rate of Assessment. Both monthly and special assessments shall be fixed at a uniform rate for all occupied Lots. Until home construction is begun the Lot assessment will be one-sixth (1/6) of the monthly assessment fixed for a fully improved Lot occupied for residential purposes. The Lot assessment for an Unimproved Lot will remain at this rate until home construction begins and will remain at this rate for nine (9) months or until occupancy, whichever comes first. Any owner or builder of a speculation home, other than the Declarant, is subject to the above provisions.

4.6 Monthly Assessment Due Dates. The monthly assessment provided for herein shall commence as to all Lots upon the sale of the first Lots. At least fifteen (15) days prior to the effective date of any change in the amount of the monthly assessment, the Association shall give each Owner written notice of the amount and the first due date of the assessment modification.

4.7 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrance of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

4.8 Effect of Nonpayment – Remedies. Any assessment not paid when due shall, together with the hereinafter provided interest and costs of collection, be, constitute, and remain a personal liability for payment by the Owner. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum and the Association may bring an action against the Owner who is personally liable or to foreclose the lien against the lot, or both. Any judgment obtained by the Association shall include reasonable attorney's fees, court costs, and each and every other expense incurred by the Association in enforcing its rights.

V. OPERATION AND MAINTENANCE

5.1 Maintenance of Living Units. Each Living Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the subdivision and so as not to affect adversely the value or use of any other Living Unit. The Association shall have no obligation to maintain or care for the Living Units.

5.2 Operation and Maintenance by Association. The association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive and generally in good condition and repair. The association shall provide for maintenance of the common Subdivision Street to include debris and snow removal. In the event that Aspen Fall Estates Subdivision desires to install a security gate, the association shall provide for maintenance of said gate.

5.3 Insurance. The Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with residential subdivisions similar to the Subdivision. The following additional provisions shall apply with respect to insurance obtained by the Association.

- a. All policies shall be written by a company holding an A.M. Best rating of "A" or better.
- b. The Association shall have the authority to adjust losses.
- c. Insurance secured and maintained by the Association shall not be sought for contribution for insurance held by the individual Owners or their mortgagees for any individual Living Units.
- d. The Committee shall have the authority to enter into agreement on behalf of the Association to carry such hazard, flood, and liability insurance and a fidelity bond as shall be required by lenders.

5.4 Manager. The association may retain and employ a Property Manager through which it may carry out any of its operational functions set forth in this Declaration. Any Property Manager so engaged may be an independent contractor, an agent, or employee of the Association, and shall be responsible for managing the Subdivision for the benefit of the Association and the Owners. To the extent permitted by law and the terms of agreement with the Association, the Property Manager shall be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself for the maintenance, repair and operation of the Common Areas. It is anticipated that the Declarant will enter into a management agreement until the Association assumes control as set forth above.

VI General Use Restrictions

All Lots within the Subdivision shall be held, used and enjoyed subject to the following limitations and restrictions:

- 6.1 Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Living Units.
- 6.2 Use of Lots and Living Units. All Lots are intended to be improved with Living Units and are restricted to such use. Each Living Unit shall be used only as a single family residence. No Lot or Living Unit shall be used, occupied, altered in violation of law, so as to jeopardize support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in any way which result in an increase in the cost of any insurance covering the Common Areas.
- 6.3 Dwelling Size. The ground floor area of the main structure of each Living Unit, exclusive of ones story open porches and garages, shall not be less than 2,000 square feet for one story dwelling and no less than 1,850 square feet for a dwelling over one story.
- 6.4 Leases. Any lease agreement between an Owner and a Lessee shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration., the By-Laws, and rules and regulations promulgated by the Association and the Committee, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing.
- 6.5 Easements. Easements for installation and maintenance of utilities and drainage facilities of the Subdivision are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of and maintenance of these utilities or which may change to direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.
- 6.6 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot or Common Area within the Subdivision. No odors shall be permitted to arise as to render any portion of the Subdivision unsanitary, unsightly, offensive or detrimental to any other Lot or Common Area or to its occupants. No noise or other nuisance shall be permitted to exist or operate within the Subdivision so as to be offensive or detrimental to any other Lot or Common Area or to its occupants. With out limiting the generality of any of the forgoing provisions, no exterior speakers, horns whistles bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any such property without prior written approval of the Association.
- 6.7 Animals. No animals of any kind shall be raised, kept or bred, with the exception of dogs, cats or other household pets, provided they are not kept, bred or maintained for

any commercial purpose. Any animals permitted on any Common Areas shall be on a leash and strictly controlled and kept pursuant to County Ordinances. An exception to this Section will be those Lots within the Subdivision that are specifically designated for the keeping and use of horses. However, at no time, shall any Owner allow any animal to make an unreasonable amount of noise or become a nuisance or create unsanitary conditions anywhere in the Subdivision. The Association and Committee shall have the Authority to prohibit any Owner from keeping any animal on the Subdivision which is determined to be a nuisance.

6.8 Temporary and Other Structures. No structures of a temporary nature, such as a trailer, basement house, tent, shack, garage, barn or any other building shall be used at any time as a residence either temporarily or permanently, nor shall said temporary structures be permitted in the structure at any time, excluding the permitted uses and agricultural structures for the Agricultural Preservation Easement Area of Aspen Falls Estates. No old or second hand structures shall be moved onto any Lot, it being the intention that the dwellings and other buildings that are erected within the subdivision be new construction and of good quality, workmanship and material and constructed from materials similar to that used on the exterior of the Living Units.

6.9 Unsightly Articles. No unsightly articles shall be permitted to remain on any Lot so as to be visible from an adjoining property. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snow mobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a covered noiseless container and any such container shall be kept within the enclosed structure or appropriately screened from view. Service area, storage piles, compost piles and facilities for hanging, drying or airing clothes or household fabrics shall be appropriately screen from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any property except within an enclosed structure or appropriately screened from view.

6.10 No Further Subdividing. No Lot or Common Area may be further subdivided, nor may any easement or other interest therein less that the whole be conveyed by the Owner thereof without the prior written approval of the committee. However, nothing herein shall be deemed to prevent or require the approval of the committee for the transfer or sale of any Lot or Living Unit to more than one person to be held by them as tenants in common, joint tenants by the entirety.

6.11 Signs. Except for any commercial area signs installed by the Declarant or provided for on any plans approved by the Declarant, no sign of any kind shall be displayed to the public view without the approval of the committee. Such signs may be used by the Declarant in connection with the development of the Subdivision and sale of Lots and such signs of customary and reasonable dimensions as set forth by the committee may be displayed on any residence advertising a Lot for sale or lease. Any

“for sale” or “for lease” signs not more than three (3) feet by two (2) feet, plain white with black block letters, shall not require Committee approval. A Lot identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible from the street, and numbers, not to exceed six (6) feet from the ground, should be lighted to insure night time visibility. If the County sign ordinances are more restrictive than the foregoing requirements, the County ordinances will govern.

6.12 Overnight Parking. NO vehicles of any kind shall be permitted to be parked on any street within the Subdivision between the hours of 2:00 AM and 6:00 AM of any morning. Parking on painted pathways is not permitted except in emergencies.

6.13 No Hazardous Activities. NO activities shall be conducted within the Subdivision and no improvements shall be constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires or incinerators shall be lighted or permitted within the Subdivision except in a contained barbecue unit while attended and used for cooking purposes or within a safe and well designated interior fireplace.

6.14 Repair of Buildings. No improvement on any Lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately stained, painted or otherwise painted by the owner thereof.

6.15 Improvements and Alterations. There shall be no excavation or construction or alteration which in anyway alters the exterior appearance of any existing improvement within the Subdivision, nor any removal of any improvement in the Subdivision (other than restorative repairs or rebuilding) without the prior approval of the Committee.

6.16 Exemption of Declarant. Nothing in this Declaration shall limit the right of the Declarant to complete excavation, grading and construction of improvements to any portion of the Property within the Subdivision owned by Declarant as Declarant deems advisable in the course of development as long as any Lot remains unsold. Declarant is further authorized to use any structure in the Subdivision as a model home or a real estate sales and leasing office. The rights of the Declarant in this Declaration may be assigned by Declarant.

6.17 Rooftop Antennas. No television, ham radio, citizen's band or radio antenna or similar electronic receiving or sending device shall be permitted upon the rooftop or side on any Living Unit or elsewhere if exposed to view from a road within a Subdivision. Such antennas, if used, must be of the type that is installed within the natural building structure or as permitted by the Committee. IN no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any home entertainment facilities or equipment located on any other Lot.

6.18 Satellite Dishes. Digital receiving satellite dishes, no greater in size than two (2) feet in diameter, can be side mounted, but only on the side or rear elevation of the house. The ACC may approve a roof mount as a last resort, if a signal cannot be obtained, otherwise. Satellite dishes larger than two (2) feet in diameter will not be allowed, unless fully screened, from all views and approved in writing by the Committee.

6.19 Access. All vehicular and pedestrian travel within the Subdivision is restricted to dedicated street right-of-ways. Anyone taking shortcuts between dedicated roads, whether paved or gravel, is trespassing either on a Lot or on a Common Area. Nothing herein is to be construed as prohibiting proper use of Common Areas and walkways.

6.20 Motorbikes. All motorbikes, trail bikes, three wheeled power devices, automobiles, two or four-wheeled drive recreational type vehicles are to be operated only on established roads and streets and are specifically prohibited from all Common Areas, footpaths and walkways.

6.21 Noise Sources. Sources of noise such as air conditioning compressors and speakers, on Living Units or Automobiles, should be installed and used in such a manner so as not to disturb neighbors or adversely impact wildlife, and shall under no circumstances generate noise levels exceeding 50 db measured at any source.

VII. DESIGN REVIEW PROCESS

7.1 Purpose. In order to ensure a consistent, high quality and integrated design throughout all phases of the Subdivision, the Committee will review and approve all proposed construction plans and submittal documents prior to submission to the County. A design review process has been established to review site planning, architecture and landscaping design for conformance to Design Guidelines published by the Committee, in addition to encouraging excellence and innovation in the development of a cohesive community design theme. The member and/or buyer agree to be bound by the Design Guidelines. Neither the Declarant nor the Committee assumes responsibility for plan review or conformance to applicable governmental codes or ordinances.

7.2 Review Requirements. All improvements on a Lot require review and approval by the Committee in accordance with the procedures set forth in this section. Any field changes must be approved by the Committee prior to construction.

7.3 Submittal Requirements. The authorized submittal check list outlines the format and content of submittals to the Committee. All plans must be prepared by licensed or otherwise qualified design professionals. Submittals that are deemed incomplete or illegible will be returned unrevised. Owners, builders and design professionals are

expected to carefully read and understand these guidelines and submittal timelines. Owners should refer to the Development Guidelines published by the Committee for additional submittal requirements.

7.4 **Review Standards.** The Committee shall review each submittal for its commitment to the overall community vision, standards and adherence to the Guidelines, and any other supporting documents. The Committee is not responsible for reviewing for reviewing submittals for conformance to any applicable codes or standards established by a government agency.

7.5 **Application Response Time.** After a submittal is accepted as complete and is in accordance with the design review requirements, the Committee will make every effort to approve or disapprove a submittal within 30 business days form submittal acceptance; however, the lack of a response from the Committee shall not be deemed an approval.

7.6 **Review Fees.** The Committee may assess fees for the design review process which may change from time to time. Such fees shall be payable at the time of submittal.

7.7 **Pre-Design Conference.** The builder or Owner shall contact the Committee to schedule a Pre-Design Conference prior to beginning any work. The purpose of this conference is to distribute and explain the Design Guidelines and supporting documents, review process, clarify submittal requirements and to discuss any unique conditions or opportunities of the site. It is required that these meetings take place on the home-site and that the Owners architect ore design professional be present.

7.8 **Preliminary and Final Plan Reviews.** Once a preliminary plan has been approved or approved with conditions, the builder or Owner may proceed to final plan submittal. The builder must address all conditions on the final plans before final approval will be granted. Builders may not skip preliminary plan review and go directly to final plans without prior permission by the Committee.

7.9 **Approvals and Re-Submittals.** All submittals reviewed by the Committee will be noted as follows:

- a. **Approved-Submittal** satisfies all COMMITTEE requirements;
- b. **Approval with Conditions-** Submittal satisfies most COMMITTEE requirements but may contain some minor items in need of clarification or correction. Conditions must be addressed prior to final approval;
- c. **Address Comments and Resubmit-** Submittal contains significant deficiencies, does not conform to Guidelines, or does not address previous comments. Submittal must be resubmitted with all comments addressed.

- d. **Denied-** Submittal contains items not permitted in the Guidelines; or
- e. **Construction Inspection -** The Committee will make periodic in-progress inspections of construction to ensure compliance with the approved construction documents and plans, and the guidelines.

7.10 **Notice of Construction.** The builder or Owner will provide the Committee with a written Notice of Construction at least 7 calendar days prior to the start of construction. This notice will include a verification of the construction schedule and key individuals to contact (including Owner, contractor and contractor and construction supervisor) in the event conditions at the job site require such action.

VIII **GENERAL PROVISIONS**

8.1 **Enforcement.** Declarant, the Committee, and any Owner or the successor in interest of an Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations liens, and charges now or hereafter imposed by provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages or other sums for such violation. Failure by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 **Severability.** Should any of the covenants contained in this Declaration be void or be or become unenforceable in law or in equity, the remaining portions of the Declaration shall remain in effect.

8.3 **Term.** This Declaration and the covenants herein contained shall be in effect until sixty (60) years from the Effective Date and shall be extended for successive periods of ten (10) years thereafter unless within six (6) months prior to the expiration of the initial term or any ten (10) year renewal period a written agreement executed by majority of the then record Owners shall be placed on record in the Office of the County Recorder of the County by the terms of which agreement the effectiveness of this Declaration is terminated or the covenants herein contained are extinguished in whole or in part as to all or any part of the Property the subject thereto.

8.4 **Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

8.5 Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by any Owner in the Subdivision. Such remedy shall be deemed cumulative and not exclusive.

8.6 Attorneys' Fees. In event of any controversy or claim respecting this Declaration, or in connection with enforcement of this Declaration, prevailing parties shall be entitled, in addition to all expenses, costs and damages, to reasonable attorney's fees, whether or not such controversy or claim is litigated or prosecuted to judgment.

8.7 The Declaration. By acceptance of a deed or by acquiring any ownership interest in any of the real property included within this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferee and assigns, binds himself, his heirs, personal representatives, successors, transferee and assigns, to all of the provisions restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by doing so thereby acknowledges that this Declaration sets forth a general scheme for improvements and development of the real property covered hereby, and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferee thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by various subsequent and future Owners.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereto set its hand seals of the Effective Date.

James P. O'Connell
Partner Aquila Development Group LLC
T. M. Hussion

State of California
County of San Diego

On this the 31ST day of October, 2007, personally appeared before me, Thomas M. Hussion, Partner, Aquila Development Group LLC, the signer of the foregoing document who duly acknowledged to me that they executed the same.

James Patrick O'Connell
NOTARY PUBLIC

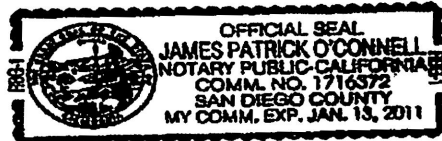


EXHIBIT "A"

PROPERTY DESCRIPTION

The property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consist of the following described real property situated in Weber County, State of Utah:

BOUNDARY DESCRIPTION:

A part of the Northwest Quarter of Section 21, Township 7 North, Range 1 East, Salt Lake Meridian, U.S. Survey: Beginning at a point 20 chains North and 11 Chains East from the Southwest corner of said quarter section; running thence East 29 chains to the East line of said quarter section; thence South 10 chains; thence West 27.5 chains, more or less, to the center of the road; thence Northwesterly along the center of the road to the place of beginning

2-1



Weber County



"W2558540"

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ERNEST O ROWLEY, WEBER COUNTY RECORDER
18-JAN-12 3:11 PM FEE \$0.00 DEP JKC
REC FOR: WEBER COUNTY PLANNING

Covenant Restricting Use of Land

GRANTOR(s), Nathan Boswell Trustee of Angie Boswell Family Trust an individual, hereby grants, for consideration received to GRANTEE, Weber County, Utah, the following described covenant restricting the use of the following property (hereafter the Property):

Legal Description:

All of Lot 2, Aspen Falls Estates Cluster Subdivision
Weber County, Utah

Parcel/Tax Identification # 22-278-0002 ✓ NP

Grantor, his/her heirs, legal representatives, or assigns, including any future owner or leaseholder of the property, or any of them, shall not, nor will at any time during their ownership or control of the Property, use the Property for anything other than a single family residence. The construction and installation of a second kitchen within a single family residential dwelling is for the sole use and enjoyment of the single family living within the dwelling. No structure built or maintained on the property shall be used to provide two or more residences or residential units, as defined in the Weber County Codes.

This Covenant shall run with the property, and shall be binding on all future owners, heirs, assigns, leaseholders, or other legal representatives.

This Covenant is for the sole benefit of Weber County and shall not be assigned by the Grantee to any other party.

If this Covenant is breached or violated in any way, Weber County may at its option, require immediate termination of the offending use. Weber County hereby reserves all rights of enforcement and other remedies available at law. This Covenant shall remain in effect regardless of the amount of time the Property is used in violation of the Covenant.

Dated this 18th day of January, 2012.

Nathan Boswell Trustee of Angie Boswell Family Trust Signed

Nathan Boswell Trustee
Printed

Printed

State Of Utah)
) ss:
County Of Weber)

On the 18 day of January, 2012 personally appeared before me Nathan Boswell,
Trustee of Angie Boswell Family Trust the signers of the within instrument
and who duly acknowledged to me that they executed the same.

My Commission Expires:

[Signature]
Notary Public

