

Clackamas County Official Records  
Catherine McMullen, County Clerk

**2024-017879**

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\$45.00 \$5.00 \$16.00 \$10.00 \$62.00

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Fidelity National Title of Oregon

**AFTER RECORDING RETURN TO:**

Attn: Tom Orth  
26951 SE Forrester Road  
Boring, OR 97009

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
AFFECTING THE TEN EYCK RIM MIDDLE HOUSING,  
A SUBDIVISION IN CLACKAMAS COUNTY, OREGON**

This Declaration is made by TOM ORTH and JOHN HOLMLUND, collectively referred to herein as the "Declarant".

Declarations of Restrictions on TEN EYCK RIM MIDDLE HOUSING, a subdivision in Clackamas County, Oregon, as recorded as Plat No. 4738 in Plat Book 155, Page 029 of the Public Records of Clackamas County, Oregon. The property subject to the Covenants, Conditions and Restrictions set forth herein is described on Exhibit A.

**RECITALS**

In May 2023, Declarant recorded subdivision Plat No. 4704, creating the Ten Eyck Rim subdivision, a nine (9) lot residential subdivision. The Ten Eyck Rim subdivision does not have common property and is not a Planned Community subject to ORS Chapter 94.

On March 1, 2024, in File No. 24-004 MHL, the City of Sandy approved an application for a Middle Housing Land Division pursuant to Sandy Municipal Code 17.100.50, allowing for the division of the existing nine lots in Ten Eyck Rim into 18 Middle Housing Lots.

The City's decision requires that the Ten Eyck Rim subdivision be replatted as a middle housing subdivision. To avoid confusion with the Ten Eyck Rim subdivision, the eighteen-lot middle housing division will be named TEN EYCK RIM MIDDLE HOUSING.

Declarant is recording this Declaration of Covenants, Conditions and Restrictions for the purpose of enhancing and protecting its value, desirability, and attractiveness and to insure the

health, safety, and welfare of the Owners consistent with the applicable provisions of the Sandy Municipal Code. Declarants hereby declare that TEN EYCK RIM MIDDLE HOUSING, shall be held, sold, and conveyed, subject to the following restrictions, covenants, and conditions, which shall run with TEN EYCK RIM MIDDLE HOUSING and shall be binding on all parties having or acquiring any right, title, or interest in TEN EYCK RIM MIDDLE HOUSING or any part thereof, and shall inure to the benefit of each Owner of a TEN EYCK RIM MIDDLE HOUSING and their heirs and assigns if an individual, or its successors and assigns, if a partnership, corporation or another type of entity.

1. DEFINITIONS

1.1 "DECLARANT" shall mean Tom Orth and John Holmlund or their successors or assigns.

1.2 "DEVELOPMENT" shall refer to all land and improvements herein described as the Property.

1.3 "LOT" shall mean those individual tracts of land created through the City of Sandy's middle housing land division process and approved in File No. 24-004 and depicted on the Replat for TEN EYCK RIM MIDDLE HOUSING subdivision.

1.4 "OWNER" shall mean the person or persons, including the Declarant, holding fee simple ownership of a Lot or a contract purchaser of a Lot, but does not include a tenant or a holder of a leasehold interest and does not include a mortgagee or beneficiary of a deed of trust until the same have acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. The rights, obligations, and other status of being an Owner commence upon acquisition of the fee simple ownership of a Lot or a contract purchaser's interest in a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.5 "DECLARATION" shall mean Declaration of Covenants, Conditions, and Restrictions affecting the Property.

1.6 "TEN EYCK RIM MIDDLE HOUSING" shall mean the real property described in Exhibit A attached hereto.

2. MIDDLE HOUSING RESTRICTIONS. Each Lot within TEN EYCK RIM MIDDLE HOUSING is subject to the Middle Hosing Conditions recited in the City of Sandy approval in File No. 24-004 MHLD.

3. GENERAL PROVISIONS FOR AND RESTRICTION ON THE USE OF PRIVATE AREAS.

3.01 MAINTANANCE OF LOTS. Each Lot and its improvements shall be maintained in a clean and attractive condition, in good repair and in such fashion not to create a fire hazard. Each lot shall be maintained, mowed, and kept clear of debris even while the Lot is vacant or

held for investment. Any lot not so maintained shall be subject to the provisions of the enforcement section herein.

3.02 TYPE OF BUILDING. No building other than that drawn by Design Providence, LLC for the sole purpose of this development shall be constructed.

3.03 OUTSIDE ANTENNAS. The construction or installation of satellite dishes, CB antennas, radio and/or TV antennas and placement above the roof ridge or on the front (street facing) side is prohibited. Satellite dishes over 24" in diameter are prohibited. Wires shall be professionally attached and not allowed to hang loose.

3.04 TEMPORARY STRUCTURES. Temporary structures, which have been approved by the Declarant, shall be permitted on a Lot during the period of construction of a dwelling. However, any such temporary structure shall be removed within 30 days after completion of the dwelling or within one year after the date upon which the temporary structure was erected, whichever occurs first.

3.05 APPEARANCE. All garbage, trash, cuttings, refuse or garbage containers, fuel tanks, clothes drying apparatus or other service facilities shall be screened from the view of neighboring Lots.

3.06 SIGNS. No sign shall be placed or kept on a Lot, except signage constructed of a tasteful and personal nature such as household names or addresses to be approved by the Architectural Review Committee prior to installation. Only standard real estate "yard signs" will be permitted and only one sign per Lot will be permitted at any one time.

3.07 OFFENSIVE OR COMMERCIAL ACTIVITIES. No offensive or commercial activities shall be carried out on any Lot, or anything done on a lot, which interferes with or jeopardizes the enjoyment of the other Lots within TEN EYCK RIM MIDDLE HOUSING. Home occupations are allowed pursuant to the provisions of City of Sandy zoning ordinances.

3.08 LIGHTING. No direct beam exterior lighting or noise-making devices shall be installed or maintained on a Lot. No Mercury vapor lights shall be allowed. Private security systems and subdued landscape lighting shall be allowed.

3.09 DRIVEWAY CONSTRUCTION. All private driveways shall be paved with concrete or asphaltic concrete or any other high-quality paving as approved.

3.10 ANIMALS. No Lot may be used as a place to raise domestic or other animals of any kind except for a reasonable number of household pets, which are not kept, bred, boarded, or raised for commercial purposes and are not nuisance to other Lots.

3.11 INITIAL CONSTRUCTION. The initial construction of homes in TEN EYCK RIM MIDDLE HOUSING shall adhere to the following general guidelines:

1. Roofing shall be cedar shake material, tile, metal, or 30-year architectural composition. Metal roofing may only be used with written approval and sole discretion of the Declarants. All allowed roofing is subject to approval of the Declarant.
2. Any auxiliary building, covered or uncovered structure erected on a Lot shall be sided, roofed and the exterior designed in a manner identical to the home to be erected on each Lot. Only small well-constructed storage facilities shall be allowed and shall be permitted solely at the discretion of the Declarant.
3. Siding material of all homes in the Property shall be cedar, finger jointed cedar, Hardi Panel, or better wood siding and/or a masonry product such as brick, rock, or stone. No spruce trim or fascia shall be permitted. Staining or painting of any siding material must be of a muted color or a color consistent with generally accepted design standards. The Declarant shall have sole discretion in approving the exterior color and finish of any home erected within TEN EYCK RIM MIDDLE HOUSING. All homes within TEN EYCK RIM MIDDLE HOUSING shall be sided to a minimum of 10% of an approved brick, stone, rock, or other approved masonry product on all vertical walls facing the common street or the front aspect of the home as determined by the Declarant. At the discretion of the Declarant, some wood trim may be included in the street facing vertical walls.
4. All front yard and side yard landscape construction must be completed within six months from the issuance of the occupancy permit for said home by Clackamas County or the Sandy.
5. Fences shall only be constructed on rear and side yards. The fencing on the rear yards between lots 1-10 collectively and 11-18 collectively shall be constructed of a 6-foot-high good neighbor fence. This fencing shall be constructed of cedar. Any other fencing (side yard fencing) constructed on any lot shall be constructed of black cyclone fencing, 4 feet in height on side yards and shall not be installed any closer to the front yard than 60 feet from the back/rear property line. Permission to use any fencing materials or design other than what is specified above shall be at the sole discretion of the Declarants.
6. All windows shall be wood or vinyl framed window. Variations may be granted by the Declarants if a particular home's design may be enhanced by an alternate design or material. Granting of a variance shall be at the sole discretion of the Declarants.
7. Any building must maintain a minimum front yard, rear yard and side yard setbacks as set forth in the City of Sandy building code.

3.12 BUILDER. The owner of each lot 1 through 18 shall have the sole right to select the builder of their home.

#### 4. ENFORCEMENT

4.1 GENERAL PROVISIONS. The provisions in this Declaration are intended to benefit the Owners of the eighteen (18) middle housing lots in TEN EYCK RIM MIDDLE HOUSING and no other properties. The Owners of Lots in TEN EYCK RIM MIDDLE HOUSING shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations liens, and charges now or hereinafter imposed by the provisions of the TEN EYCK RIM MIDDLE HOUSING design or any TEN EYCK RIM MIDDLE HOUSING declaration. Failure by any such person to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter. Any reference to the authority to enforce any provisions of these declarations may apply either to the Declarant or his assigns, whichever authority has enforcement rights at such time as they may be exercised. Invalidation of any of these covenants by judgment or Court Order shall in no way affect any of the other provisions, which shall remain in full force and effect.

4.2 VIOLATION OF TEN EYCK RIM MIDDLE HOUSING DECLARATIONS BY NON-QUALIFYING IMPROVEMENT. In addition to the enforcement provided for above in Section 4.1, during the initial construction of homes in TEN EYCK RIM MIDDLE HOUSING, and for a period that extends ~~180~~ days following the date Declarant conveys all lots in TEN EYCK RIM MIDDLE HOUSING to third parties, Declarant shall have the right to enforce the provisions in Section 3.11 related to the initial construction of the homes. In the event any Lot owner constructs or permits to be constructed on his Lot, an improvement contrary to the provisions of the TEN EYCK RIM MIDDLE HOUSING declarations, or in the event any Lot owner maintains or permits any improvement, condition, or thing on his Lot contrary to the provisions of the of the TEN EYCK RIM MIDDLE HOUSING declarations, during the period provided for in this Section 4.2, the Declarant may enforce said provisions in any legal proceeding at law or equity.

4.3 NON-EXCLUSIVENESS AND ACCUMULATION OF REMEDIES. Developer's pursuit of any remedy provided for the violation of any TEN EYCK RIM MIDDLE HOUSING design plan and declaration shall not prevent concurrent or subsequent exercise of another remedy permitted thereunto or which is permitted by law. The remedies provide in the TEN EYCK RIM MIDDLE HOUSING design plan and in any TEN EYCK RIM MIDDLE HOUSING declaration are not intended to be inclusive but shall be in addition to all other remedy including actions for damages or suits for injunctions or for specific performance available under applicable law.

#### 4.4 MISCELLANEOUS PROVISIONS.

4.4.1 AMENDMENT AND REPEAL. The provisions of the TEN EYCK RIM MIDDLE HOUSING design plan may at any time be amended or repealed or provisions may be added at the discretion of the Declarants, without the consent of owners as long as the declarant

owns property in TEN EYCK RIM MIDDLE HOUSING. After the declarant no longer owns property in TEN EYCK RIM MIDDLE HOUSING the Declarants may amend the declaration only with written approval of all Lot owners. After the declarant no longer owns any property in TEN EYCK RIM MIDDLE HOUSING the owners may amend the declaration with a vote of at least 70 % of the owners of the lots. For clarity, there may only be 18 votes, one vote for each lot, regardless of whether there are multiple owners of lots. No amendment may revise, remove or modify any of the middle housing conditions of approval in File No. 24-004 MHL D without the written consent of the City of Sandy.

4.4.2 JOINT OWNERS. In any case where two or more persons share ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with the provisions of the TEN EYCK RIM MIDDLE HOUSING declarations shall be joint and several responsibilities. The act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest.

4.4.3 CONSTRUCTION, SEVERABILITY, NUMBER, CAPTION. The TEN EYCK RIM MIDDLE HOUSING declarations shall be construed as an entire document to accomplish the purposes stated in the introductory paragraphs. Nevertheless, each provision of the TEN EYCK RIM MIDDLE HOUSING declarations shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

4.4.4 As used herein the singular shall include the plural and the plural shall include the singular. The masculine and neuter shall each include the masculine, feminine and the neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of the declarations.

4.4.5 NOTICES. Any notice permitted or required by the master design, or any TEN EYCK RIM MIDDLE HOUSING declaration may be delivered either personally or by mail. Delivery by mail shall be deemed to have been accomplished 24 hours after the notice has been deposited as certified or registered mail in the United States mail, with postage prepaid, addressed as follows:

If for plan review or other notices:

Tom Orth  
26951 S.E. Forrester Road  
Boring, Oregon 97009

Or to Thomas C. Orth, their successors or assigns may designate as provided for in the declarations of the property.

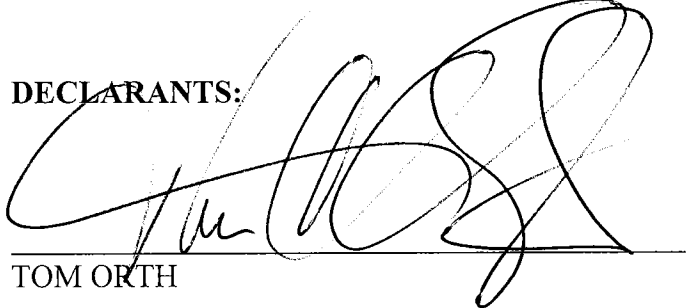
If to a Lot Owner:

At the address given by him at the time of his purchase of a Lot or at the address of his Lot within the Property.

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

IN THE WITNESS WHEREOF, Declarants have caused this instrument to be signed on this 22 day of May, 2024.

DECLARANTS:



TOM ORTH

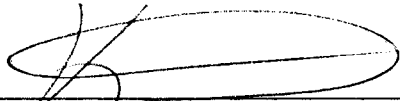


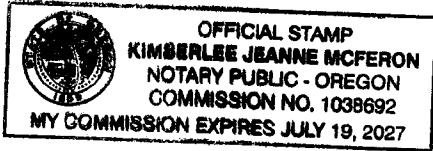
JOHN HOLMLUND

(Acknowledgements follow)

STATE OF OREGON )  
                  *multnomah* ) ss.  
County of ~~Clackamas~~ )

On this 22 day of May, 2024, before me, the undersigned Notary Public in and for said State, personally appeared Tom Orth, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same freely and voluntarily.

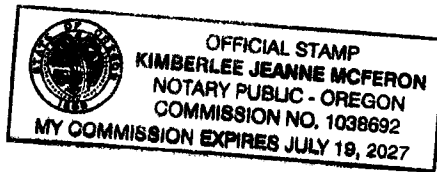
  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 7-19-27



STATE OF OREGON )  
                  *multnomah* ) ss.  
County of ~~Clackamas~~ )

On this 27 day of May, 2024, before me, the undersigned Notary Public in and for said State, personally appeared John Holmlund, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same freely and voluntarily.

  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 7-19-27





**EXHIBIT A**

**Legal Description**

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, Ten Eyck Rim Middle Housing, a subdivision located in the Northeast One-Quarter of Section 13, Township 2 South, Range 4 East, Willamette Meridian, City of Sandy, Clackamas County, Oregon.