



Declaration of Protective Covenants, Conditions and Restrictions

and

First, Second and Third Amendments to Declaration

and

Supplements for Phases Two, Three, Four-B, and Phase Four-C

*Prepared by Upstate Partners, L.C.  
Last Updated on September 18, 2006*



## INDEX

- A. Declaration of Protective Covenants, Conditions and Restrictions dated June 23, 1999, filed with the Steuben County Clerk's Office in Liber 1617 of Deeds, Page 92.
- B. First Amendment to Declaration dated December 7, 2000, and filed with the Steuben County Clerk's Office in Liber 1695 of Deeds, Page 66.
- C. Supplemental Declaration for Phase Two dated January 19, 2001, filed with the Steuben County Clerk's Office in Liber 1702 of Deeds, Page 79.
- D. Second Amendment to Declaration dated April 25, 2001, and filed with the Steuben County Clerk's Office in Liber 1715 of Deeds, Page 338.
- E. Third Amendment to Declaration dated October 4, 2001, and filed with the Steuben County Clerk's Office in Liber 1740 of Deeds, Page 251.
- F. Supplemental Declaration for Phase Three dated August 22, 2001, filed with the Steuben County Clerk's Office in Liber 1734 of Deeds, Page 34.
- G. Supplemental Declaration for Phase Four-C dated December 22, 2005, filed with the Steuben County Clerk's Office in Liber 2004 of Deeds, Page 235.
- H. Supplemental Declaration for Phase Four-B dated May 25, 2006, filed with the Steuben County Clerk's Office in Liber 2031 of Deeds, Page 49.

### Notes:

- 1. All Lots within Phase One are subject to documents A, B and D above.
- 2. All Lots within Phase Two are subject to documents A, B, C and D above.
- 3. All Lots within Phase Three are subject to documents A, B, D, E and F above.
- 4. All Lots within Phase Four-C are subject to documents A, B, D, E and G above.
- 5. All Lots within Phase Four-B are subject to documents A, B, D, E and H above







*Declaration*  
*of*  
*Protective Covenants, Conditions & Restrictions*  
*for*

*Aurene*

SEND TO:  
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*Prepared by Upstate Partners, L. C. LLC*  
*Last revised on June 22, 1999*

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When Recorded, Mail to:

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1400 First Federal Plaza  
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## Declaration of Protective Covenants, Conditions, and Restrictions

for

*Aurene*

THIS DECLARATION, IS MADE THIS 23<sup>rd</sup> of June, 1999, by Upstate Partners, L.C. LLC, a Utah limited liability company, referred to below as "Declarant:"

### RECITALS:

A. The real property which is, or may be subject to this Declaration is located in the Town of Erwin, County of Steuben and State of New York, all of which property shall be hereinafter referred to as the "Property". Declarant intends to develop the Property as a master-planned residential community (the "Community"). Declarant will develop and convey all of the Property within Phase One subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions and easements all as set forth in this Declaration, and which are deemed to be covenants running with the land, mutually burdening and benefiting all of the Property and each of the Lots. The real property initially subject to this Declaration is known as "Aurene, Phase One" and is described in Exhibit "A" attached hereto.

B. Declarant may, without the consent of Lot Owners, within 20 years of the date of recording of this Declaration, bring within the scope of this Declaration (i) all or any portion of the land described in Exhibit "B" attached hereto; and (ii) any other land contiguous with the Property (each, "Additional Land"). Declarant owns the Additional Land described in Exhibit "B", and does not currently own, but may in the future acquire, other Additional Land.

Such Additional Land shall be added to this Declaration by the recording in the Steuben County Clerk's Office of an amendment or supplement to this Declaration, which shall extend the scope of the covenants, conditions, restrictions and easements of this Declaration to such Additional Land. A supplemental extending declaration may also contain such complementary additions and modifications

of the provisions of this Declaration as may be necessary to reflect the different character, if any, of the added lands and improvements or intended improvements, and as are not inconsistent with the provisions of this Declaration.

The owner of any lands (other than the Declarant) who desires to add such lands to the scope of this Declaration and to subject such lands to the covenants, conditions, restrictions and easements contained in this Declaration, may do so upon approval in writing of (i) the owners of a majority of the Lots in the Community as then constituted; (ii) the Declarant if Declarant is at the time the owner of all or any part of the lands described on Exhibits "A", or "B"; and (iii) an amendment to this Declaration executed by the owner of any such lands proposed for inclusion, the Declarant (if applicable) and a majority of the owners of Lots in the Community as then constituted.

C. Declarant hereby declares that all or any part of the Property, once brought within the scope of this Declaration, shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to these protective covenants, conditions, restrictions, equitable servitudes and easements, all of which are created for the mutual benefit of the Owners of the Property and the Lots. It is the intention of the Declarant in imposing these protective covenants, conditions, restrictions and easements to create a generally uniform pattern of development, to protect and enhance the property values and aesthetic values of the Property by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. The protective covenants, conditions, restrictions, and easements are intended to, and shall in all cases run with the title of the Lot, and be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other person or entity holding any interest in the Property, and shall inure to the benefit of all other Property in the Community. The protective covenants, conditions, restrictions and easements shall also be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant, or by any Owner.

Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from the completion of the infrastructure Improvements for the Community, or from using any Lot owned by the Declarant or a Selected Builder for a model home, temporary construction office or sales office, nor limit Declarant's right to post signs or engage in other reasonable activities on the Property incidental to sales or development and construction in compliance with applicable Town ordinances.

## ARTICLE I

### DEFINITIONS

.1. Unless the context clearly requires the application of a more general meaning, the following terms, when used in this Declaration, shall have the following meanings:

"Additional Land" shall mean, but not be limited to, those certain lands described in Exhibit "B" hereof, and any other lands contiguous to the lands described in Exhibits "A" or "B" hereof. The

Additional Land may be brought under the scope of this Declaration and added to the Community as discussed in this Declaration, and the Declarant may increase or decrease the amount of Additional Land at any time.

"Approved Color List" shall mean those colors ("Approved Colors") described in Exhibit "C" to this Declaration.

"Attached" shall refer to a Dwelling that shares one or more common walls with an adjacent Dwelling.

"Basement" shall mean habitable space within a Dwelling that is located entirely or substantially below the surface grade, including any spaces with exterior walls that extend less than four feet above the natural grade.

"Builder" shall mean the person or entity engaged by an Owner for the purpose of constructing, altering, or maintaining a Permitted Improvement. In this context, the Owner may also be the Builder, provided that if the Owner is not acting as Builder, the Builder shall be a duly licensed contractor as required by any applicable local or state law, ordinance, rule or regulation.

"Committee" shall mean the committee created under Article II of this Declaration. No Improvements may be constructed on a Lot without the prior written approval of the Committee.

"Community" shall mean and refer to the land, which is subjected to this Declaration, or to any subsequent supplements, amendments, or additions thereto.

"Declarant" shall mean and refer to Upstate Partners LC, a Utah limited liability company, its successors and/or assigns.

"Declaration" shall mean this Declaration of Protective Covenants, Conditions and Restrictions, together with any subsequent supplements, amendments, or additions, and any other matters or conditions shown on the filed Plats of Aurene, or any phase thereof, which are incorporated into this Declaration by reference.

"Detached" shall refer to a freestanding Dwelling setback from its Lot boundaries and from adjacent Dwellings.

"Disturbance Area" shall mean the area within each Lot which is the outer limit of the area which may be disturbed by construction. The maximum size of the Disturbance Area for each Lot has been established by the Declarant, and designated on Exhibit "D" attached hereto. The location and configuration of the Disturbance Area shall be delineated prior to the initial construction by the Builder and shown on the construction plans submitted to the Committee for approval.

"Dwelling" shall mean an Attached or Detached single-family residence.

"Excavation" shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than eight (8) inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the New York State Uniform Fire Prevention and Building Code as applicable in the Town.

"Family" shall mean one household of persons related to each other by blood, adoption or marriage, or one group of not more than four people not so related living together as a unit who maintain a common household.

"Fencing" see Permitted Outdoor Accessories below.

"Fill" shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from off-site or resulting from the re-grading of excavated material from on-site, to raise the natural elevation of the surface. Fill shall also include any fill material as defined under the Uniform Fire Prevention and Building Code, as applicable in the Town.

"Foundation" shall mean the Aurene Foundation, L.L.C., the management company to be established by, and affiliated with, the Declarant as the developer of the Community.

"Floor Area" shall mean the total of all floor surfaces surrounded by the exterior walls of any Dwelling on all levels. Walk-out basement space will be counted as floor area whether finished or unfinished. Basement space more than 80% below finished grade will not be counted as Floor Area. Porches, patios, balconies and decks are not counted as Floor Area unless under roof or enclosed on three sides by the walls of the Dwelling. The first 500 square feet of attached garage space is not counted as Floor Area. Detached garages or any garage area in excess of 500 square feet shall be counted as Floor Area.

"Home" shall have the same meaning as Dwelling.

"Improvement" shall mean all structures and appurtenances of every type and kinds, including but not limited to buildings, Dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, driveways, landscaping, pools, decks, stairs, poles, lighting, signs, courts and athletic facilities, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

"Lot" shall mean each building Lot for an Attached or Detached Dwelling shown on the Plat for the Community, or any phase thereof.

"Maximum Floor Area" shall mean the Maximum Floor Area established for each Lot and designated on Exhibit "D" attached hereto and made a part hereof.

"Maximum Disturbance Area" shall mean the maximum area which may be disturbed by construction activity on each Lot, as described on Exhibit "D" attached hereto and made a part hereof

"Minimum Set-backs" shall mean the minimum front, side and rear setback distances established for each Lot and described on Exhibit "D" attached hereto and made a part hereof

"Natural Area" shall mean the portion of any Lot that is outside of the Disturbance Area.

"Non-wooded Lots" shall mean those Lots which are substantially devoid of native woodland vegetation, and are designated as such on Exhibit "D" attached hereto and made a part hereof.

"Open Space" shall mean those areas designated on the Plat as such, which areas may be leased or conveyed to the Town, or to a private nature conservancy or similar organization, or to a private owner, or which may continue to be owned by the Declarant or an affiliate of the Declarant, and which shall be encumbered with a right of public access.

"Owner" shall mean the person or persons having title to any Lot or other parcel of Property as shown on the Plat for the Community, or any phase thereof. Owner shall mean the person holding fee simple title, including the Declarant, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

"Permitted Outdoor Accessories" shall mean those fences, mailboxes, newspaper tubes, construction signs, real estate signs, street numbers and Owner's names displayed, installed, constructed, maintained or allowed to stand on the Property in compliance with the design standards described by the Exhibit "E" attached hereto and made a part hereof.

"Permitted Improvements" shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in compliance with this Declaration.

"Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of New York.

"Plat" shall mean any individual subdivision map of any phase (or part of a phase) of the Community, and collectively all subdivision maps of the various phases (or parts of phases) of the Community, approved by the Town and filed in the office of the Steuben County Clerk, and any amendments or supplements that may be made from time to time.

"Pre-wiring" shall mean the telecommunications pre-wiring guidelines and requirements set forth in Exhibit "F" attached hereto and made a part hereof.

"Property" shall mean all of the land described on Exhibit "A", including Lots, Trails, Open Space, Streets and any other common areas. The Property shall not include any areas described on Exhibit "B" as Additional Land unless and until such time as such land is added to the Community and subjected to this Declaration.

"Public View" shall mean that the object, Improvement, or activity on the Property that is or would be in the line of sight originating from a point five feet above the surface of any public street or sidewalk or trail or Open Space within the Community.

"Selected Builder" shall mean a Builder under contract with Declarant to construct and offer completed Homes to Owners at the Community. Declarant may arrange for several Selected Builders and may delete or replace a Selected Builder without notice to Owners.

"State" shall mean the State of New York and its appropriate departments, officials, and agencies.

"Street" shall mean that portion of the Property that has been or will be dedicated to the Town as a public way, as shown and described on the Plat.

"Town" shall mean the Town of Erwin, County of Steuben, State of New York and its appropriate departments, officials, and agencies.

"Trail" shall mean the area(s) designated on the Plat as such, to be used for hiking, and other non-motorized travel.

"Wooded Lots" shall mean those Lots which are substantially covered with native woodland vegetation, and are designated as such on Exhibit "D" attached hereto and made a part hereof.

## ARTICLE II

### ARCHITECTURAL COMMITTEE

.2. Introduction. It is the intention and purpose of this Declaration to impose Architectural Design Standards of a type and nature that result in Dwellings and Improvements which are compatible with the regional landscape. The placement, massing, dimensions, materials, colors, and public aspects of the Improvements will be guided, but still allow for diversity in style and vitality in design. To accomplish this goal, the Declarant hereby designates the Aurene Foundation, L.L.C., a New York limited liability company, which is empowered itself or acting through an appointed architectural committee to oversee and enforce the Architectural Design Standards and other provisions set forth in this Declaration. The Declarant hereby reserves the right to rescind such designation and to assign to any other person or entity the right to oversee and enforce the Architectural Design Standards set forth in this Declaration.

.2.1. Aurene Foundation Architectural Committee Created. The Aurene Foundation Architectural Committee (the "Committee") will consist of three members who will be appointed or removed from time to time by the Foundation, in the sole discretion of the officers and directors of the Foundation. The Committee members are not required to be Owners.

.2.2. Approval by Committee. No Improvements of any kind, including without limitation the construction of any Dwelling, garage, out building, parking area, driveway, tennis court, walkway, or other hard surfaced area in excess of 100 square feet, swimming pools, sport courts or facilities, outdoor hot tubs or spas, fences, walls, curbs, poles, trampolines, satellite dishes or antenna, solar panels, or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Community without the prior written approval of the Committee. No excavation, grading, filling, draining, landscaping, or installation or removal of existing vegetation shall be made without the prior written approval of the Committee. The members of the Committee shall be entitled to broad use of their discretion in determining whether submitted plans are in compliance with this Declaration and the architectural and aesthetic harmony of the Community. Approval of the Committee shall be sought in the following manner:

- (a) Plans submitted. Two (2) complete sets of plans for the construction of any new Dwelling must be submitted to the Committee for review and approval prior to commencement of construction. The plans shall show the location of the proposed Improvements, include Dwelling elevations and floor area calculations, and illustrate the placement, nature and finish of walls, roofs, windows, doors, chimneys, decks and all other exterior elements and components. The Owner shall also submit a site plan designating the size and limits of the Disturbance Area, the location of driveways, walkways, patios, decks and other hard surfaced areas, Permitted Outdoor Accessories, and the location of construction material and equipment storage areas, portable toilets, construction office and/or trailer, and suitable trash container. The site plan shall also describe the locations and types of landscaping materials to be installed to restore the Disturbance Area. The Committee will not review preliminary plans and will reject incomplete submittals. While the Declarant continues to own all or any part of the Property, the plans shall be submitted to the Committee in care of the Declarant at:

Aurene Foundation Architectural Committee  
c/o Upstate Partners, L.C  
2 West Market Street  
Corning, NY 14830-0548

or such other address as the Declarant may designate and publish to the Lot Owners from time to time. Thereafter, the plans shall be submitted to the Committee at such address as the Committee shall designate and publish to the Lot Owners from time to time.

- (b) Review Fee. The applicant will pay a plan review fee initially set at \$250.00 for each new dwelling, or each addition or remodel which costs more than \$1,000.00. The primary purpose of the plan review fee is to underwrite the Foundation's costs for mitigating residential construction impacts such as sweeping streets and sidewalks and collecting litter and construction debris, but the Foundation may also allocate some of such proceeds to the Committee for it to pay for its expenses in reviewing the plans and giving notice of meetings. The Committee may waive or reduce the plan review fee for



an applicant whose prior construction activities within the Community have produced no impacts. At its sole discretion, the Committee may change the amount of the plan review fee in the future.

- (c) **Exceptions.** In the case of an addition or modification to an existing Dwelling, the Committee may waive any of the foregoing requirements.
- (d) **Review.** Within fifteen (15) days from receipt of a complete submittal, the Committee will review the plans and determine whether or not the plans comply with the Declaration. If they do not comply with the Declaration, the Owner will be notified in writing. If the plans comply with the Declaration, the Committee will approve the plans and the Owner will be notified in writing. The Committee may also conditionally approve the plans subject to specific modifications or conditions. Any construction that is not in strict compliance with the approved plans is prohibited.
- (e) **Written Record.** The Committee will maintain a written record of its actions, and maintain in its files a copy of all approved plans for a period of five (5) years.
- (f) **Failure to Act.** If the Committee has not approved or rejected any submission within thirty (30) days after payment of the review fee and acknowledgement of receipt of a complete submittal, the plans shall be deemed to have been approved, and in any event if no suit to enjoin construction or force the removal of unapproved improvements within ninety (90) days after their completion as established by the issuance of a certificate of occupancy by the Town, the constructed improvements shall be deemed in compliance and approved.

.2.3. Variances. Variances to the Architectural Design Standards contained in this Declaration, or modifications to the size or shape or location of the Disturbance Area on any Lot, may be granted when strict application would create an unforeseen or unreasonable hardship upon the Owner, provided that such unforeseen or unreasonable hardship is not self-imposed. No such variance may be granted without the unanimous consent of the Committee.

.2.4. Extraordinary Costs. When deemed appropriate, the Committee may engage the services of an architect, or civil or structural engineer or other licensed professional to assist in its review of any proposed Improvements. All costs of such additional review will be paid by the Applicant, provided however that no such professional will be hired without advance notice to the Applicant of the intention to hire a review professional, and the aspects of the proposal that caused the Committee to believe that professional review was required, and the estimated cost of that review. If the applicant does not withdraw the proposal within ten days after receipt of that notice, the applicant is deemed to have consented to the Committee retaining such professional assistance and to have agreed to pay the cost of such professional services. Whenever the Committee retains outside professional assistance in its review, the professional is acting only in an advisory capacity, and the applicant, for himself or herself and for his or her successors and assigns, waives any and all claims against the Committee and/or the Foundation in the event that advice from, or conditions imposed by, the reviewing professional prove

ineffective, unnecessary, or inappropriate to the circumstances. The costs of such review will be billed directly to the applicant.

.2.5. General Design Review. The Committee will use its best efforts to provide a consistent pattern of enforcement, and consistent application of the Architectural Design Standards hereof. These Standards are, of necessity, general in nature, and the Committee shall apply them in a manner that results in a high quality, attractive, and well-designed community.

.2.6. Declarant, Foundation and Committee not Liable. The Declarant, or the Committee and its members shall not be liable to the applicant for any damages, or to the Owners of Lots within the Community for their actions, in-actions, or approval or disapproval of any set of plans submitted to the Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant or Committee as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has the right to enforce this Declaration against another Owner, and may seek independent redress if he believes the Committee has acted improperly.

.2.7. Limitations on Review. The Committee's review is limited to those matters expressly described in this Declaration. The Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable codes must be reviewed and approved by the Committee prior to construction.

.2.8. Approval to Proceed. Upon receipt of a plan approval letter from the Committee, an Owner may proceed with construction, unless the Committee has required the Owner to attend a pre-construction meeting and to satisfy any other construction conditions set forth in Article IX.

.2.9. Assignment and Expiration. No approval of construction plans may be assigned or otherwise transferred to a subsequent Owner without the express written consent of the Committee, which consent may be withheld at the Committee's sole discretion. Each such approval shall automatically expire if the Owner has not commenced sustained and substantial construction within nine (9) months of the date of the Committee's letter of approval.

### ARTICLE III

#### RESTRICTIONS ON ALL PROPERTY

.3. The following Restrictions on use apply to all Property within the Community:

.3.1. Governing Regulations. The lawfully enacted zoning regulations of the Town, and any building, fire, and health codes are in full force and effect in the Community, and no Lot may be occupied in a manner that is in violation of any such statute, law, ordinance, rule or regulation. If the Protective Covenants, Conditions and Restrictions in this Declaration are more stringent than applicable zoning, it is the intent that the provisions of this Declaration control. This Declaration shall not authorize any uses, improvements, or activities that are prohibited by any local, State or federal law or regulation.

.3.2. No Mineral Uses. The property within the Community shall be used for residential purposes only, and no mining, drilling, or quarrying activity will be permitted at any time. This prohibition does not affect certain oil and gas leases granted prior to this Declaration

.3.3. No Business or Commercial Uses. No portion of the Community may be used for any commercial business use, provided however that nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of one or more construction offices or sales offices during the actual period of construction of the Community Improvements or until the Lots are sold, or (b) the use by any Owner of such Owner's Lot for a home occupation. No home occupation will be permitted which requires or encourages the Owner's clients, customers, patients or others to come to the Lot to conduct business, or which requires more than one on-premise employee outside of the Owner's immediate family or household. No retail sales business of any kind may be conducted within the Community, except for Declarant's use for real estate sales activities.

.3.4. Restrictions on Signs. No signs will be permitted on any Lot or within the Community, except for traffic control signs for Streets or Trails placed by the Town or the Declarant or the Association, or temporary signs warning of some immediate danger, or signs allowed as Permitted Outdoor Accessories by Exhibit "E" attached hereto. Notwithstanding these provisions, the Declarant may erect temporary signs announcing the availability of Lots and giving sales information.

.3.5. Completion Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the Town.

.3.6. Dwelling to be Constructed First. No garage, storage unit, or other out-building may be constructed prior to the construction of the Dwelling on the Lot.

.3.7. Wood-Burning Fireplaces. To limit air pollution, no Dwelling shall have more than two wood-burning fireplaces or devices. If an Owner combines two or more Lots and constructs one Dwelling, the Dwelling shall be entitled to one and one-half wood-burning fireplaces for each Lot combined. The right to install wood-burning fireplaces is specific to each Lot, and may not be otherwise transferred to any other Lot. No coal-fired fireplaces, stoves, furnaces or devices will be permitted in the Community.

.3.8. Animals. No animals other than ordinary household pets may be kept on any Lot.

3.9. Alterations and Re-subdivision. No Lot may be modified or re-subdivided without the consent of the Architectural Committee; no re-subdivision of any Lot or group of Lots may increase the total number of Lots.

3.10. Underground Utilities. All electrical, telephone, television, gas, and other utility lines in the Community are to be underground, including lines within any Lot which service Improvements entirely within that Lot.

3.11. No Oil or L. P. Gas Tanks. The primary heat sources for all Improvements shall be solar, electric, or natural gas delivered by pipeline. Except for temporary periods during construction of the Dwelling, no heating oil, propane, butane, or other bulk fuel storage tank may be installed on the Property.

3.12. Service Yards. All clothes lines, service yards, storage yards, and exterior mechanical equipment must be screened in a manner approved by the Architectural Committee and not within the Public View.

3.13. Maintenance of Property. All Lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Improvements on it to fall into disrepair.

3.14. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or actions that detract from the reasonable enjoyment of nearby Lots.

3.15. No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which would cause the cancellation of conventional property casualty insurance. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

3.16. No Unsightliness. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling or Improvements); open storage or parking of farm or construction equipment, unregistered or inoperable motor vehicles, boats, campers, recreational vehicles, appliances, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading); accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; lawn or garden furniture except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is within the Public View.

3.17. No Annoying Lights. All outdoor lighting devices shall be described on the approved construction plans, and are subject to approval by the Architectural Committee. The seasonal

use of temporary lighting devices to illuminate trees, shrubs and holiday decorations is permitted for a single term of no more than forty consecutive days per year. All outdoor lighting shall be installed to aim downward and to limit the field of light to the confines of the Lot on which it is installed. The illumination of a dwelling or structure with silhouette lighting, or with flood or overall illumination, is expressly prohibited. The flood lighting of vegetation, tennis courts or similar sports courts or other improvements is also prohibited. These restrictions shall not apply to street lighting maintained by the Town or contracted for maintenance by the Town.

.3.18. No Annoying Sounds. No speakers, or other noise making devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud from adjoining Lots, except for security or fire alarms.

.3.19. Municipal Water Connection. The Property is served by municipal water service, and no Owner shall drill a well for culinary or irrigation water production. All Dwellings must be connected to the municipal water system in accordance with the rules and regulations of the Town.

.3.20. Sewer Connection Required. All Lots are served by sanitary sewer service, and no types of on-site waste disposal systems are permitted on any Lot. All Dwellings must be connected to the sanitary sewer system in accordance with the rules and regulations of the Town.

.3.21. Drainage. No Owner shall alter the flow of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy.

.3.22. Groundwater Protection. No underground storage tanks for fuels or chemicals of any kind may be installed on the Property. No above ground storage tanks shall be permitted. Commercial application of pesticides, insecticides, fungicides, biocides, or other chemicals, except fertilizers, is prohibited, except for applications in conjunction with the permitted use of any Open Space, and the preservation of the health of the natural woodlands, all of which shall be professionally applied.

.3.23. Presence of Springs and Streams. Since streams and springs may be present within the Community, Owners should avoid disturbing the natural flow of groundwater. To prevent groundwater problems and to control or prevent storm-water run-off caused by grading and the construction of impervious surfaces, Owners should seek the advice of a licensed architect or engineer.

.3.24. Vehicles Restricted to Streets. No motor vehicle will be operated on the Property except on Streets and driveways. No snowmobiles or unregistered motorcycles will be operated on the Property except for loading the equipment for lawful transport on public streets. The operation of any vehicle on any Open Space within the Property is strictly prohibited, except in conjunction with maintenance work being conducted. This shall not preclude the operation of agricultural equipment for the cultivation of crops, mowing of natural vegetation, and other agricultural necessities, or the Declarant's operation of vehicles on the Additional land for purposes of promoting or developing such land.

.3.25. Kennels. No kennel or dog run may be placed closer than seventy (70) feet to any Dwelling other than that of the Owner of the Kennel.

.3.26. No Transient Lodging Uses. The Lots are to be used for single family residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast," or other uses for providing accommodations to travelers. No lease of any Lot shall be for a period of less than thirty (30) days. No Lot shall be subjected to any form of time interval ownership, or ownership in a manner that rotates the use among multiple Owners in a manner that would permit the right of use to be sold separately from the fee simple title to the Lot.

.3.27. No Hunting. The hunting, trapping, and harassment of wildlife, by firearms or any other means, is expressly prohibited, however, deer herd reduction will be permitted if recommended and managed by the State of New York Department of Environmental Conservation.

.3.28. Feeding of Wildlife. The Community provides a valuable wildlife habitat and Owners should avoid disrupting wildlife behavior. Owners shall not provide any form of feed to wildlife and shall not install devices or cultivate plant species that attract wildlife. Bird-feeding stations shall only be allowed from December 15 to March 15. For more detailed information, please refer to the Aurene Field Guide, to be published by the Foundation in the future.

#### ARTICLE IV

##### PERMITTED USES AND IMPROVEMENTS

.4. Introduction. The following uses and Improvements are permitted within the Community in the areas of the Property designated. Uses not specifically permitted are prohibited, unless, in the sole judgment of the Committee, the proposed use is a reasonable and logical extension or appurtenance of a use that is expressly permitted. The Property is divided into the following classifications of Property, with specific uses permitted or prohibited within each classification:

- (a) Natural Area of a wooded Lot
- (b) Natural Area of a non-wooded Lot
- (c) Disturbance Area
- (d) Open Space

.4.1. Uses and Improvements Permitted Within the Natural Area of a Wooded Lot. It is the intention of the Declarant that these Natural Areas be perpetually devoted to sustaining the character of the natural landscape. Clearing of vegetation and surface disturbance within these woodlands is prohibited except as may be required for Driveway and Utility Connections. These

Natural Areas are intended to screen Dwellings from the Public View, to provide privacy for the Owners, to prevent soil erosion, and to maintain wildlife habitat value within the Lots. No structures of any kind are permitted in any Natural Area, including without limitation, pools, tennis courts, decks, spas, swing sets, trampolines, play ground equipment, or dog runs. No Improvement, Excavation, Fill, or any other surface disturbances shall be constructed, installed, maintained, or allowed to stand in these Natural Areas except:

- (a) Those disturbances related to the construction, maintenance, and use of any utility easements, including underground lines, and surface facilities, structures, devices, and accessories as may be required by the utility-operating agency;
- (b) Those disturbances related to the construction, maintenance and use of Driveway Connections as provided in Article VI, including driveway culverts, retaining walls, Excavations and Fills, provided that driveways shall be located on the Lot in a manner that minimizes the need for Excavation, Fill, or the use of retaining walls;
- (c) Those disturbances related to the construction, maintenance, and use of Utility Connections to extend service from the utility easements or adjacent streets to the Dwellings. This shall include underground electrical, telephone, fiber-optic, internet, and television cables and lines, and water, sewer, storm-water, and natural gas pipes.
- (d) Those minor disturbances related to the construction, maintenance and use of any Permitted Fencing.

4.2. Uses and Improvements Permitted Within the Natural Areas of a Non-Wooded Lot. It is the intention of the Declarant that these Natural Areas be partially re-vegetated by landscape plantings maintained by the Owners. To create privacy and a transition to adjacent Open Space, the most important areas for re-vegetation are the rear yard portions of these Lots. Such re-vegetation need not replicate the adjacent woodlands, but should partially screen Improvements, contribute to soil stabilization, and provide ecotonal benefits for wildlife. No structures of any kind are permitted in any Natural Area, including without limitation, pools, tennis courts, decks, spas, swing sets, trampolines, play ground equipment, or dog runs. No Improvements shall be constructed, installed, maintained, or allowed to stand in these Natural Areas except:

- (a) Those disturbances related to the construction, maintenance, and use of any utility easements, including underground lines, and surface facilities, structures, devices, and accessories as may be required by the utility-operating agency;
- (b) Those disturbances related to the construction, maintenance and use of Driveway Connections as provided in Article VI, including driveway culverts, retaining walls, Excavations and Fills, provided that driveways shall be located on the Lot in a manner that minimizes the need for Excavation, Fill, or the use of retaining walls;

- (c) Those disturbances related to the construction, maintenance, and use of Utility Connections to extend service from the utility easements or adjacent streets to the Dwellings. This shall include underground electrical, telephone, fiber-optic, internet, and television cables and lines, and water, sewer, storm-water, and natural gas pipes.
- (d) Those minor disturbances related to the construction, maintenance and use of any Permitted Fencing.

.4.3. Uses and Improvements Permitted Within the Disturbance Areas. Except for those Uses and Improvements permitted above, all construction activity, Excavation, and Fill shall be confined to the Disturbance Areas within the Lots. The Declarant encourages that each Dwelling be designed to conform to the natural topography of the site, and to preserve the natural texture, appearance and vegetation of the undeveloped site to the greatest extent possible. No Improvements, additions, alterations or other construction may be installed, constructed, maintained or allowed to stand within the Disturbance Area except as follows:

- (a) The construction, maintenance, and use of one Dwelling together with a garage with capacity for at least one automobile (with each Attached Dwelling) and for at least two automobiles (with each Detached Dwelling), and storage for recreational and maintenance equipment; and
- (b) The construction, maintenance, and use of those Improvements generally and customarily associated with the use and enjoyment of a single-family Dwelling, including driveways, utility connections, garages, retaining walls, stairways, decks, patios, pools and spas, swing sets, trampolines, walkways, fences, lighting, tennis courts or sports courts, sprinklers, antennas and satellite dishes, and irrigation systems; and
- (c) The construction, maintenance, and use of those Improvements allowed under .4.2 above.

.4.4. Uses and Improvements Permitted Within the Open Space. The Declarant seeks to buffer the Dwellings with Open Space and trails connecting the Owners to the adjacent hilltop and river. Open Space may be used for passive non-motorized recreational purposes such as hiking, biking, birding, and nature walks. Open Space along the Cohocton River may be used for fishing, and for launching and hauling out non-motorized boats. No boats or other recreational vehicles or devices may be kept, left, stored, or moored within the Open Space. No Improvement of any kind shall be installed, constructed, maintained or allowed to stand in any of the Open Space except as provided below:

- (a) The construction, maintenance, and use of underground utility lines, services, vaults, and appurtenances for supplying utility services to any portion of the Community or to the Additional Land; Any above-ground transformers, junction boxes, and other similar utility control and transfer points and above ground appurtenances and related facilities must be screened with vegetation and shall not exceed six (6) feet in height above grade.



- (b) The construction, maintenance and use of Permitted Fencing.

## ARTICLE V

### ARCHITECTURAL DESIGN STANDARDS

.5. Introduction. The guiding design concept for the Aurene Community is that the dominant visual feature, whether viewed from within the Property or from off-site, should be the natural landscape as it transitions from the riverbanks to the meadows to the wooded hillsides. Dwellings and other Improvements are intended to blend into this natural setting and not dominate it. These Architectural Design Standards have been prepared with the intention of insuring that the impacts of construction of the Dwellings and Improvements are minimal, acceptable, and respectful of the natural landscape. Suggested clear standards of design will provide direction and guidance to the Owners and their design professionals in the planning and construction of Improvements on each Lot's unique setting. It is not the intention of these standards to create uniformity, but to encourage a diversity of design and materials within an architectural approach that respects each site, and is compatible with the landscape.

.5.1. Site Evaluation. Each Dwelling and its accompanying Improvements shall be designed to suit each Lot and to preserve and benefit from the Lot's natural and unique character. Owners are encouraged to use the services of experienced design professionals to evaluate the site and determine the best solution. The Disturbance Area for each Lot should be located to minimize intrusions above the horizon line, preserve woodland areas, protect wetlands and natural drainage features, and protect view corridors. Wherever possible, Dwellings shall be placed down-slope from the crests of hills or the horizon line, with the hillside used as a natural backdrop, and minimize cuts, fills and other site disturbance.

.5.2. Dwelling Placement and Massing. All Dwellings and Improvements, and the entire construction disturbance (including the excavation and storage of excavated material) must be confined within the designated Disturbance Area, except for permitted driveway and utility connections. The massing and orientation of above-ground Improvements should reflect the general slope of the Lot and follow the natural contours. To do so, the major axis and central mass of the Dwelling should be reasonably parallel to the natural contours of the Lot. The central mass of the Dwelling should step down in height and reduce in bulk as it reaches the edges of the Dwelling to feather the building mass into the natural setting. Curvilinear and multi-faceted wall forms are inconsistent with the regional architectural vernacular and therefore prohibited.

.5.3. Number of Dwellings. Only one Dwelling may be constructed on a Lot. No other structure, shed, storage building or outbuilding is permitted, however, garages may be detached from a Dwelling on Non-wooded Lots.

.5.4. Dwelling Sizes. The minimum Floor Area, not including garage area, for a Detached Dwelling is 1,600 square feet, and for an Attached Dwelling is 1,400 square feet. The maximum Floor Area for Dwellings on each Lot is described on Exhibit "D" attached hereto. No Dwelling shall be constructed or altered in a manner that would violate these limits.

.5.5. Dwelling Setbacks and Placement. Dwellings and Improvements must comply with the setback requirements described by Exhibit "D" hereof, as well as with the Town's minimum setbacks and other placement requirements.

.5.6. Dwelling and Garage Heights. The maximum ridgeline height for a Dwelling is thirty-three (33) feet above natural grade. On Wooded Lots, the Owner shall further limit the ridgeline height to the height of the surrounding woodland canopy. For any detached garage, no ridgeline shall exceed twenty-one (21) feet in height above natural grade.

.5.7. Multi-story Dwellings. The intention of this Article is to prohibit the construction of simple, box-like Dwellings and to eliminate flat or large multi-story wall planes from the Public View. For multi-story Detached Dwellings, the area of each upper-floor template shall not exceed ninety percent (90%) of the area of the underlying floor template.

.5.8. Roof Characteristics. Because the perceived vertical scale of the Lots is primarily set by the height of the immediate or nearby forest canopy, the slopes, alignment, and materials for roof construction should be carefully designed and controlled to be compatible with the forest and the underlying terrain. The following restrictions apply:

- (a) Shapes. Double-pitched roofs, hip roofs, and partial hip roofs are permitted. Shed roofs are only permitted if they are smaller, secondary roof forms attached and terminating with their ridge or highest point in continuous contact with a major building form. Mansard roofs, A-frames, gambrel roofs, domes and curvilinear roof elements are prohibited. Flat roofs are permissible only when out of the Public View, and may not exceed 10% of the total roof area. Except for permitted flat roofs, all roofs shall overhang exterior walls by a minimum of 12 inches. Roof pitches shall be not less than 6 in 12 pitch, and no greater than 12 in 12 pitch, and should follow or respond to the underlying grade, with steeper pitches used on steeper terrain, and flatter pitches used on flatter terrain. All roof planes descending from a common ridge or connected ridge shall be of the same pitch, regardless of length. A second roof pitch on any one Dwelling may be used only for secondary roof forms such as permitted sheds or dormers. Only hip roofed or double-pitched roof dormers are permitted. Two or more dormers placed above and well-apart from the eave line on the same roof surface shall be spaced no closer than 0.75 times the width of the largest such dormer unless their fascias intersect, in which case they shall be considered as a continuous or repetitive dormer.

No turrets, towers, or other thematic decorative elements are permitted and no complex, multi-faceted roof planes twisting to conform to irregular building shapes are permitted.

(b) Alignment. All roofs are intended to blend into the sloping hillside backdrop and not silhouette against the horizon. Design of each Dwelling shall include an effort to align the predominant horizontal lines of the roof, the primary ridgeline, and its eaves or dripline, reasonably parallel to the underlying contours. Such prioritized ridgeline alignment, reinforced by creative use of smaller, non-aligned roof planes, will create an ordered visual diversity that responds to dominant patterns of the natural grade. A primary ridgeline that runs perpendicular to the Lot contours may not be approved.

(c) Materials. Careful design should consider the visual impact of the roof materials, and minimize their contrast with the surrounding landscape: Roofing materials are classified as follows:

Permitted: Metals of copper, zinc, terne or steel

Wood, cement, or composite shingles with no more than 9 inches to the weather

Asphalt shingles weighing more than 270 pounds per 100 square feet

Prohibited: Heavy, hand-split wood shakes

Glazed or curved tile

Highly reflective metals

Roll, membrane, or tar and gravel roofing

(d) Roof Colors. All roofing material shall be of an Approved Color.

(e) Fascia. Fascia and roof trim shall be sized to be in scale with the roof and building mass, and shall not be less than eight inches, nominal, in width. The use of compound or build up trim adds detail to the roof element and is encouraged. Roof trim shall be finished in an Approved Color to match or mildly contrast with the adjacent siding and roof material.

(f) Roof Appurtenances. All vents, stacks, gutters, flashings, snow diverters, furnace flues, trim and metal work shall match the color of the surface to which it is attached or from which it projects. Whenever possible, vent stacks must be combined to minimize roof penetrations, and concealed from the Public View. No mechanical equipment, exhaust fans, coolers, or attic ventilation equipment shall protrude more than 6 inches above the roof or in anyway interrupt the roof surface within the Public View. Skylights are permitted when mounted close to and consistent with the underlying roof pitch. Domed or barrel-vaulted skylights are prohibited. Solar collectors shall lie flat on the roof surface, with attention to minimizing glare and reflection to the Public View, and to

integrate such devices into the form and plane of the roof. Greenhouse or conservatory roofs shall match the plane and slope of adjoining roofs; curved portions of these elements are not allowed in the Public View. All visible parts of such roof appurtenances, except the glazing, shall match the color of the underlying or adjacent roof surface.

.5.9. Chimneys. Chimneys must be constructed of or enclosed in approved siding material. No exposed metal flues are permitted. Visible metal parts, other than flashings or chimney caps, are not permitted. If more than one chimney is used on a Dwelling, then each must be of the same design, finish and appearance, although sizes may differ. Whenever possible, chimneys shall contain and conceal the Dwelling's vent stacks, furnace flues and other permitted roof penetrations.

.5.10. Antennas. All antennas must be enclosed within the Dwelling. Any satellite dishes must be less than twenty-four (24) inches in diameter and be located and screened from the Public View.

.5.11. Siding and Trim Characteristics. The textures and patterns of siding material affect the perceived scale and mass of the Dwelling. The materials that clad the exterior of the Dwelling shall appear as natural materials that blend with and are compatible with the natural landscape.

- (a) Materials. Heavier weight materials should be used below lighter materials when two or more siding materials are used on the same surface. At least two different siding materials must be used on each Dwelling elevation facing a Street. No more than three different siding materials may be used on any one elevation or any one Dwelling. Siding materials are classified as follows:

Permitted: natural wood sidings, boards, battens, or shingles of weather-resistant, tight-knot grade or better,

stone masonry (natural or cultured),

brick masonry

premium grade vinyl sidings, boards less than 6" wide, or shingles, certified by the Vinyl Siding Institute

Prohibited: plywoods, composites boards, fiberglass, masonite, plastics, asphalts and metals

- (b) Trim Materials. The use of skirt boards, water tables, banding, battens, headers, sills, casings and other trim will enrich the exterior of a Dwelling and is encouraged. Permitted trim materials are limited to the permitted siding materials. When placed with or against a siding, the trim material shall be of the same material as the adjoining siding

material, except for clad casings on windows and doors provided by the manufacturer of the window or door.

- (c) Colors and Finishes. Sidings and trim shall be finished or comply with the Approved Colors List. Wood siding materials may be painted or be stained semi-transparent or semi-solid stains that permit the natural grain and textures of the wood to show through. Stone and brick shall be finished only with a clear water repellent to prevent infiltration or staining of the Dwelling by oxidation. Highly contrasting trim is prohibited on any portion of the Dwelling visible from Public View. Trim may be finished to match or mildly contrast with any adjacent siding materials, or any stone, provided that all colors are from the Approved Colors List.
- (d) Siding Appurtenances. Flashings and other accessories shall be finished to match the siding and be made unobtrusive. Gable vents or louvers shall be finished to match the siding and shall be round or rectangular, or if triangular or trapezoidal, shall match the pitch of the adjacent roof. Vents, stacks, meter troughs, meters, junction boxes and other devices which penetrate or mount upon exterior walls, except for approved exterior light fixtures or lighting devices, shall be concealed from Public View and shall be finished to match adjacent surfaces.

.5.12. Windows. Window openings should be arranged and combined in a manner to reference and respect the region's indigenous architectural styles. Where large glazed areas are desired, windows should be grouped together.

- (a) Design. When in the Public View, the use of single glass surfaces ("lites") of over twenty (20) square feet is strongly discouraged, and no single lite on any Dwelling shall exceed thirty-two (32) square feet. A grouping of windows may be separated by trim, mullions, or siding material, or attached jamb-to-jamb in a strip or gang. Windows may be rectilinear in shape, or trapezoidal (when the top leg is parallel to the roof slope and the other legs are plumb and the base is level), or have round or elliptical tops. Free standing round or octagonal or elliptical, windows are prohibited. Glass block may not be used as a siding or window material within the Property, except for basement windows.
- (b) Material. Window sash surfaces must be either wood or wood with cladding. All windows must be double or triple glazed. The use of true divided lites or wood, full-sectioned applied muntins is encouraged and will enrich the appearance of large glazed areas. Exterior window sash and trim shall be finished in an Approved Color to match or mildly contrast with the adjoining siding. No window sash or trim may be finished in any sharply contrasting color. No reflective glazing is permitted, and the use of opaque tints, and films applied to clear glass is prohibited.

.5.13. Exterior Doors. Door openings should be protected by overhanging eaves and otherwise located to provide shelter from weather and snow shedding from a roof. When adjacent,

doors and windows shall have matching head heights, and when grouped together, doors should be of identical size and type. Doors shall be rectangular in shape and constructed and glazed to the same standards as the windows described above. Doors shall be finished in an Approved Color to match the trim or to mildly contrast with the adjacent trim and siding.

.5.14. Garage Doors. Garage doors may vary in height but shall match the trim details of any other doors and windows on the same wall surface or within four (4) horizontal feet on the same elevation in the Public View. Adjacent garage doors may vary in width but shall otherwise be identical. Garage door exterior surfaces shall be of an approved siding material and finished in an Approved Color to match or mildly contrast with adjacent trim and siding.

.5.15. Balconies and Decks. Balconies and decks can add visual interest and further enrich the design of the Dwelling. Balconies should be small, private areas and designed and located to minimize accumulations of snow and ice. Decks are larger and should closely relate to the adjoining grade and landscape areas. The area under any deck must either be landscaped or screened so that the Public View is not of the unfinished underside of the deck. The area under any deck shall not be used for storage of equipment, firewood, building material, or similar material. The underside of any deck more than four (4) feet above grade must either be completely screened with shrubbery, vertical lattice or siding, or, if exposed (as in the case of a second story deck or balcony) then treated or stained to match the adjacent wood siding and trim. All deck railings and their posts and other parts shall be constructed of wood or metal and finished in an Approved Color to match or mildly contrast with the adjacent wood siding or trim.

.5.16. Fire Protection. Dwellings on Wooded Lots are required to comply with any wildland fire exposure provisions of the New York State Uniform Fire Prevention and Building Code, or any other laws, rules or regulations governing same.

.5.17. Foundations. No foundation may be exposed for more than twelve (12) inches above the finished grade. Foundations that extend above that height must be covered with an approved siding material.

.5.18. Parking. Each Detached Dwelling shall include a garage for at least two cars and paved driveway parking for at least two additional cars. Each Attached Dwelling shall include a garage for at least one car and paved driveway parking for at least one additional car. Detached Dwellings may garage more than two vehicles provided that no more than three car-widths of garage door may face the Public View. Paved driveways and other outdoor areas may not be used for the storage or parking of boats, campers, motorhomes, or other vehicles or equipment.

.5.19. Driveway and Utility Connections. Each Lot shall be permitted one curb-cut on the Street for a driveway. The location, slope, grading conditions, and other impacts of the proposed driveway shall be considered by the Committee in its review of the Owner's plans. Once a driveway connection or utility connection has been designated by the Owner, approved by the Committee, and construction has begun, the driveway connection will cease to be Natural Area, and shall be managed (but not counted) as Disturbance Area. Such conversions will be permitted only one time on each Lot,

and should construction be abandoned, any future Dwelling is bound to the same driveway connection. When possible and practical, utility connections shall be made adjacent to or under the driveway to minimize the site disturbance. Alternatively, up to two additional utility cuts can be made through the Natural Area of a Lot provided that the width of each disturbance is minimized.

.5.20. Driveways, Walkways and other Paving. Whenever possible, the construction of driveways and walks shall conform to natural grade. Necessary cuts and fills shall conform to good design practices and blend with or match natural grades in a rounded and gentle manner, with no side-slopes steeper than one foot of vertical rise in two feet of horizontal run. Overly large paved areas will be denied. No driveway surface shall exceed twenty (20) feet in width or 10% in grade, and whenever possible, the first twenty (20) feet of driveway behind the curb-cut shall not exceed a 5% grade. Asphalt, concrete (either natural or pigmented with an Approved Color), are the only permitted materials for driveways. Walks, patios, terraces and such other on-grade surfaces must be paved with stone, brick, or an approved driveway material.

.5.21. Pre-wiring Guidelines for Telecommunications. All Dwellings shall be constructed in conformance with the minimum standards and guidelines described in Exhibit "F" attached hereto and made a part hereof.

## ARTICLE VI

### LANDSCAPE STANDARDS

.6. Introduction. The intent of this Declaration is to preserve the natural character of the Property to the extent possible given construction of the Community. The use of each Lot is subject to the following Landscape Standards:

.6.1. Irrigation of Lots. Declarant recognizes that an Owner may choose to plant and care for mowed turf grass and other water intensive plants. Species that require long-term irrigation are clearly dependent upon the continued availability and affordability of water for such purposes. On Wooded Lots, mowed turf grass and irrigation devices shall be limited to the Disturbance Area. No such limitation shall bind the Non-Wooded Lots or restrict the revegetation of construction disturbances.

.6.2. Vegetation Removal. The natural vegetation of the woodland and meadow areas is a valuable feature. No commercial harvesting of forest products, including cutting of firewood, shall be allowed on the Property. No clear-cutting, thinning, or denuding of wooded areas is permitted except in conjunction with the construction and maintenance of approved Improvements, in which case all such clearing must be limited to the Disturbance Areas. All trees and brush cut on any Lot must be promptly removed from the Property and disposed of by the Owner. Cut trees or brush accumulated on the Property creates a fire hazard and an unsightly condition which is deemed to be a nuisance.

- (a) Within the Disturbance Areas of Wooded Lots, and in conjunction with the construction or maintenance of approved Improvements, the Owner may clear and remove the natural vegetation. The Owner is encouraged to remove only so much of the natural vegetation

as necessary to complete construction, and to preserve as much of the natural vegetation as reasonably possible. Where trees are removed, the Owner is encouraged to soften the abruptness of the transition between cleared areas and the wooded Natural Area by a gradual thinning of trees, feathering the edge, and irregularly shaping the cut edge. The line of tree removal shall not match the Limits of Disturbance Area boundary. All such feathering, thinning, and shaping is to occur within the Limits of Disturbance Area only.

- (b) Within the Natural Area of Wooded Lots, clear-cutting or de-nuding is prohibited, except in conjunction with permitted Utility Connections and Driveway Connections, as described in Article V. No fence line shall be clear-cut, and fencing must meander around healthy trees located on the property lines, provided that branches and brush along the fence line may be trimmed back for installation or maintenance of a permitted fence. The Owner may selectively cut and remove dead, diseased or unhealthy trees, or trees that present a reasonable risk of property damage or personal injury due to falling. Heavy thinning is prohibited, but the Owner may selectively remove underbrush and trees under six (6) inch DBH (read: diameter at breast height) to improve sunlight and views and maintain the health of the woodlands. All such activities shall be consistent with good forestry management practices.
- (c) Within the Natural Areas of Non-wooded Lots, Owners are discouraged from planting mowed turf grass and encouraged to permit the natural spread of native brush and trees.

.6.3. Re-Vegetation of Disturbed Areas. The Owner of any Lot must promptly re-vegetate those portions of the Natural Area disturbed in the course of construction or otherwise. Re-vegetation shall occur as soon as possible weather permitting. Where existing grades have been disturbed to place Improvements on a Lot, the grade shall be contoured into the natural grade at slopes that are consistent with those naturally occurring in the vicinity to preserve the natural continuity of the land form. Any such new slopes shall be stabilized once rough grade is re-established, and re-vegetated as soon as possible. This stabilization can occur early in the construction process if properly planned, and contribute to soil conservation and erosion control. Within the Natural Area of a Wooded Lot, this re-vegetation shall attempt to recreate the natural vegetation pattern of the undisturbed site. Within the Disturbance Area of all Lots, re-vegetation and landscaping must be completed as soon as possible following the issuance of a Certificate of Occupancy, but in no event later than the spring following the issuance of the Certificate of Occupancy. Within the Disturbance Area of any Lot, and within the Natural Area of a non-Wooded Lot, the Owner may plant lawns, gardens, trees, shrubs, and other plantings. All vegetation should be planted in a naturalistic manner, grouping similar species and creating soft and flowing transitional lines where plant species and levels of maintenance change. Mowed turf grass or any Wooded Lot shall cover no more than 60% of the Limits of Disturbance Area remaining after the construction of the Improvements. When adjacent to the Dwelling and Improvements, the remaining area shall be planted with shrubs, trees, and ground covers. When adjacent to the Natural Area, plantings shall transition to un-mowed natural grasses, wildflowers, and compatible trees and shrubs. Planting of trees in all areas is encouraged, provided that the location of trees does not damage view corridors from adjoining Lots. Foundation plantings are required on all Lots.



.6.4. Retaining Walls. Careful and sensitive design should generally eliminate the need for retaining walls. When a retaining wall is necessary, it shall be constructed of treated landscape timbers, natural stones, or concrete faced with natural stone. No single retaining wall shall exceed forty-eight (48) inches in exposed height, and a series of retaining walls on the same slope shall be separated by a horizontal distance of at least four (4) feet of natural or finished grade of no more than 5%. Retaining walls must be shown on the site plan submitted to the Committee.

.6.5. Fences. Fencing the entire perimeter of any Lot is prohibited, although the Declarant may install perimeter fencing along the Community boundaries. Limited interior fencing is permitted subject to advance approval by the Committee. Interior fencing of any Lot shall not extend beyond the front facade of the Dwelling at the point where the facade, if extended, would cross the side Lot line(s). Isolated runs of fencing used as landscaping features may be permitted subject to advance approval by the Committee. Specific fencing standards are described by Exhibit "E" attached hereto.

.6.6. Entrance Gates and Posts. Entrance gates, posts, and other such driveway structures may be permitted on Lots over one (1) acre in size. All such structures must be constructed of an approved siding, deck, or deck railing material. No part of such a structure may exceed four (4) feet and six (6) inches in height above grade. The total length of such a structure, including appurtenant elements on each side of a driveway may not exceed thirty (30) feet. No entrance gate may include an overhead or fixed element spanning the driveway. All such structures must be described on a site plan and approved in advance by the Committee.

## ARTICLE VII

### COMBINATION OF LOTS FOR DETACHED DWELLINGS

.7. Right to Combine Lots. Subject to the provisions of this Declaration and the limitations set forth in this Section, any Owner may combine two or more adjoining Lots for Detached Dwellings within the Community.

.7.1. Disturbance Area Increases. If an owner desires to combine two lots, the new, combined Disturbance Area shall not exceed 75% of the sum of the two Disturbance Areas. If an Owner desires to combine more than two Lots, the new, combined Disturbance Area shall not exceed 60% of the sum of the three Disturbance Areas. No additional Disturbance Area will result from the addition of a fourth or any subsequent Lot. A Dwelling located on a "combined" Lot may not be placed entirely on a former single Lot.

.7.2. Dwelling Size. The maximum Dwelling Size for a Dwelling on a combination of Lots shall not exceed 75% of the sum of the maximum allowable Dwelling Sizes stated in this Declaration for the two Lots if developed independently.

.7.3. Driveways and Utilities. The driveway and utility corridor requirements of this Declaration are based on each Dwelling, not on each Lot. No additional driveway connection, curb-cut, or utility connection is permitted for a combined Lot.

.7.4. Combination Deemed Permanent. A combination of Lots is deemed to be permanent; combined Lots may not be independently sold or modified or re-subdivided.

.7.5. Record Notice of Combination. The Owner of a combined Lot shall execute and deliver to the Committee a notice in recordable form, containing the name of the Owner and the legal description of the Lots combined, which Notice will state that the two Lots have been combined and cannot subsequently be subdivided. Upon receipt thereof, the Committee shall record such Notice with the office of the Steuben County Clerk.

## ARTICLE VIII

### OWNERS' MAINTENANCE OBLIGATIONS

.8. It is the obligation of each Owner to properly maintain his Lot at all times in order to preserve and enhance the enjoyment of the Community:

.8.1. Duty to Maintain. It is the obligation of the Owner of each Lot to maintain his Lot and Improvements in a good state of repair and an attractive, safe, and healthy condition.

.8.2. Repair by Declarant, Lot Owners. If, while the Declarant is the owner of all or any part of the Property or Additional Land, an Owner's Lot or Improvements fall into a state of disrepair that is dangerous, unsafe, unsanitary, unsightly, or otherwise in violation of this Declaration, the Declarant may give written notice to the Owner describing the condition and demanding that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Declarant shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of such work. Unpaid amounts will bear interest at the lawful judgment rate under applicable State law.

Notwithstanding the above, any Lot Owner(s) may seek to enforce the provisions of this Declaration at any time to cause a Lot Owner to remedy any state of disrepair that is dangerous, unsafe, unsanitary, unsightly, or otherwise in violation of this Declaration, by seeking appropriate injunctive relief against the offending Lot Owner(s).

.8.3. Alteration of Exterior Appearance. Owners shall maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or cosmetic will be made without the advance written consent of the Committee.

.8.4. Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Committee; alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit.

.8.5. Required Repairs. No damaged structure will be permitted to remain for more than sixty (60) days without repairs commencing. A damaged structure in violation of this provision is deemed a nuisance.

## ARTICLE IX

### CONSTRUCTION STANDARDS

.9. Introduction. To prevent damage outside of the Disturbance Area on each Lot, and to minimize inconvenience to adjacent Owners, the following construction regulations shall be enforced. Each Owner shall be bound by these regulations, and violations committed by the Owner's Builder or its employees, sub-contractors or others shall be deemed a violation by the Owner for which Owner is liable.

.9.1. Pre-Construction Meeting. Prior to the commencement of construction, the Committee may require the Owner and Builder to meet with the Committee or its representative to review these regulations and to coordinate construction plans for the Lot.

.9.2. Marking or Fencing the Disturbance Area. Prior to the commencement of construction or removal of trees, the Owner shall locate and stake the Disturbance Area for the Lot. The Committee may require that the Disturbance Area to be roped-off or barrier-fenced to prevent construction damage to adjacent property or vegetation within or outside of the subject Lot.

.9.3. Occupational Safety and Health Act Compliance. The Builder shall comply with the standards and regulations of the United States Department of Labor under the Occupational Safety and Health Act.

.9.4. Portable Office or Trailer. Any Builder who desires to place a portable office or trailer on a Lot shall first apply for and receive written approval from the Committee. The Committee will work closely with the Builder and Owner to determine the best possible location for the portable office or trailer within the Disturbance Area.

Any portable office or trailer may not be installed prior to the commencement of construction, and must be removed upon the first to occur of (i) the issuance of a Certificate of Occupancy, (ii) the termination, expiration, or cancellation of the Building Permit, or (iii) the suspension of construction activities for a period of thirty (30) days.

.9.5. Construction Debris Removal. The Builder must maintain a trash container or "dumpster" on the Lot from the date of back-filling until the date of issuance of a Certificate of Occupancy. The Builder shall regularly deposit construction trash, scraps, and other debris in a suitable container, protected from the wind, and regularly serviced. No trash may be burned, buried, or otherwise disposed of on the Property. No concrete trucks may be cleaned out on the Lot, the Property, the Additional Land, or anywhere within the Community unless Declarant designates a location for such purpose.

.9.6. Construction Area Appearance. The Lot must be maintained in a reasonably neat condition at all times during the construction of a Dwelling or other Improvement. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, when practical and possible.

.9.7. Sanitary Facilities. The Builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Committee, and removed from the site at such time as the permanent plumbing system is operational. Up to three adjacent Lots under construction by the same Builder may share one such device.

.9.8. Construction Parking and Vehicles. Construction crews should park their vehicles on the Lot on which they are working, and shall not use or park on any other Lot, Open Space or other Property. If allowed by the Town, construction crew vehicles parked on the Street shall be limited to one side to allow the unimpeded flow of traffic and emergency vehicles.

.9.9. Conservation of Landscape Materials. To the extent reasonably possible, hardy native plant material removed from a Lot during the construction process should be preserved for replanting on the Lot. Topsoil, rock outcroppings, boulders, springs and seeps are unique to each Lot and should be preserved.

.9.10. Blasting. Blasting in the hills of Aurene may be necessary. If a Builder is required to blast in conjunction with the construction of any Dwelling or Improvement, the Owner must notify the Committee in advance. In addition the Builder must comply with all Federal, State and Local laws, ordinances, rules and regulations applicable to blasting. Notice to the Committee shall be far enough in advance to allow review of the necessary governmental permits. No blasting, impact digging, or pile driving causing seismic vibrations may be undertaken without the consent of the Committee.

.9.11. Construction Sign. While a Building Permit is outstanding and in full force, the Owner or Builder shall install and maintain a sign identifying the Lot and the Builder. The sign shall comply with the Permitted Outdoor Accessories requirements described in Exhibit "E" hereof, and must be removed upon the issuance of a Certificate of Occupancy.

.9.12. Hours of Work. Daily working hours on the site shall be limited from 7:00 A.M. to 7:00 P.M., unless more severely restricted by Town ordinances. The Builder is responsible at all times for controlling noise emanating from the site.

.9.13. Soil Conservation, Dust. At all times when the surface of the Lot is disturbed by construction activity, and re-vegetation has not been completed, the Builder shall practice reasonable dust, sedimentation and erosion control measures as described in the USDA Soil Conservation Service Guidelines.

.9.14. Removal of Mud. The Builder is responsible for cleaning up and removing mud from the construction site that is deposited on the Streets of the Community.

.9.15. Construction Access. Construction access to the Dwelling is limited to the Driveway and Utility Corridors designated on the approved site plan for the Dwelling. The Natural Area shall not be used for ingress or egress, temporary utility lines, delivery or storage of material, or otherwise disturbed during construction.

.9.16. Duration of Construction. Dwelling construction shall not be commenced without a Building Permit and all other necessary permits from the Town and any other governmental entity having jurisdiction over such construction. No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the site prior to the issuance of all necessary permits. It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced. All exterior surfaces of the building shall be completed within six (6) months of issuance of the Building Permit. All soil stabilization, fine grading, and landscaping must be completed as soon as possible, but not later than the first September 1 or May 1, whichever is first, after substantial completion of the Dwelling exterior.

.9.17. Repair of Damage. The Owner is responsible for the prompt repair of any damage caused by or incidental to Owner's construction. The Declarant, if necessary and in its absolute discretion, shall initiate legal action against any Owner for the repair of damage caused by or incidental to such Owner's construction.

## ARTICLE X

### ATTACHED DWELLING UNITS- PARTY WALLS, ENCROACHMENTS, EASEMENTS, RESTRICTIONS, ETC.

.10. Portions of one or more phases in the Aurene Community may be designed for and developed with Lots on which Attached Dwellings will be constructed, which Attached Dwellings will share one or more common or party walls with adjacent Dwellings. In addition to the other covenants, conditions, restrictions and easements contained in this Declaration, the following shall apply to the Attached Dwellings and the Lots on which Attached Dwellings are or may be constructed.

.10.1. Party Walls. A wall shall be considered a party wall where all of the following conditions are met:

- (a) the wall is built as part of the original construction of the Dwelling; and
- (b) the wall is an interior wall of a building containing two or more Dwellings; and
- (c) the wall serves as a common wall of two adjoining Dwellings, whether or not the wall is on the dividing line between such Dwellings.

.10.2. Maintenance of Party Walls. Each Lot Owner whose Lot contains a party wall shall have an easement to enter upon the Lot and within the Dwelling with which the party wall is shared to effect necessary repairs or maintenance of such party wall. Each Owner shall be responsible for the ordinary maintenance and repair of such Owner's respective side of a party wall. If it shall become necessary to make substantial repairs to or rebuild a party wall, the cost of such repairing or rebuilding shall be borne equally by the Owners of the two Dwellings which share such wall.

In any event where it is necessary for a Lot Owner (or said Owner's authorized employees, contractors or agents) to enter upon a Lot or within a Dwelling owned by another for purposes of maintaining a party wall, such right shall be exercised upon reasonable notice to the adjoining Owner, shall be limited to reasonable times, and shall be exercised so as not to unreasonably impair the right of the adjacent Owner to the use and quiet enjoyment of said adjacent Dwelling.

.10.3. Exposure of Wall. A Lot Owner who, by negligent or willful act causes the party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against, and the necessary repair caused by, such elements.

.10.4. Materials Used. If and when any party wall is repaired or rebuilt, it shall stand in the same location and be of the same or similar materials as the original wall.

.10.5. Insurance. The Owner of each Attached Dwelling sharing a party wall shall maintain and pay for the cost of maintaining "all risk" casualty insurance covering the party wall(s) of such Owner's Dwelling for full replacement cost against damage or destruction, and upon acquiring title to a Lot improved with an Attached Dwelling such Owner shall be deemed to covenant and agree to maintain and keep in effect such casualty insurance.

.10.6. Destruction of Party Wall. In the event of destruction of a party wall by fire or other casualty, the Owner of any Dwelling which used the party wall may restore it. The Owner who undertakes such restoration shall be entitled to a contribution (equaling one-half the cost of such restoration) from the Owner of the other Dwelling which shares such party wall. Such right to contribution shall not be construed, however, to limit in any degree, the right of an Owner to seek a greater contribution if so entitled under the law of the State of New York regarding liability for negligent or willful acts or omissions.

.10.7. Exterior Maintenance of Attached Dwellings. The landscaping on Attached Dwelling Lots and the exteriors of Attached Dwellings shall at all times be maintained in attractive and marketable condition. When landscaping and exterior materials are replaced, repaired, or refinished, the Attached Dwelling and/or Lot shall be returned to the appearance of the Attached Dwelling or Lot at the time of issuance of the initial certificate of occupancy. Changes to the landscaping on Attached Dwelling Lots and/or exterior materials and/or color schemes of buildings comprising the Attached Dwellings may be permitted with the prior written approval of the Architectural Committee pursuant to Article II of this Declaration.

.10.8. Encroachments or Projections. If any Dwelling or any deck, porch or patio servicing a Dwelling encroaches or projects up to two feet upon or over any other Dwelling or Lot or Open Space as a result of: (i) original construction, (ii) settling or shifting, or (iii) replacement or reconstruction, as a result of fire, other insured casualty, condemnation, eminent domain proceedings or proceedings of similar import and effect; such encroachment or projection shall be permitted and a valid easement for such encroachment or projection and the maintenance thereof shall exist so long as such improvements shall stand. If such encroachment or projection occurs as a result of replacement, the encroachment or projection must be inadvertent in order for a valid easement to exist.

.10.9. Party Wall Rights Run With the Land. The rights of support, quiet enjoyment, entry to repair or restore and contribution for the cost of the same which are described in this Article shall run with the land and shall bind the heirs, successors and assigns of each Lot Owner.

.10.10. No Structural Alterations. No Owner of an Attached Dwelling shall, without the prior written consent of the Owners of Attached Dwellings in the same building, make or permit to be made any structural alteration, improvement, or addition in or to such Owner's Attached Dwelling or Lot. No Owner of an Attached Dwelling shall, without the prior written consent of the Owners of the Attached Dwellings in the same building, do any act that would impair the structural soundness or integrity of, the building in which such Attached Dwelling is located, or which would impair the safety of the Attached Dwellings in such building or impair any easement or hereditament appurtenant to the Attached Dwelling in such building. Notwithstanding the consent of the Owners of the other Attached Dwellings in the same building, compliance and approval from the Committee pursuant to Article II of this Declaration shall nevertheless be required.

.10.11. Separate Mortgages By Owners. The Owner of each Attached Dwelling and Lot shall have the right separately to mortgage or otherwise encumber such Owner's Attached Dwelling and Lot. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber any other Attached Dwelling and/or Lot. Any mortgage or other encumbrance of any Attached Dwelling and Lot within the Community shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through judicial foreclosure, foreclosure by power of sale or otherwise.

.10.12. Separate Taxation. Each Attached Dwelling Lot within the Community shall be deemed to be a separate and distinct parcel of real property and shall be assessed separately for all real estate taxes, assessments, or other charges of any political subdivision of the State of New York,

school district or of any special improvement district or of any other taxing or assessing authority. All such taxes, assessments and other charges on each respective Lot shall be separately levied against each such Lot and the Owner thereof. No forfeiture or sale of any Lot for delinquent taxes, assessments or other charges shall divest or in any way affect the title to any other Lot.

.10.13. Mechanics' Liens. No labor performed or materials furnished for use in connection with any Lot with the consent or at the request of the Owner of such Lot or such Lot Owner's agent or contractor shall create any right to file a mechanic's lien against the Lot of any other Owner not expressly consenting to or requesting same. Any mechanic's lien filed against a Lot shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any owner whose title is derived through foreclosure or otherwise.

## ARTICLE XI

### ADVISORY COMMITTEE TO AURENE FOUNDATION

.11. The Declarant envisions the development process of the Aurene Community to take several years. The Declarant desires to foster a sense of community, pride and involvement among the Owners during the development period to enhance the quality of the Aurene Community, the satisfaction of the Owners, and the dialogue between the Declarant and the Owners, through the Aurene Foundation (the "Foundation") which will oversee and enforce the provisions of this Declaration. During the development period, the Foundation may in its sole discretion, appoint or designate from time to time an Advisory Committee of Owners to the Foundation.

.11.1. Purpose of Advisory Committee. The Foundation may from time to time, designate or solicit Owners to constitute an Advisory Committee to the Foundation for the purpose of providing the Foundation with input from the Owners as to issues affecting the development of the Aurene Community and quality of life of the Owners, including the administration of the Architectural Committee created under Article II of this Declaration, and the use and maintenance of the Open Space so long as the Declarant owns or controls an interest in the Property.

Once formed, the Foundation will periodically meet with the Advisory Committee members to solicit their opinions on issues the Foundation deems relevant and to discuss concerns which the Advisory Committee, its members and the Owners desire to discuss with the Foundation. The members of the Advisory Committee are encouraged to actively seek out the opinions and concerns of the Owners generally, and to communicate such opinions and concerns to the Foundation. The recommendations and opinions of the Advisory Committee and its members will be considered by the Foundation in its decision making process, but shall be advisory only, and shall not be binding on the Foundation.

.11.2. Advisory Committee Members. The Advisory Committee may be comprised of from three to nine Owners. The Foundation may initially designate three Owners to serve as the Advisory Committee. As Lots are developed and sold in subsequent phases of the Community,



the Foundation may designate additional Owners to the Advisory Committee. In designating Owners as Advisory Committee members, the Foundation will attempt to give representation to Owners in all phases and types of housing in the Community.

The Foundation may exercise its sole and unfettered discretion from time to time (i) in forming, suspending or disbanding the Advisory Committee, (ii) in designating, removing or re-designating any Owner as a member of the Advisory Committee, and (iii) in determining the number of Owners constituting the Advisory Committee.

.11.3. Continuation of Advisory Committee. The Owners may, at the time the Declarant no longer owns or controls an interest in any portion of the Property or Additional Land, continue the Advisory Committee for the sole purpose of fostering the continued communication and cooperation among the Owners to enhance the quality of life in the Aurene Community. The Advisory Committee shall continue to be an advisory body only, and shall have no specific authority with respect to the Lots, the Owners, or the Open Space except as provided by this Declaration. It is the intent of the Declarant and the Foundation that there continue to be broad representation on the Advisory Committee of Owners from throughout the Community and the various types of housing in the Community, and that each Owner have one vote for each Lot owned.

Prior to the date of closing of the sale of the last Lot owned by the Declarant, the Foundation may designate a majority of members of the Advisory Committee to serve for a term of two years from such date, and the remaining members to serve for a term of one year from such date. Thereafter, the Advisory Committee shall promulgate such by-laws, rules and regulations to provide for the operation of the Advisory Committee and the election of Owners to serve as members.

## ARTICLE XII

### GENERAL PROVISIONS

.12. Each person or entity acquiring an interest in a Lot or other portion of the Property or otherwise occupying any Lot or other portion of the Property covenants and agrees for him, her, or itself, and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration, and also covenants to incorporate this Declaration by reference in any deed, lease or other instrument further transferring an interest in such Lot or other portion of the Property. The covenants, conditions, restrictions and easements contained in this Declaration may be enforced as follows:

.12.1. Violation Constitutes Nuisance. The violation of the provisions of this Declaration is deemed to be a nuisance, and the Owner of the Property on which the violation occurs is responsible for the removal or abatement of the nuisance. The provisions of this Declaration shall bind the Property and shall be construed as running with the land and shall inure to the benefit of and be enforceable by the Declarant, and by any Lot Owner, their respective legal representatives, heirs,

successors and assigns, by actions at law or by suits in equity. As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of this Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions of this Declaration.

.12.2. Remedies.

- (a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), or by any other Owner. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment all of the reasonable costs of enforcement, including, but not limited to, attorneys fees and court costs, which costs shall be a lien upon the Lot owned by such Owner until paid.
- (b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state, or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. These covenants are to be construed as being in addition to those remedies available at law.
- (c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.
- (d) The failure to take enforcement action shall not be construed as a waiver of the covenants contained in this Declaration in the future or against other similar violations.

.12.3. Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

.12.4. Limited Liability. Neither the Declarant, the Committee or its individual members, nor any other Owner shall have personal liability to any other Owner for enforcement actions or inactions taken under these covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority under these covenants, and without malice.

.12.5. Term of Covenants, Renewal, Termination. This Declaration shall be effective and encumber the Property for a period of fifty years from the date it is first recorded in the Office of the Steuben County Clerk, and thereafter shall automatically be extended for successive periods of ten years unless, prior to the expiration of the original term or any extension term, a majority of Owners vote to terminate this Declaration and record a termination instrument in the Office of the Steuben County Clerk. This Declaration may not be terminated prior to the initial fifty year term unless approved in writing by the Owners of 90% of the Lots, provided that if the Declarant owns or controls an interest in all or a portion of the Additional Land at the time of the proposed termination, the express written consent of the Declarant shall be required. Any such consent shall be given at the sole and exclusive

judgment of the Declarant. All Lot Owners (and the Declarant, if applicable) shall be entitled to not less than thirty (30) days prior written notice of any proposed termination.

.12.6. Amendment. At any time while this Declaration is in effect, the Owners of seventy percent (70%) of the Lots subject to this Declaration may amend the provisions of this Declaration, provided that if the Declarant owns or controls an interest in all or a portion of the Additional Land at the time of the proposed Amendment, the express written consent of the Declarant shall be required. Any such consent shall be given at the sole and exclusive judgment of the Declarant. All Lot Owners (and the Declarant, if applicable) shall be entitled to not less than thirty (30) days prior written notice of any proposed Amendment. Any Amendment must be in writing and be properly recorded in the Office of the Steuben County Clerk to become effective.

The Declarant, during the time it shall own or control an interest in any portion of the Property or the Additional Land, may make amendments to this Declaration without prior notice to the Lot Owners to correct omissions or errors, which amendments shall not adversely modify substantial rights of any Owner without such Owner's written consent, and to supplement the architectural, aesthetic and design requirements applicable to subsequent phases in the Community, including but not limited to, Exhibit "C" Approved Colors List and Exhibit "D" Schedule of Maximum Floor Areas, Maximum Disturbance Areas, Minimum Setbacks, and Wooded Designations. The Declarant may also extend the scope of this Declaration to encompass all or any portion of the Additional Land by executing and recording an extension of Declaration or supplemental Declaration. Any such amendment, extension or supplemental Declaration need only be executed by the Declarant, and recorded in the Office of the Steuben County Clerk to become effective. The Declarant reserves the exclusive right to file amended or revised Plats for all or a portion of the Property then owned by the Declarant, with the Office of the Steuben County Clerk, provided such revisions are then permitted by the Town of Erwin regulations. Each Owner, by acceptance of his deed for a Lot, hereby consents to and waives protest to Declarant's filing such amended or revised Plats.

.12.7. Limitations on Amendment. This Declaration may not be repealed by amendment or any other action. No Amendment shall have the effect of eliminating or modifying the limitations on site disturbances, rescinding the dedication of Open Space, making less restrictive provisions regulating the uses of the Open Space, or increasing the number of Lots or Dwellings beyond the number created by Declarant. No amendment shall terminate, extinguish or adversely modify any easement granted in this Declaration which benefits Lots except with respect to those Lots the Owners of which specifically consent in writing to such termination, extinguishment or modification.

.12.8. Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Community is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions, restrictions and easements against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

.12.9. Declaration and Reservation of Easements.

A. For the mutual benefit and convenience of all of the Owners, each Lot is burdened by an easement ten feet in width across the front of the Lot, and along the sides of the Lot, for the installation and maintenance of public utility services, telecommunications services, and appurtenant grading, and landscaping. The Owner grants the right to the Town, the Declarant, and to all public utilities and telecommunications services to enter upon each Lot within such easements for purposes of providing installation, maintenance, meter reading, emergency, and public safety services as needed to provide and maintain such services.

B. With respect to the Property and in addition to the rights reserved below, so long as the Declarant holds title to any Lot within the Property or Additional Land (whether or not subject to this Declaration), the Declarant shall have the right to:

1. grant and reserve easements and rights of way for the installation of utility lines, wires, coaxial cables, pipes and conduits, including but not limited to water, gas, electric, cable television, telephone and sewer to service any Additional Land;
2. connect with and make use of utility lines, wires, pipes, conduits and related facilities located on the Lots within the Property for the benefit of the Additional Land or any portion of the Additional Land;
3. operate one or more sales centers, install and maintain signs, and have prospective purchasers of Lots and others visit such sales centers and use certain portions of the Open Space, including but not limited to, the parking of motor vehicles; and
4. grant to itself or to others such other easements and rights of way as may be reasonably needed for the orderly development of any Additional Land.

C. Easements are herein reserved over the Property for the benefit of the Additional Land, whether or not developed as a part of the Aurene Community, for the following purposes:

1. ingress and egress over roadways until dedicated to and accepted by the Town for public use; and
2. use and connection with utility lines and related facilities including, but not limited to, water, gas, electric, sewer and cable television. This reservation and easement shall not include the right to consume any water, gas or electricity for which one or more individual Lot Owners are billed directly without the consent of the individual Lot Owners affected.

D. The Open Space is hereby dedicated for use by the Declarant, the Lot Owners, and the public generally, for the purposes specified in this Declaration, subject to the provisions of this Declaration, and the right of the owner of the Open Space to reasonably regulate its use in any manner

which is not inconsistent with this Declaration. Some parts of the Open Space may be conveniently accessible only through the Lots. The Owners of the Open Space shall have, and the irrevocable right and easement is hereby declared, for access over each Lot to be exercised from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Open Space or for making emergency repairs at any time therein necessary to prevent damage to the Open Space. Such entry shall be made with as little inconvenience to the Lot Owners as practicable, and any damage caused thereby shall be promptly repaired by the owner of the Open Space.

E. The Declarant reserves the right to petition for and accept the imposition of a Special Technology Service District upon the Property by the Town of Erwin. Each Owner, by acceptance of his deed for a Lot, hereby consents to and waives protest to Declarant's such actions.

The foregoing easements, rights of way and other rights reserved herein shall run with the land and shall be binding upon and for the benefit of the Declarant, and its successors and assigns. With respect to the exercise of the above rights, the Declarant agrees to repair any damages resulting from its use within a reasonable time after the completion of development or when such rights are no longer needed, whichever first occurs. This section shall not be amended without the written consent of the Declarant.

.12.10. Notices. All notices under this Declaration are deemed effective seventy-two (72) hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

.12.11. Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Community. Paragraph headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

.12.12. Expansion of Community. Now or in the future, the Declarant may own or control an interest in Additional Land which is contiguous to and may be added to the Community. The Additional Land which the Declarant presently owns is described in the attached Exhibit "B". The Declarant may develop all or part of the Additional Land, or increase the amount of the Additional Land, and add all or a portion of such land to the Aurene Community. Any of the Additional Land may be subjected to this Declaration or to a supplement, addition, expansion or amendment thereto, and become a part of the Community by recording a Plat describing such Additional Land and the Lots created on it, and by recording an extension or supplemental Declaration stating that such Additional Land has been added to the Community and is subject to these Protective Covenants, Conditions and Restrictions, and any supplemental covenants, conditions, restrictions and easements as the Declarant may deem necessary or desirable. Any Additional Land will be added, if at all, within twenty (20) years from the date this Declaration is recorded with the Office of the Steuben County Clerk.

.12.13. No Obligation to Expand. The Declarant reserves the right to add land to the Community, but there is no obligation to do so. Any Additional Land, if not added to the Community, may be developed in a manner that is different from the Community.

.12.14. Expansion in Phases. The Declarant may exercise its right to expand the Community in one or more phases. The addition of some of the Additional Land does not obligate the Declarant to add the balance of the Additional Land to the Community.

.12.15. Pre-existing Conditions. As of the date of this Declaration, a variety of Improvements exists on the Property. These pre-existing conditions, when not in conformance with this Declaration, shall not be deemed to be in violation of the intent and purpose of this Declaration or the uniform plan for the development of the Community, and shall be exempt from the enforcements and remedies provided herein.

Executed on the day and date first stated above, by Upstate Partners, L.C. LLC, a Utah limited liability company.

Upstate Partners, L.C. LLC

By: 

State of New York )

ss.:

County of Steuben )

On the 23 day of June, 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared Gerald A. Jackson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

ALBERT M. MERCURY  
Notary Public, State of New York  
Reg. No. 01ME4724197  
Qualified in Monroe County  
My Commission Expires Sept. 30, 20 00

## EXHIBIT "A"

### DESCRIPTION OF PHASE ONE

All that tract or parcel of land, situate in the Town of Erwin, County of Steuben and State of New York described as follows:

Beginning at a point being the easterly corner of the herein described Lot B. Said easterly corner of said Lot B is in the southerly corner of lands now or formerly of the Town of Erwin Re: L1552 P246 Parcel One. Said point of beginning of Lot B is further referenced as being 808.40 feet on a bearing of  $S60^{\circ}52'07''W$  from where a concrete monument was found in the southwest corner of lands now or formerly of Warren Fribley, Jr. and Dawn Fribley Re: L870 P545. Thence, along new division line within the lands now or formerly of Coming Enterprises, Inc. the following courses and distances: 1)  $S60^{\circ}52'07''W$ , a distance of 435.83 feet to a point. 2)  $S42^{\circ}48'41''W$ , a distance of 56.13 feet to a point. 3)  $S30^{\circ}41'40''W$ , a distance of 120.74 feet to a point. 4)  $S71^{\circ}16'05''W$ , a distance of 222.58 feet to a point. 5)  $S63^{\circ}54'30''W$ , a distance of 77.02 feet to a point. 6)  $N79^{\circ}32'18''W$ , a distance of 141.99 feet to a point. 7)  $S85^{\circ}31'38''W$ , a distance of 23.82 feet to a point being a southwest corner of the herein described Lot B. 8)  $N06^{\circ}42'32''E$ , a distance of 503.87 feet to a point at the beginning of a curve to the southeast having a radius of 1146.25 feet. 9) Southwesterly, 165.77 feet along said curve through a central angle of  $08^{\circ}17'10''$  to a point. 10)  $S74^{\circ}08'31''W$ , a distance of 607.29 feet to a point being the southwest corner of the herein described Lot B. 11)  $N15^{\circ}51'30''W$ , a distance of 211.07 feet to a point. 12)  $N12^{\circ}51'31''W$ , a distance of 114.53 feet to a point. 13)  $N07^{\circ}12'25''W$ , a distance of 116.55 feet to a point. 14)  $N00^{\circ}21'17''W$ , a distance of 419.18 feet to a point. 15)  $N12^{\circ}46'53''W$ , a distance of 136.40 feet to a point. 16)  $N29^{\circ}55'52''W$ , a distance of 149.59 feet to a point. 17)  $N37^{\circ}27'08''W$ , a distance of 339.38 feet to a point. 18)  $N63^{\circ}15'51''W$ , a distance of 74.08 feet to a point. 19)  $N61^{\circ}26'24''W$ , a distance of 51.70 feet to a point in a curve concave to the east having a radius of 335.00 feet. 20) Southerly, 45.83 feet along said curve through a central angle of  $07^{\circ}50'16''$  to a point at the beginning of a curve concave to the northwest having a radius of 25.00 feet. 21) Southwesterly and westerly, 38.20 feet along said curve through a central angle of  $87^{\circ}33'05''$  to a point at the beginning of a curve concave to the northeast having a radius of 175.00 feet. 22) Northwesterly, 113.93 feet along said curve through a central angle of  $37^{\circ}18'10''$  to a point. 23)  $N48^{\circ}13'12''W$ , a distance of 46.87 feet to a point being the most westerly corner of the herein described Lot B. 24)  $N27^{\circ}39'46''E$ , a distance of 1050.63 feet to a point being the northwest corner of the herein described Lot B in the center of the Cohocton River. Thence, easterly and southeasterly along the center of the Cohocton River the following courses and distances: 1)  $S84^{\circ}16'48''E$ , a distance of 623.79 feet to a point. 2)  $S69^{\circ}52'32''E$ , a distance of 441.93 feet to a point. 3)  $S58^{\circ}49'59''E$ , a distance of 362.44 feet to a point being the northeast corner of the herein described Lot B. Thence, along new division lines within the lands now or formerly of Coming Enterprises, Inc. Re: L1046 P527 the following courses and distance: 1)  $S27^{\circ}22'20''W$ , a distance of 339.21 feet to a point. 2)  $S23^{\circ}40'12''E$  a distance of 298.20 feet to a point. 3)  $S46^{\circ}40'12''W$ , a distance of 553.28 feet to a point. 4)  $S35^{\circ}21'46''E$ , a distance of 101.05 feet to a point at the beginning of a curve concave to the southwest having a radius of 1015.00 feet. 5) Southeasterly, 436.12 feet along said

(Continued)

curve through a central angle of  $24^{\circ}37'07''$  to a point at the beginning of a curve concave to the northeast having a radius of 275.00 feet. 6) Southeasterly, 190.01 feet along said curve through a central angle of  $39^{\circ}35'19''$  to a point. 7)  $S50^{\circ}20'01''E$ , distance of 169.14 feet to a point. 8)  $N60^{\circ}51'28''E$ , a distance of 337.32 feet to a point in the westerly bounds of lands now or formerly of the Town of Erwin Re: L1552 P246, Parcel One. Thence, southerly along the westerly bounds of said Town of Erwin's land on a bearing of  $S29^{\circ}03'29''E$ , a distance of 341.56 feet to the point and place of beginning containing 70.254 acres of land. Bearings referred to are Grid North, NAD 83, 96 Adjustment, New York State Plane Coordinate System, Central Zone.

The above described Lot B is subject to all utility easements recorded, unrecorded, open or notorious.

All of the above is shown on a Subdivision Plat of Aurene Subdivision Phase One numbered 34-436-1 dated March 31, 1999, prepared by William Rasmussen, Land Surveyor, License No. 49107, Oneonta, NY.

Also, conveying along with Lot B all that tract or parcel of land, situate in the Town of Erwin, County of Steuben and State of New York described as follows:

Beginning at a point being the southeast corner of the herein described parcel in the northerly bounds of Lynn Morse Drive. Said point is 1249.28 feet on a bearing of  $S60^{\circ}56'31''W$  from where the said northerly bounds of Lynn Morse Drive intersects the westerly bounds of Canada Road. Thence southwesterly along the northerly bounds of Lynn Morse Drive on a bearing of  $S60^{\circ}56'31''W$ , a distance of 242.43 feet to a point. Said point is the southwest corner of the herein described parcel. Thence, northwesterly along new division lines within the lands now or formerly of Coming Enterprises, Inc. Re: L1046 P527 the following courses and distances: 1)  $N06^{\circ}52'30''W$ , a distance of 177.39 feet to a point at the beginning of a non-tangent curve concave to the southwest having a radius of 2000.00 feet. 2) Northwesterly 580.37 feet along said curve through a central angle of  $16^{\circ}37'35''$ , to a point being the northwest corner of the herein described parcel in the southerly bounds of Phase One, Aurene Subdivision. Thence, northeasterly along said southerly bounds of said Phase One, Aurene Subdivision on a bearing of  $N60^{\circ}52'07''E$ , a distance of 72.27 feet to a point being the northeast corner of the herein described parcel. Thence, southeasterly along new division lines within the lands now or formerly of Coming Enterprises, Inc. Re: L1046 P527 the following courses and distances: 1) Southeasterly 84.53 feet along a curve concave to the southwest having a radius of 1208.75 feet and a central angle of  $04^{\circ}00'24''$ , to a point. 2)  $S54^{\circ}23'38''E$ , a distance of 202.83 feet to a point at the beginning of a curve concave to the southwest having a radius of 956.25 feet. 3) Southeasterly 422.66 feet along said curve through a central angle of  $25^{\circ}19'29''$ , to a point. 4)  $S29^{\circ}04'11''E$ , a distance of 63.85 feet to the point and place of beginning containing 2.4375 acres of land. Bearings referred to are Grid North, NAD 83, 96 Adjustment, New York State Coordinate System, Central Zone.

The above described parcel is subject to all utility easements recorded, unrecorded, open or notorious.

The above mentioned Lynn Morse Drive is subject to the use and the rights of the public.

The above described parcel is subject to a 50 foot wide right of way and easement for ingress and egress as described in L1552 P246 Parcel One.

All of the above is shown on a Subdivision Plat of Aurene Subdivision Phase One numbered 34-436-2 dated March 31, 1999, prepared by William Rasmussen, Land Surveyor, License No. 49107, Oneonta, NY.



EXHIBIT "B"

DESCRIPTION OF ADDITIONAL LAND

OWNED AS OF THIS DATE

All that tract or parcel of land, situate in the Town of Erwin, County of Steuben and State of New York described as follows:

Beginning at a concrete monument found in the southwest corner of lands now or formerly of Warren Fribley, Jr. and Dawn Fribley Re: L870 P545. Said concrete monument marks the most easterly corner of the herein described Lot A and is further referenced as being 566.26 feet on a bearing of S60°52'07"W from where a concrete monument was found in the west bounds on Canada Road. Thence, southwestery along a new division line within the lands now or formerly of Coming Enterprises, Inc. Re: L1046 P527 the following course and distance: 1) S60°52'07"W, a distance of 808.40 feet to a point in the southerly bounds of the lands now or formerly of the Town of Erwin Re: L1552 P246 Parcel One. Thence, northerly, southwestery and southerly along the bounds of said Town of Erin's land the following courses and distances: 1) N29°03'29"W, a distance of 53.86 feet to where a 5/8" steel rod capped "Weiler" was found in the beginning of a curve concave to the east having a radius of 500.00 feet. 2) Northerly 427.91 feet along said curve through a central angle of 49°02'05" to where a 5/8" steel rod capped "Weiler" was found. 3) N19°58'36"E a distance of 293.94 feet to where a 5/8" steel rod capped "Weiler" was found marking a southeast corner of aforesaid Town of Erwin's land. 4) N29°03'29"W a distance of 559.59 feet to where a 5/8" steel rod capped "Weiler" was found in the most northerly corner of said Town of Erwin land. 6) S60°56'31"W, a distance of 394.16 feet to where a 5/8" steel rod capped "Weiler" was found in the northwesterly corner of said Town of Erwin's land. 7) S29°03'29"E, a distance of 842.15 feet to a point being a corner of the herein described Lot "A". Thence, along new division lines within the lands now or formerly of Coming Enterprises, Inc. Re: L1046 P527 the following courses and distances: 1) S60°51'28"W, a distance of 337.32 feet to a point. 2) N50°20'01"W, a distance of 169.14 feet to a point at the beginning of a curve concave to the northeast having a radius of 275.00 feet. 3) Northeasterly, 190.01 feet along said curve through a central angle of 39°35'19" to a point at the beginning of a curve concave to the southwest having a radius of 1015.00 feet. 4) Northwestery, 436.12 feet along said curve through a central angle of 24°37'07" to a point. 5) N35°21'46"W, a distance of 101.05 feet to a point being a westerly corner of the herein described Lot "A". 6) N46°40'12"E, a distance of 553.28 feet to a point. 7) N23°40'12"W, a distance of 298.20 feet to a point. 8) N27°22'20"E, a distance of 339.21 feet to a point in the center of the Cohocton River. Said point is the most northerly corner of the herein described Lot "A". Thence, southeasterly along the center of the Cohocton River on a bearing of S58°49'59"E, a distance of 663.09 feet to a point being a northeasterly corner of the herein described Lot "A". Said northeast corner is 124.00 feet on a bearing of N29°07'53"W from where a concrete monument was found in the westerly bounds of lands now or formerly of Warren Fribley, Jr. and Dawn Fribley Re: L870 P545. Thence, southerly along the westerly bounds of said Fribley's land on a bearing of S29°07'53"E, a distance of 1259.97 feet to the point and place of beginning containing 30.255 acres of land. Bearings referred to are Grid North, NAD 83, 96 Adjustment, New York State Plane Coordinate System, Central Zone.

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The above described Lot A is subject to all utility easements recorded, unrecorded, open or notorious.

Also, conveying a 50 foot wide right of way and easement for ingress and egress over the same 50 foot wide right of way described in Liber 1552 Page 246, Parcel One (last paragraph).

All of the above is shown on a subdivision plat of Aurene Subdivision Phase One, numbered 34-436-1, dated March 31, 1999, prepared by William Rasmussen, Land Surveyor, License Number 49107, Oneonta, New York.

All that tract or parcel of land, situate in the Town of Erwin, County of Steuben and State of New York described as follows:

Beginning at a point being the northwest corner of lands now or formerly of the Steuben County Industrial Development Agency Re: L1556 P243. Said point is a corner of the herein described Lot C. Thence, southwesterly along the westerly bounds of aforesaid Steuben County Industrial Development Agency's land on a bearing of  $S28^{\circ}30'17''W$ , a distance of 236.71 feet to a point in the southerly bounds of the herein described Lot C. Said point is in the northerly bounds of lands now or formerly of "Coming Inc." (Sullivan Park). Thence, westerly along the northerly bounds of said "Coming Inc." (Sullivan Park) land on a bearing of  $S88^{\circ}52'59''W$ , a distance of 3226.43 feet to where a Ward & Moore pin was found marking a corner of the herein described Lot C in an easterly bounds of lands now or formerly of the New York State Erwin Game Refuge and Demonstration Forest. Thence, northerly, westerly and northerly along said New York State Erwin Game Refuge and Demonstration Forest land the following courses and distances: 1)  $N00^{\circ}41'51''W$ , a distance of 834.65 feet to where a 5/8" steel rod capped "Weiler" was found. 2)  $S89^{\circ}31'26''W$ , a distance of 2670.09 feet to where a 5/8" steel rod capped "Weiler" was found in the southwesterly corner of the herein described Lot C. 3)  $N00^{\circ}05'26''E$ , a distance of 1312.41 feet to where a 5/8" steel rod capped "Weiler" was found marking a northwesterly corner of the herein described parcel in the southerly bounds of lands now or formerly of David Monroe Scudder Re: L1578 P42. Thence, easterly along the southerly bounds of said Scudder's land on a bearing of  $S87^{\circ}03'34''E$ , a distance of 1394.49 feet to where a 5/8" steel rod capped "Weiler" was found in the southeast corner of said Scudder's land. Thence, northerly along the easterly bounds of said Scudder's land on a bearing of  $N00^{\circ}05'26''E$ , a distance of 1412.55 feet to a point in the center of the Cohocton River being the northwest corner of the herein described Lot C. Said northwest corner is 63.75 feet on a bearing of  $N00^{\circ}05'26''E$  from where a concrete monument was found in the easterly bounds of aforesaid Scudder's land. Thence, easterly along the center of the Cohocton River the following courses and distances: 1)  $S68^{\circ}05'43''E$ , a distance of 844.26 feet to a point. 2)  $S83^{\circ}07'38''E$ , a distance of 789.155 feet to a point. 3)  $S78^{\circ}55'16''E$ , a distance of 597.17 feet to a point. 4)  $S83^{\circ}07'49''E$ , a distance of 999.90 feet to a point. 5)  $S84^{\circ}16'49''E$ , a distance of 1378.62 feet to a point being the northeast corner of the herein described Lot C. Thence, along new division lines within the lands of Coming Enterprises, Inc. the following courses and distances: 1)  $S27^{\circ}39'46''W$ , a distance of 1050.63 feet to a point. 2)  $S48^{\circ}13'12''E$ , a distance of 46.87 feet to a point in the beginning of a curve concave to the northeast having a radius of 175.00 feet. 3) Southeasterly, 113.93 feet along said curve through a central angle of  $37^{\circ}18'09''$  to a point at the beginning of a curve concave to the northwest having a radius of 25.00 feet. 4) Easterly and northeasterly, 38.20 feet along said curve through a central angle of  $87^{\circ}33'05''$  to a point in the beginning of a curve concave to the east having a radius of 335.00 feet. 5) Northerly, 45.83 feet along said curve through a central angle of  $07^{\circ}50'16''$  to a point. 6)  $S61^{\circ}26'24''E$ , a distance of 51.70 feet to a point. 7)  $S63^{\circ}15'51''E$ , a distance of

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74.08 feet to a point. 8) S37°27'08"E, a distance of 339.38 feet to a point. 9) S29°55'52"E, a distance of 149.59 feet to a point. 10) S12°46'53"E, a distance of 136.40 feet to a point. 11) S00°21'17"E, a distance of 419.18 feet to a point. 12) S07°12'25"E, a distance of 116.55 feet to a point. 13) S12°51'31"E, a distance of 114.53 to a point. 14) S15°51'30"E, a distance of 211.07 feet to a point. 15) N74°08'31"E, a distance of 607.29 feet to a point at the beginning of a curve concave to the southeast having a radius of 1146.25 feet. 16) Northeasterly, 165.77 feet along said curve through a central angle of 08°17'10" to a point. 17) S06°42'32"W, a distance of 503.87 feet to a point. 18) S85°31'38"W, a distance of 85.62 feet to a point. 19) N87°30'00"W, a distance of 59.97 feet to a point. 20) N01°04'33"W, a distance of 74.77 feet to where a 5/8" steel rod capped "Weiler" was found in the northerly bounds of lands now or formerly of "Coming Inc." (Sullivan Park). Thence, westerly along the northerly bounds of said "Coming Inc." (Sullivan Park) land on a bearing of S88°52'59"W, a distance of 597.39 feet to a point in the easterly bounds of lands now or formerly of the Steuben County Industrial Development Agency Re: L1556 P243. Thence, northerly and westerly, along the bounds of said Steuben County Industrial Development Agency land the following courses and distances: 1) N28°31'36"E, a distance of 155.65 feet to a point. 2) N60°52'23"W, a distance of 139.95 feet to the point and place of beginning containing 325.041 acres of land. Bearings referred to are Grid North, NAD 83, 96 Adjustment, New York State Plane Coordinate System, Central Zone.

The above described Lot C is subject to all utility easements recorded, unrecorded, open or notorious.

All of the above is shown on a Subdivision Plat of Aurene Subdivision Phase One, numbered 34-436-1, dated March 31, 1999, prepared by William Rasmussen, Land Surveyor, License No. 49107, Oneonta, NY.

## EXHIBIT "C"

### APPROVED COLORS LIST

INTRODUCTION: It is the intention of the Declarant that the Dwellings constructed within the Community shall not visually dominate the natural landscape. To harmonize with the natural palette, Dwelling colors shall be soft, earth tones, in the range of colors and intensities typical of native river stone.

To more accurately describe Approved Colors, they are quantified by reference to the accepted standard of the Munsell System, i.e., the Munsell Book of Color. Original color chips from Munsell are on file with both the Committee and the Town, and color copies which are not fully accurate but are of illustrative value, are also available from the Committee.

The Munsell System arranges and identifies colors by three variables, "Hue", "Value" and "Chroma". The Hue notation indicates the relation of a color to Red, Yellow, Green, Blue, and Purple. The Value notation indicates the lightness of the color. The Chroma indicates the strength of the color, i.e., its departure from a neutral of the same lightness.

The colors displayed on the Munsell Color Charts are of constant Hue, designated by a symbol in the upper right-hand corner of the card. Vertically, the colors become successively lighter from the bottom of the card to the top by visually equal steps; their value increases. Horizontally they increase in Chroma to the right and become grayer to the left. The Value notation of each chip is indicated by the vertical scale in the far left column of the chart. The Chroma notation is indicated by the horizontal scale across the bottom of the chart.

As arranged in the collection the charts provide three scales; (1) radial, or from one chart to the next in hue, (2) vertical in value; and (3) horizontal in chroma.

"The nomenclature for color consists of two complementary systems; (1) Color names, and (2) the Munsell notation of color. Neither of these alone is adequate for all purposes." The color names and their limits are given in the diagrams which appear opposite each chart.

"The Munsell notation for color consists of separate notations for hue, value, and chroma, which are combined in that order to form the color designation. The symbol for hue is the letter abbreviation of the color of the rainbow (R for red, YR for yellow-red, Y for yellow) proceeded by numbers from 0 to 10.

Within each letter range, the hue becomes more yellow and less red as the numbers increase. The middle of the letter range is at 5; the zero point coincides with the 10 point of the next redder hue. Thus, 5YR is in the middle of the yellow-red hue, which extends from 10R (zero YR) to 10YR (zero Y)."

"The notation for value consists of numbers from 0, for absolute black, to 10, for absolute white.

Thus, a color of value 5/ is visually midway between absolute white and absolute black. One of value 6/ is slightly less dark, 60 percent of the way from black to white, and midway between values of 5/ and 7/."

"The notation for chroma consists of numbers beginning at 0 for neutral grays and increasing at equal intervals to a maximum of about 20, which is never really approached in soil. For absolute achromatic colors (pure grays, white, and black), which have zero chroma and no hue, the letter N (Neutral takes the place of a hue designation."

"In writing the Munsell notation, the order is hue, value, chroma with a space between the hue letter and the succeeding value number, and a diagonal between the two numbers for value and chroma. If expression beyond the whole numbers is desired, decimals are always used, never fractions. Thus, the notation for a color of hue 5YR, value 5, chroma 5, is 5YR 5/6, a yellowish red. The notation for a color midway between the 5YR 5/6 and 5YR 6/6 chips is 5YR 5.5/6; for one midway between 2.5YR 5/6 and 5YR 6/8, it is at 3.75YR 5.5/7. the notation is decimal and capable of expressing any degree of refinement desired. Since color determinations cannot be made precisely in the field-generally no closer than half the interval between colors in the chart-expression of color should ordinarily be to the nearest color chip."

Quoted in part from U.S. Department Agriculture Handbook, 18 - Soil Survey Manual.

The following colors are the "Approved Colors" for use at Aurene:

COLOR	HUE	VALUE	CHROMA
Reddish Gray	10R	5-6	1
Pale Red	10R	6	2-3
Weak Red	10R	5	2-3
Dark Reddish Gray	10R	3-4	2
Weak Red	10R	4	2
Reddish Gray	5R	5-6	1
Pale Red	5R	6	2-3
Weak Red	5R	5	2-3
Dark Reddish Gray	5R	4	1
Weak Red	5R	4	2
Dark Reddish Gray	5R	3	1
White	5Y	8	1-2
Pale Yellow	5Y	7-8	3
Light Gray	5Y	7	1-2
Light Gray/Gray	5Y	6	1
Gray	5Y	5	1
Light Olive Gray	5Y	6	2
Pale Olive	5Y	6	3
Olive Gray	5Y	5	2

COLOR	HUE	VALUE	CHROMA
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White	.5Y	8-8	-2
Pale Yellow	.5Y	7-8	3
Light Gray	.5Y	7	0-2
Light Gray/Gray	.5Y	6	0
Light Brownish Gray	.5Y	6	2
Light Yellowish Brown	.5Y	6	3

White	10YR	8	1-2
Very Pale Brown	10YR	8	3
Light Gray	10YR	7	1-2
Vary Pale Brown	10YR	7	3
Light Gray/Gray	10YR	6	1
Light Brownish Gray	10YR	6	2
Pale Brown	10YR	6	3
Gray	10YR	5	1
Grayish Brown	10YR	5	2

White	7.5YR	N8	0
Pinkish White	7.5YR	8	2
Pink	7.5YR	8	3
Light Gray	7.5YR	N7	0
Pinkish Gray	7.5YR	7	2
Pink	7.5YR	7	3
Light Gray/Gray	7.5YR	N6	0
Pinkish Gray	7.5YR	6	2
Light Brown	7.5YR	6	3

White	5YR	8	1
Pinkish White	5YR	8	2
Pink	5YR	8	3
Light Gray	5YR	7	1
Pinkish Gray	5YR	7	2
Pink	5YR	7	3
Light Gray/Gray	5YR	6	1
Pinkish Gray	5YR	6	2
Light Reddish Brown	5YR	6	3
Gray	5YR	5	1
Reddish Gray	5YR	5	2

COLOR	HUE	VALUE	CHROMA
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Gray	2.5YR	N6	0
Pale Red	2.5YR	6	2
Light Reddish Brown	2.5YR	6	3
Gray	2.5YR	N5	0
Weak Red	2.5YR	5	2
Reddish Brown	2.5YR	5	3
Dark Gray	2.5YR	N4	0
Weak Red	2.5YR	4	2
Light Greenish Gray	5GY	7	1
Greenish Gray	5GY	6	1

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EXHIBIT "D"

SCHEDULE OF MAXIMUM FLOOR AREAS, MAXIMUM DISTURBANCE AREAS,  
MINIMUM SETBACKS, AND WOODED DESIGNATIONS FOR EACH LOT

<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
1	0.40 ac.	2,800 SF	unlimited*	40 feet	20/25 feet	no
2	0.40 ac.	2,800 SF	unlimited*	40 feet	20/25 feet	no
3	0.40 ac.	2,800 SF	unlimited*	35 feet	20/25 feet	no
4	0.40 ac.	2,800 SF	unlimited*	35 feet	20/25 feet	no
5	0.40 ac.	2,800 SF	unlimited*	35 feet	20/25 feet	no
6	0.44 ac.	3,000 SF	unlimited*	35 feet	20/25 feet	no
7	0.44 ac.	3,000 SF	unlimited*	40 feet	20/25 feet	no
8	0.44 ac.	3,000 SF	unlimited*	35 feet	20/25 feet	no
9	0.44 ac.	3,200 SF	unlimited*	35 feet	20/25 feet	no
10	0.44 ac.	3,200 SF	unlimited*	40 feet	20/25 feet	no
11	0.44 ac.	3,200 SF	unlimited*	40 feet	20/25 feet	no
12	0.39 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
13	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
14	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
15	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
16	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
17	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
18	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
19	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
20	0.37 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
21	0.44 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
22	0.44 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
23	0.44 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
24	0.44 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
25	0.44 ac.	2,800 SF	unlimited*	35 feet	20/25 feet	no
26	0.44 ac.	2,800 SF	unlimited*	35 feet	20/25 feet	no
27	0.36 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
28	0.36 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
29	0.35 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
30	0.35 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
31	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
32	0.35 ac.	2,600 SF	unlimited*	40 feet	20/25 feet	no
33	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
34	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
35	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no

<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
36	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
37	0.35 ac.	2,600 SF	unlimited*	30 feet	20/25 feet	no
38	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
39	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
40	0.35 ac.	2,600 SF	unlimited*	40 feet	20/25 feet	no
41	0.35 ac.	3,200 SF	unlimited*	35 feet	20/25 feet	no
42	0.35 ac.	2,600 SF	unlimited*	40 feet	20/25 feet	no
43	0.35 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
44	0.40 ac.	2,600 SF	unlimited*	35 feet	20/25 feet	no
45	0.35 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
46	0.35 ac.	2,800 SF	unlimited*	30 feet	20/25 feet	no
47	0.52 ac.	3,600 SF	14,000 SF	35 feet	20/25 feet	yes
48	0.53 ac.	3,600 SF	14,000 SF	40 feet	20/25 feet	yes
49	1.24 ac.	3,600 SF	unlimited*	40 feet	25/25 feet	no
50	2.04 ac.	4,800 SF	18,000 SF	35 feet	30/220 feet	yes
51	1.39 ac.	4,800 SF	18,000 SF	30 feet	25/170 feet	yes
52	1.44 ac.	4,800 SF	18,000 SF	40 feet	25/135 feet	yes
53	1.43 ac.	4,800 SF	18,000 SF	40 feet	30/150 feet	yes
54	1.42 ac.	4,800 SF	18,000 SF	40 feet	30/100 feet	yes
55	1.10 ac.	6,000 SF	18,000 SF	40 feet	30/70 feet	yes
56	1.13 ac.	6,000 SF	18,000 SF	40 feet	30/50 feet	yes
57	1.03 ac.	6,000 SF	18,000 SF	40 feet	30/30 feet	yes
58	0.70 ac.	4,200 SF	unlimited*	35 feet	30/40 feet	no
59	0.58 ac.	4,200 SF	unlimited*	35 feet	30/30 feet	no
60	0.67 ac.	4,200 SF	unlimited*	35 feet	30/20 feet	no
61	0.47 ac.	3,600 SF	unlimited*	30 feet	30/30 feet	no
62	0.56 ac.	3,600 SF	unlimited*	30 feet	30/30 feet	no
K-1	0.13 ac.	2,200 SF	unlimited*	18 feet	none	no
K-2	0.08 ac.	2,200 SF	unlimited*	18 feet	none	no
K-3	0.10 ac.	2,200 SF	unlimited*	18 feet	none	no
K-4	0.10 ac.	2,200 SF	unlimited*	18 feet	none	no
K-5	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-6	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-7	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-8	0.08 ac.	2,200 SF	unlimited*	18 feet	none	no
K-9	0.12 ac.	2,200 SF	unlimited*	18 feet	none	no
K-10	0.07 ac.	2,200 SF	unlimited*	18 feet	none	no

<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
K-11	0.10 ac.	2,200 SF	unlimited*	18 feet	none	no
K-12	0.09 ac.	2,200 SF	unlimited*	18 feet	none	no
K-13	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-14	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-15	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-16	0.08 ac.	2,200 SF	unlimited*	18 feet	none	no
K-17	0.09 ac.	2,200 SF	unlimited*	18 feet	none	no
K-18	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-19	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-20	0.05 ac.	2,200 SF	unlimited*	18 feet	none	no
K-21	0.08 ac.	2,200 SF	unlimited*	18 feet	none	no
K-22	0.10 ac.	2,200 SF	unlimited*	18 feet	none	no
K-23	0.07 ac.	2,200 SF	unlimited*	18 feet	none	no
K-24	0.11 ac.	2,200 SF	unlimited*	18 feet	none	no

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Notes to Exhibit D:

1. The column heading ***SB*** is an abbreviation for ***Setback***.
2. The column heading ***Maximum Dist. Area*** is an abbreviation for ***Maximum Disturbance Area***.
3. For all Lots with a ***K*** prefix, when an asterisk appears in the ***Maximum Dist. Area*** column, the ***Maximum Disturbance Area*** shall be unlimited until a Certificate of Occupancy has been issued for the Lot. Following such issuance, the Maximum Disturbance Area for the Lot shall collapse to the limits of the actual Dwelling and its initial Improvements, and the remainder of the Lot shall become Natural Area.
4. For all Lots without a ***K*** prefix, when an asterisk appears in the ***Maximum Dist. Area*** column, the ***Maximum Disturbance Area*** shall be unlimited until a Certificate of Occupancy has been issued for the Lot. Following such issuance, the Maximum Disturbance Area for the Lot shall collapse and be contained by the Minimum Setbacks set forth herein, or prescribed by the Town of Erwin, whichever is greater, and the remainder of the Lot shall become Natural Area.
5. For Lot #49, an additional rear setback line is required. Such additional rear setback line shall be 350 feet from the rear property line of Lot #50.
6. In the event of a conflict between a Lot area or dimension described by this Declaration and a Lot area or dimension described by the Plat, the Plat shall govern.
7. In the event of a conflict between a minimum setback distance required by this Declaration, and a minimum setback distance required by the Town of Erwin, the most restrictive setback distance shall govern.

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## EXHIBIT "E"

### PERMITTED OUTDOOR ACCESSORIES

.1. PERMITTED FENCING: Only the following types of fencing are permitted to be constructed, installed, maintained or allowed to stand within the Community:

- (a) All fences existing on the Property as of the date of recording of this Declaration are permitted.
- (b) All post and rail style fences that satisfy the following specifications:
  - (i) Rails shall be round, peeled pine or equivalent, free from rot, disease or insects, with a minimum diameter of 4 inches, reduced to a minimum 2 inch diameter dowel end 3 inches long, treated with an environmentally safe preservative. No part of any fence shall exceed 4'-6" above grade.
  - (ii) Posts shall be round, peeled pine or equivalent, free from rot, disease or insects, with a minimum small-end diameter of 7 inches, treated with an environmentally safe preservative.
  - (iii) Smooth wire farm fence may be fastened to the Owner's side of a post and rail fence. Farm fence shall be of woven or welded steel wire with a constant or varying mesh size. Top and/or bottom strands of 10 gauge smooth steel wire may also be applied.
  - (iv) Gates, braces and other usual appurtenances shall be constructed of weather resistant wood to match the appearance of the post and rail fence. All gate hardware shall be of weather resistant or protected metals.
  - (v) All fences shall be erected on undisturbed natural ground and shall deviate from a straight line to negotiate trees and obstacles. Such deviations must be contained within the installing Owner's Lot unless a Fenceline Agreement exists between the abutting Owners.
  - (vi) All fences shall be shown on the site plan and approved in advance by the Architectural Committee. Once approved, permitted fences shall be constructed to meet the dimensions, lines and grades shown on the approved plans.
  - (vii) Once the fence has been installed, the Lot shall be cleaned up to present a natural appearance, and any remaining materials and construction debris shall be removed from the Community.

.2. PERMITTED MAILBOXES: Only the following types of mailboxes are permitted to be constructed, installed, maintained or allowed to stand within the Community:

- (a) Mailboxes existing on the Property as of the date of recording of this Declaration are permitted.
- (b) Mailboxes that satisfy the following specifications:
  - (i) Mailboxes shall be of the simple, metal, dome-roofed, rural mailbox design, in the smallest size approved by the local Postmaster.
  - (ii) Mailboxes may not be attached to a Dwelling and may only be located at curbside at the height and distance from the curb specified by the local Postmaster.
  - (iii) Mailboxes shall be located on the same side of the driveway at which the front entrance to the Dwelling is located.
  - (iv) All mailbox posts shall be square, of a dimension that matches the width of the mailbox base, and constructed of sound pine or equivalent, free from rot, disease or insects, and treated with an environmentally safe preservative. Mailbox posts may be built-up by the application of one layer of 1 x 6 or 2 X 6 dimension lumber on each side, providing such elements do not extend above the top of the mailbox. All such lumber shall be sound, free from rot, disease, or insects.
  - (v) Mailboxes shall be finished in a single color in non-glare black, gray, or silver. Decorative or themed mailbox designs and finishes are prohibited. Single or built-up mailbox posts shall be finished with a clear, environmentally safe preservative, or with a stain color that matches the predominant color of the associated Dwelling. No names, street names, or other information shall appear on mailboxes or their posts.
  - (vi) Street numbers may be applied to a mailbox if comprised of simple, non-italicized, numbers in black, gold or white, no larger than two inches in height, applied in a horizontal line. Street numbers may appear only once on any mailbox.

.3. PERMITTED NEWSPAPER TUBES: Only the following types of newspaper tubes are permitted to be constructed, installed, maintained or allowed to stand within the Community:

- (a) All newspaper tubes existing on the Property as of the date of recording of this Declaration are permitted.
- (b) All newspaper tubes that satisfy the following specifications:
  - (i) Newspaper tubes shall be of a simple, plastic or metal design, in the smallest size approved or furnished by the newspaper provider.
  - (ii) Newspaper tubes may not be attached to a Dwelling and may only be located at curbside at the same height and distance from the curb specified for mailboxes by the local Postmaster.
  - (iii) Newspaper tubes shall be located on the same side of the driveway at which the mailbox must be located. If a mailbox exists, the newspaper tube shall be located as close as practical to the mailbox.
  - (iv) Newspaper tube posts shall be of a simple metal design, in the smallest size approved or furnished by the newspaper provider.
  - (v) Newspaper tubes shall be finished in a single non-glare color, as approved or furnished by the newspaper provider. Decorative or themed newspaper tube designs and finishes are prohibited. Only the name of the newspaper to-be-delivered may appear on any newspaper tube. No names, street or numbers, or other information shall appear on newspaper tubes or their posts.

4. PERMITTED STREET NUMBERS: Only the following types of street numbers are permitted to be constructed, installed, maintained or allowed to stand within the Community:

- (a) All street numbers existing on the Property as of the date of recording of this Declaration are permitted.
- (b) All street numbers that satisfy the following specifications:
  - (i) Street numbers applied to a Dwelling shall be comprised of simple, not-italicized, metal numbers no larger than six inches in height, and may only appear once upon a Dwelling.
  - (ii) Street numbers applied to a Dwelling shall be located and centered on a header or transom immediately above the main entrance to the Dwelling.

- (iii) The individual numbers comprising the street number shall be placed together in a horizontal line, close enough together to clearly indicate the address.
- (iv) Street numbers applied to a Dwelling shall be plated with a bright or dull, weather-resistant brass finish.
- (v) No names or other information shall appear or be applied to any Dwelling.

.5. PERMITTED SIGNS: Only the following types of signs are permitted to be constructed, installed, maintained or allowed to stand within the Community:

- (a) Signs existing on the Property as of the date of recording of this Declaration are permitted.
- (b) Signs allowed for use by the Declarant to promote the development and sales of Dwellings and Lots within the Community.
- (c) Construction signs erected by an Owner with an outstanding Building Permit for the Lot upon which the sign is placed. All such signs must satisfy the following specifications:
  - (i) The sign shall not exceed 8 square feet and shall be of a form and style approved or supplied at-cost by the Declarant or the Committee.
  - (ii) The sign shall contain no more or less than the following information, in a form and style approved by the Declarant or the Committee:
    - the Aurene logo (at the top)
    - the lot number or street number and name
    - the builder's name and tel. number
    - the realtor's name and tel. number(if for sale)
  - (iii) The sign shall be finished in no more than two colors, except for the Aurene logo, and shall be maintained in good condition, plumb and square, for the duration of construction. Within 30 days of the issuance of a Certificate of Occupancy, the sign shall be removed from the Lot.
  - (iv) The sign shall be setback no more than ten feet from the front property line and located between the permanent driveway and the center of the Dwelling. The top of the sign shall not exceed six feet in height above natural or proposed grade, whichever is lower.



- (v) No other on-site manner of displaying information about the Dwelling, Owner or Builder or any other information is permitted.
- (d) Except as specifically allowed by this Declaration, no real estate for-sale signs, or any other types of Owner's or Builder's signs are permitted within the Aurene Community.

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EXHIBIT "F"

PRE-WIRING GUIDELINES FOR TELECOMMUNICATIONS

**TBG**

*The Broadband Group*

*Aurene*

*Residential "Low Voltage"  
Construction Pre-wire Guidelines*

*Prepared for*

**Upstate Partners, L.C. LLC**

**Corning, New York**

These specifications were developed by The Broadband Group (TBG) through a collaborative effort of The Broadband Group (TBG) and the telecommunications service providers. They have been prepared for use exclusively by Upstate Partners, L.C. LLC as a guideline to developers and builders constructing homes within the Community. In preparing these guidelines, TBG has relied on the plans, drawings, blueprints, and other materials supplied by Upstate Partners, L.C. LLC and its affiliates; any changes subsequently made to such plans may detrimentally affect performance or reliability of any service based on these specifications or their compliance with deed restrictions, CC&Rs and any applicable federal, state, or local regulations. No warranty is expressed or implied as to specific performance or the delivery of any particular service whether or not referenced in these specifications. The specifications were developed with the goal of providing a platform for the delivery of voice, data, and video services; however, telecommunication service definitions have undergone rapid change in the past and are expected to continue to do so. These specifications should be periodically reviewed for any necessary updates. TBG expressly disclaims any liability resulting from use of these specifications by persons other than Upstate Partners, L.C. LLC representatives, or in conjunction with development plans other than those provided to TBG for use in the preparation of these specifications.

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## WHY IS PRE-WIRING IMPORTANT?

The remarkable convergence of television, telephone, satellites, and the personal computer has created a dynamic new world of interactive communications. Aurene hopes to empower its homes, garden office and retail outlets, healthcare and public facilities with an advanced digital broadband telecommunications network. In addition to cable television and local telephony services, the infrastructure must provide high bandwidth network facilities including high speed data connectivity, video teleconferencing, video telephony, and interactive multimedia services such as movies-on-demand, remote diagnostics healthcare and energy information services.

The Broadband Group (TBG) provides this document to Aurene homebuilders to assist in following the construction obligation for design and construction of homes within the Community. Voice, data, and video-based information require transmission at high volume and high speeds. Only high performance cable and connectors can handle the job. The key to any complete home system is wiring. Wiring considerations extend not only to the capacity, quality, and proper installation of the wiring product, but also to the placement of connections throughout the residence.

Advanced wiring allows such options as viewing a VCR or security camera image in multiple locations; reliance on a centralized computer or printer for the family (rather than on individual computers or printers); distribution of television and audio signals to any room; and access to the myriad applications that will soon be available to residents and businesses within Aurene and beyond.

Aurene will incorporate an obligation for all home builders to install advanced home pre-wiring to facilitate the delivery of high speed information services, entertainment, home automation, educational programs and home-based medical imaging services community-wide. The goal of this telecommunications vision is to address the needs of an interactive community where home, office, and retail needs are met through cooperative planning and centrally managed network strategies.

Realistically, in today's residential market, every new home built without an internal wiring network is obsolete and represents a missed opportunity...proper in-home wiring systems are just as important as plumbing or electrical systems in today's world. High-capacity, high-quality coaxial cable and data/voice wiring will not only accommodate today's home systems but also provide forward compatibility. The cost of installation to fulfill these capabilities post-construction is enormous. Because the cost for advanced pre-wiring is a relatively low price to pay to embrace the future and marketing of a high-tech home, Aurene and its builders can differentiate this community from the competition through the products and services available via the Community Network.

Through their marketing efforts, Aurene and its local communication service provider(s) will support awareness and use of network-based services.

Everyone recognizes that "information" is one of the most dynamic economic development drivers in American business. The use of high-speed information services in the home and the demand for instantaneous, high quality entertainment is fast becoming a necessity for the American family. With this in mind, we believe the Aurene specification transcends the minutia of wiring and connectors and becomes a sales and marketing tool for both the home builder and the Community, enabling them to meet the needs of home buyers in this decade and beyond. Compliance with these guidelines will enhance the image of the community, create an infrastructure that should increase the rate of home sales, and support the rapid development of garden office and retail facilities within the Community.

Many communities across the country are incorporating advanced wiring systems into their homes to help families integrate computers and other technologies into their lives as well as to enhance and differentiate the builders residential products. The American home has become more predisposed towards technology and the cost of technology is shrinking. Personal computer ownership is ubiquitous, schools are gearing more classes and curricula to "send and receive" information and course work through interactive networks, and, perhaps most significantly in Aurene, these in-home networks will provide connection to the broadband network planned for this community and beyond.

Aside from the lure and convenience of high-tech gadgetry, the practical benefits of home systems include reduced energy costs, increased flexibility in configuring home electronics in harmony with user needs, and the ability to act as a gateway, affording home owners the capacity to receive, distribute, and manage on-line computer connections, interactive television, and many other forms of information and entertainment.

Aurene is confident that this platform for delivering advanced communication services will provide both a competitive advantage over other local development interests and the necessary infrastructure to support the communication needs of the Community. Most importantly, however, enhanced pre-wire is a value-added tool to assist Aurene homebuilders with a positive and profitable role in creating this exciting new community.

All homes built within Aurene are expected to incorporate these specifications to ensure the delivery of telephone services, cable television, data, and broadband services. Compliance with these specifications will accomplish a number of objectives:

- Homes will be able to receive the services envisioned for Aurene
- Only high quality components will be used
- Buyers wishing to upgrade at the time of initial construction will find the specifications drafted to accept home automation, Local Area Network (LAN) configurations, digital video and high speed Internet access services

- The specifications provide for the CEBus (Consumer Electronics Bus) protocol, an open standard of home automation and wiring guidelines that allows for the delivery of current and future services
- The wiring specifications are not limited to a particular brand name, company, vendor or system

TBG has attempted to provide guidance, where appropriate, in all phases of construction. It is crucial that homebuilders review these specifications, drawings, and guidelines carefully to ensure compliance.

Although this document outlines, in detail, the construction requirements and installation procedures, there are a number of diagrams that will assist in explaining the specifications. They can be found as an addendum to this document.

### ***Traditional Vs Advanced Pre-Wire***

Traditional home wiring systems installed in the majority of homes in America are not adequate to support many of the applications envisioned for Aurene. The key is to install a high-quality, high performance wiring system, which provides the infrastructure to deliver the information services to residents anywhere in their home. For example, these specifications provide for:

- Computer resource sharing, allowing printers, files, hard drives, and modems to be conveniently shared among family members and to/from the office.
- Distribution of video, including satellite dish or security camera signals, to all TVs in the house.
- Potential to integrate disparate home systems, for example using security sensors to monitor and control lighting or temperature settings, or accessing a home control system remotely over a telephone or Internet connection.
- Access to sophisticated telecommunications systems, including advanced telephone systems (key telephone system or PBX).

- High-speed data connectivity throughout the house to commercial on-line services or to work systems for telecommuting applications.

All too often, builders install one CATV connection to a television and a single voice telephone line into the home. The specification outlined in this document can deliver much more. Homeowners who are interested in any of the benefits and services, and builders who wish to deliver them, will require an advanced home wiring system.

While not all services will be immediately available, the advanced pre-wiring plans for Aurene will assure homebuyers easy access to future applications.

The telecommunications services within Aurene will be offered by a group of companies with a common goal—to provide the finest communication services possible to the Community. In addition to cable television and local telephone, services envisioned for the community include advanced information and business communication services.

In order to take full advantage of highly advanced telecommunication services, homes that are compliant with these pre-wire specifications will have the capacity to easily access basic services and may upgrade their wiring systems and hardware to support a local LAN and/or home control functions.

### ***Don't install outdated pre-wire***

There are many reasons to install the latest pre-wire in Aurene:

- Analog cable and telephone lines commonly installed today will need to be upgraded in the near future.
- Digital technology requires finite tolerance wiring.
- The quality of wiring impacts data access speed to the information superhighway.



- Signal leakage within the system results in ghosting and interference, while signal leaks outside of the system are illegal
- As the digital broadband network is installed in Aurene, more cable channels will require greater bandwidth and old style wiring will not pass all channels.

### ***How is this program unique?***

There is not much of an incentive on the part of the home builder to commit the additional resources necessary to support state-of-the-art pre-wiring, based simply on the communication companies' plan to deliver these services. However, Aurene considers information services key to the linkage of homes, garden office, retail, and recreational sites in the community. Homeowners will demand easy access and connectivity to the community and to the rest of the world.

### ***The Advantages are Significant***

- The fantastic growth of the Internet has dramatically impacted business and personal communication needs and opportunities. The assurance that homebuyers will have built-in high-speed access capabilities will address a growing market trend.
- The ability to access the office, browse healthcare tips, make restaurant reservations, and schedule lawn maintenance "on the net" will be an added enticement for people to consider living in Aurene.
- Information is the "industry" of the 21st century. Homes built today, with this fact in mind, will have higher resale values in the future.

- Homeowners can manage, control, and reprogram their home systems to monitor security, reset light fixtures, and automatically control appliances to achieve advanced energy efficiency.
- People working for companies located within Aurene will need to live in homes wired to transmit high-speed information services. Accessing work from home will provide Aurene residents the flexibility of telecommuting and provide substantial relief to traffic engineers and space planners within Corning. In addition, air quality standards can be positively affected as the metropolitan area continues to grow.

## **COMPETITION & FRANCHISED SERVICE PROVIDERS**

Recently, the State of New York and the Federal Communications Commission (FCC) acted unilaterally to create and encourage competition in the telecommunication marketplace. While it may be a number of years before a final definition of "effective competition" emerges, the State of New York and Steuben County have a number of unique advantages that encourage early competitive and market-based initiatives. Corporate commitments and financial investments will increase and ensure the creation and delivery of advanced telecommunication services. Support for Community-planned services could assure Aurene residents **FIRST ACCESS** to competitive applications.

### ***Telephone Service***

Historically, Bell Atlantic has been the sole local telephone company (ILEC) in this market. With action taken by the FCC and the State of New York, Competing Local Exchange Companies (CLECs) may now petition the State Corporation Commission for LEC status.

## **CATV SERVICE**

Although cable television has been substantially deregulated since 1984, Time Warner remains the dominant provider in this market. However, the recent FCC ruling (and Congressional Act) sanctions competition, therefore, it is anticipated that new cable providers will enter the market.

*COMPETITION IN PROVIDING LOCAL CABLE, TELEPHONY AND TELEVISION SERVICES IS CERTAIN TO BRING INNOVATIVE SERVICES TO THE MARKET*

## **GLOSSARY OF TERMS**

*The following are terms that may be helpful to the reader.*

**CAT 5:** Category 5, highest accepted standard of performance for twisted pair wiring, defined in EIA 568A Commercial Wiring Standard.

**Central Point of Connection (CPC):** Service center or wiring distribution panel.

**CCTV:** Closed Circuit TV, usually a security or safety video link.

**CEBus:** Consumer Electronics Bus, a standards-based home control network.

**Data/Voice Outlet:** A single CAT 5 outlet.

**DBS:** Direct Broadcast Satellite.

**EMT:** Extruded Metal Tubing.

**Endpoint:** Any user device connected to the wiring system, such as TV, VCR, telephone, computer (modem), fax machine, etc.

**FTTC:** Fiber to the Curb.

**IR:** Infrared, used by most TV and VCR remote controls.

**ISDN:** Integrated Services Digital Network (Digital Telephone).

**IW:** Residential Inside Wiring.

**LAN:** Local Area Network.

**NIC:** Network Interface Card.

**NID:** Network Interface Device. The network provider companies will install a NID, which is a point of demarcation (on the exterior of the home) for each service provider.

**PBX:** Private Branch Exchange (on-site telephone switch).

**PLC:** Power Line Carrier or Control. A protocol to distribute automation information and functions via 110 VAC power lines.

**POTS:** Plain Old Telephone Service; includes voice and low speed fax and modems.

**SERVICE CENTER:** Wiring system distribution panel (or CPC).

**TP:** Twisted Pair.

**UNIVERSAL OUTLET:** Combination data/voice and dual coax outlet.

**UTP:** Unshielded Twisted Pair Wire.

**VDSL:** Very high speed Digital Subscriber Line.

# INTRODUCTION TO THE AURENE RESIDENTIAL WIRING ARCHITECTURE

These specifications serve as a base line for pre-wire installation for voice, data, cable TV, entertainment transmission, remote meter reading, and security requirements.

Basic considerations include the following:

- CAT 5 twisted pair wire and RG-6 coaxial cable must be used throughout the home, without exception.
- Where conduit is installed, it must include a pull string and be labeled "For Communication Use Only".
- Labels and tape markings with this identifier should be supplied by the electrical contractor.

## *Outlet Requirements*

The Aurene Wiring System uses two standard outlet configurations. The first type is called a Universal outlet and has two coaxial F-connectors and at least one four-pair (CAT 5) modular jack. The second type is called a Data/Voice (CAT 5) only outlet (or UTP outlet) which includes at least one CAT 5 modular jack and no coaxial connectors. In order to avoid damage to network devices, associated four-pair modular jacks must be uniquely identified, and preferably keyed to prevent attaching voltage sensitive network components to the telephone platform.

TO SATISFY THE MINIMUM REQUIREMENTS FOR THE AURENE WIRING SYSTEM, A MINIMUM OF TWO UNIVERSAL AND TWO DATA/VOICE OUTLETS MUST BE INSTALLED.

*(Option: to provide a more comprehensive system including a minimum of four universal outlets and two data/voice outlets.)*

Universal outlets must be used wherever a video connection is desired. Likely locations include the family room, bedrooms, kitchen, and study. The Data/Voice outlet is used for locations with no broadband video requirement, such as an additional location in a room, or in conjunction with a Universal outlet for locations requiring additional twisted pair capacity for voice, or data intensive sites, such as a home office or entertainment center.

A UNIVERSAL OUTLET IS AN OUTLET WITH BOTH TELEPHONE AND CATV TERMINATION.

A minimum of two Universal outlets must be installed in each home. It is recommended that Universal outlets be installed in the following locations, depending upon the needs of the homeowner.

- Kitchen
- Family Room
- Bedrooms
- Home office/study
- All additional living spaces

Based on buyer preference, the Kitchen Universal jack may be substituted in an office or entertainment center.

Universal outlets for broadband video services, or twisted pair outlets for voice and data (or both), may be installed in additional rooms or locations throughout the house. Likely locations for Universal outlets are in bedrooms, living room, and game room. Additional twisted pair outlets could be installed in the home office, all bedrooms, and the workshop area. Outdoor patio or garage connections are possible, although requirements for weatherproof outdoor outlets are not addressed in this specification.

## *Inside Wiring (IW)*

Inside wiring specifications are based on the voice and data services provided via copper (CAT 5) IW. Video and some high-speed data services are assumed to be provided on coax (RG6) IW. The system is designed to provide maximum growth, to accept enhanced services, and to reduce (where possible) the complexity and cost of the installation process.

The standard wiring described herein illustrates the minimum requirement. Additional detail regarding patch panels, connecting blocks and modular jacks will be provided upon request.

## *Cable Requirements*

The Aurene Wiring System uses twisted pair (CAT 5) cable to distribute voice and data signals. Coaxial cable will distribute broadband video signals. The universal outlet cable is a combination of one (or two) 4-pair (CAT 5) twisted pair cables with two coaxial (RG6) cables.

A hybrid cable design, with all three (or four) cables wrapped inside a common sheath, simplifies provisioning and installation, and, for these reasons is recommended. Individual 4-pair (CAT 5) twisted pair cables are used to connect to Data/Voice outlets.

The twisted pair cable is a 100-ohm 4-pair CAT 5 compliant cable. All connections are made with 8-position 8-conductor (commonly referred to as RJ45) modular plugs and jacks wired according to EIA 568A standard pin-out. Interconnection devices shall utilize only properly installed modular jacks and plugs. All cables, plugs, jacks, and connecting hardware used in a point to point data network must be rated for CAT 5 performance. It is required that all cables,

plugs and jacks used in the telephone network be rated to CAT 5 performance to assure future use in high speed applications. The installation must use techniques that comply with CAT 5 guidelines to maintain high performance.

## ***Cable Installation Requirements***

All wiring system components shall be installed in compliance with applicable local, state, and national building codes. In any case where these guidelines conflict with building codes, the building codes apply.

All Wiring System cables shall be installed according to manufacturers' instructions adhering to minimum bending radius and cable pulling specifications. Hard fasteners must not be used, as they may distort the cable jacketing, thereby compromising cable performance. 18" (eighteen inches) of cable slack shall be left at all outlets to facilitate installation, testing, and maintenance. All Wiring System cables must be at least 6" (six inches) from parallel 110 VAC cable runs, and must never pass through the same holes.

Where possible, the horizontal routing of the Wiring System cables shall be done in the basement, crawlspace, or attic of the house rather than through the studs.

The Service Center is the wiring system distribution panel. It must be located within the climate-controlled area of the house, presumably geographically central. There must be a connection between the Service Center to each NID. Individual manufacturers may have a different Service Center design.

A Network Interface Device will be installed by both the telephone & cable companies outside of the house at the point where the line comes into the house.

The Service Center must conform to the specifications for the following products or their approved equivalent:

- AMP OnQ Home Wiring System
- IBM Home Network Connection Center
- Lucent Technologies HomeStar Wiring System



- UStec tecLAN II Wiring System

### ***Cable TV Wiring Distribution***

The CATV service must be home run from the Service Center to each outlet desired. Since it is anticipated that demand for advanced services will be high, the corresponding distribution arrangement should be used in conjunction with dual RG6 coaxial cable of tri or quad shield construction, with the recommended RG6 connector.

Based on the number of outlets anticipated to be activated, an upgraded Service Center may be installed.

Hex crimp connectors must be used consistent with the manufacturer recommendation for the particular cable installed. No staples or hard fasteners shall be used to secure coaxial cables or data wiring.

***PROPER INSTALLATION WILL PREVENT PINCHING AND/OR CRUSHING OF CABLE WHICH WILL CHANGE THE IMPEDANCE AND RESULT IN POOR PERFORMANCE***

Twist-on and reusable type F connectors are not appropriate, as they will create problems for digital video services, disrupting the overall network or causing signal leakage in violation of FCC rules. Thus, push-on, crimp connectors must be used.

All unused coax connectors and network ports connected to an active network must be terminated into a 75-ohm termination device. Unused cables in the Service Center must be properly identified and neatly organized and retained.

The cable run of each outlet line (RG6 and CAT 5 connecting an individual outlet back to the Service Center) must be IDENTIFIED and RECORDED.

A Tab must be attached to each line at the Service Center identifying the room served. The

builder or the electrical contractor must provide a list of this configuration to the local cable company representative at time of construction. This information is required to comply with new FCC regulations pertaining to ownership of in-home wiring, FCC Part 76 of Title 45 CFR (76.5(11), 76.802).

### ***Data and Voice Requirements***

CAT 5 cabling installation shall begin at the telephone NID and connect to the Service Center. In addition, the data and voice service must be home run from the Service Center to each outlet. Unobstructed, mechanically free access between the NIDs and the Service Center must be provided. For this reason, a 1" (one-inch) conduit must be installed from the NID to the CPC. An additional 18" (eighteen-inch) coil of CAT 5, 4-UTP systems cable is required at each outlet.

CAT 5 connectors will allow homebuyers to upgrade to advanced CAT 5 home automation systems and must be standard. CAT 5-rated components are required for all Data/Voice and Universal outlets.

ADDITIONAL RUNS OF CAT 5 CABLING MUST BE PLACED FROM THE SERVICE CENTER TO THE FOLLOWING LOCATIONS: PROXIMATE TO THE 110 VAC CIRCUIT BREAKER PANEL, TO THE HVAC THERMOSTAT LOCATION, AND THE MAIN SECURITY PANEL LOCATION. THESE RUNS OF CAT 5 ARE LEFT WITHOUT TERMINATION, AND ARE PLACED FOR THE ADDITION OF ENHANCED SERVICES.

Homeowners may choose to upgrade this minimum requirement to include additional outlets, home automation and security systems.

***CAT-5 4-PAIR WIRE REFERS TO GENERALLY AVAILABLE TELEPHONE TWISTED-PAIR WIRE. IT IS THE BUILDER OR ELECTRICAL CONTRACTOR'S RESPONSIBILITY TO PURCHASE AND INSTALL ONLY CAT-5 THROUGHOUT THE HOUSE.***

Where it is necessary to drill through wall studs, rafters, and plates, the cable must not exceed the manufacturer's recommended minimum bend radius. Where it is necessary to penetrate a fire-rated wall, the hole must be sleeved with EMT. The sleeve and penetrating hole must be sealed with a fire retardant sealant. Where it is necessary to place an outlet in a fire-rated wall, a metal junction must be used to house the outlet.

A parallel run of CAT 5 cable must be at least 6" (six inches) from a parallel 110 VAC cable and must never pass through the same holes. If the CAT 5 cable must cross the 110 VAC cable, it must do so at a 90-degree angle.

**Cable and connectors must conform to the specifications of the following products (or approved equivalent):**

- **Modular Jack**
  - AMP OnQ Plate Series 363523-10
  - IBM Approved
  - Lucent Technologies M100
  - UStec MPS1000BH1
  
- **Modular Plug**
  - AMP OnQ Approved
  - IBM Approved
  - Lucent Technologies D8NA
  - UStec AC5RJ45
  
- **Hybrid Coaxial & Twisted Pair Cable**
  - AMP OnQ Approved
  - IBM Approved
  - Lucent Technologies HomeStar 1512
  - UStec USCTW - 1x2
  
- **Coaxial Cable**
  - AMP OnQ 363139-02

- IBM Approved
- Lucent Technologies HomeStar 1501
- UStec PRG1000
  
- **Twisted Pair Cable**
  - AMP OnQ 362840-02
  - IBM Approved
  - Lucent Technologies HomeStar 1510
  - UStec 1000TPL5
  
- **Coaxial Connectors**
  - AMP OnQ 363140-03
  - IBM Approved
  - Lucent Technologies HomeStar RG6-WR
  - UStec RTF56

***ALL DATA & VOICE INSTALLATION MUST CONFORM TO THE STANDARDS & CONDITIONS NOTED IN THE CABLE MODEM OPTIONS SECTION.***

### ***Drop Routing***

RG6 and CAT 5 drop cables will be run from the Service Center, through to the attic or basement, and routed to each outlet.

At least one of the two Universal outlets should be installed at the location of the home computer to facilitate the use of high-speed data services with desk-side equipment. The Universal outlet location may also be used for a secondary TV feed to the computer. The telecommunications company will establish what kind of hardware will be necessary, how it will be hooked up and what services will be provided.

Conduit leaving the Service Center housing proceeds to the attic, crawlspace or basement of the

home. The diameter of this conduit must be sufficient to accommodate eight RG6 coaxial cables AND ten CAT 5 wires (each approximately 3/16" diameter). There must be sufficient free space remaining in the conduit to facilitate modification for future wiring. Two 2" (two-inch) conduits will meet this requirement.

### *Service Center Housing*

The Service Center must be at least 14.5" (fourteen and one-half inches) wide, 18" (eighteen inches) high and 3.5" (three and one-half inches) deep.

An identifying label or placard must be placed on or in the Service Center Housing to assist the homeowner with information on the product installed and contacts for upgrades and changes.

The following information must be included as a minimum:

- The Manufacturer of the Structured Wiring products installed.
- The installing company name, address, phone number and contact person.
- The date of finished installation and length of warranty.
- A statement of compliance with the Aurene Pre-wiring Guidelines.

Installation is similar to an electrical service center installation and should be recess mounted. Although preferred to be flush when recess mounted, some Service Center enclosures may be up to 6" (six inches) deep to accommodate system equipment and may extend up to 3" (three inches) from a typical wall.

The Service Center is preferred to be a single enclosure, however, due to the size and selection of standard and enhanced service modules may consist of multiple enclosures neatly installed in a common area.

The equipment within the Service Center will consist of one in-house amplifier, where necessary, as well as modular cross-connections for CAT 5 and RG6. If necessary, the Service Center may be upgraded.

*SPACE MUST BE RESERVED TO ACCOMMODATE A CABLE MODEM, AS WELL AS AN ETHERNET HUB AND OTHER ADVANCED SERVICES EQUIPMENT THAT MAY BE INSTALLED AT A LATER DATE.*

The exact configuration of equipment inside the Service Center could change, dependent upon advanced services equipment used. The configuration shown on the attached drawings is a MINIMUM REQUIREMENT. In particular, the Service Center is a mandatory part of this pre-wire specification and MUST be installed even if the customer indicates no current requirement for a home computer connection to the network.

## **HIGH SPEED DATA CONNECTIONS**

There are a variety of transport protocols that increase the transmission speeds generally available today for data and access to the Internet. High transmission speeds will attract many customers to use high-speed access services.

<b>Time to Transmit a Single 500 Kbytes Image</b>	
<b>Equipment</b>	<b>Time</b>
Telephone Modem: (@ 28.8 kbps)	6-8 minutes
ISDN:	1-1.5 minutes
The Aurene Network:	less than 1 second

It is planned that high-speed access will be terminated within the Service Center enclosure in order to maintain the network plant signal integrity and to provide for ease of networking of computers and other services. As of this writing, the high-speed access technology intended for

use in Aurene is currently being defined. This document anticipates several possible configurations for installation.

**IMPORTANT:** If the household requires more than two computer connections to high speed services, this can be accommodated by additional 10/100-Base-T CAT 5 wiring (RJ-45 jacks) between the Service Center and each (sharing) computer.

The details of wiring the high-speed connections are not specified herein, and should be discussed with the local telecommunications company before proceeding.

When multiple computers are connected to a shared terminal using 10/100-Base-T wiring, an FCC Class B certified hub device is required.

This device must be placed in the Service Center housing, however, the installer must arrange this installation with the local telecommunications company as there are mechanical, thermal, lighting and electrical considerations.

A 110 VAC, non-GFI (preferably dedicated, 20 amp) duplex outlet must be available within the Service Center housing. By virtue of its placement, the outlet should be protected from exposure to water or other elements. Particular attention should be paid to applicable building code guidelines, which must be followed to ensure that the outlet is sufficiently elevated above the floor.

The builder should be aware that loss of electrical service to this outlet due to circuit breaker trip, ground fault, or other failure will cause failure of TV and other advanced telecommunications services in the home, requiring that the circuit breaker be reset. This might necessitate interaction between the customer and the local telecommunications company.

If required, it is strongly recommended to physically secure any necessary amplifier's power supply/surge suppresser to the outlet (i.e. by means of a captive nut in the outlet) if installed. In case of failure, the power supply should remain accessible to technical or telecommunications personnel.

Heat generated by the power supply will be minimal; thus no special cooling is required.

However, some heat will be generated, so the power supply should be installed following the manufacturer's specifications to accommodate the maximum expected heat.

## **CUSTOMER SUPPLIED SPLITTERS**

IT IS CRITICAL THAT CUSTOMERS CONSULT THE LOCAL TELECOM CO. TO CHOOSE SPLITTER AND WIRING PRODUCTS THAT MEET FCC TECHNICAL QUALITY SPECIFICATIONS. FAILURE TO USE FCC APPROVED PRODUCTS MAY RESULT IN SERVICE CHARGES TO THE CUSTOMER. THE CUSTOMER SHOULD BE SPECIFICALLY INSTRUCTED OF THIS, VERBALLY AND IN WRITING, WHEN CABLE TV AND HIGH-SPEED SERVICES ARE ACTIVATED.

If a customer chooses to install a splitter to increase the number of activated CATV outlets throughout the house, certain precautions must be taken, specifically relating to the installation of the cable modem or other future high-speed devices.

Cable modems **MUST NOT** connect through a splitter after video amplification or distribution. The cable modem must be served from its own dedicated feed via a directional coupler, installed prior to video amplification and distribution.

## **SERVICE CENTER, HOUSING AND COMPONENTS**

Sketches of appropriate Service Center installations and wiring arrangements may be requested of TBG. Recommended housings and components will be specified. A baseline diagram is provided herein as an addendum. See attached diagram.



Since CATV frequencies are the same frequencies used by aeronautical navigation controls, signal leakage is a serious federal concern and proper network termination is a critically important service criterion. All connectors must be installed as per manufacturer's specifications, including the use of recommended tools.

## **METERS**

Whenever possible, the gas and electric meters should be grouped together at a common point on the exterior garage wall. If the meters are not adjacent to the NID (within 6'), a 1" (one inch) conduit must be placed at each meter to provide connection to the network.

## **GARAGE OUTLET INSTALLATION**

An additional 110 (standard) volt electrical outlet should be installed in each garage for Neighborhood Electric Vehicle (NEV) charging. It should be located approximately 3' (three feet) from the base of the floor, midway along the sidewall, where a vehicle may be parked. An additional outlet could be installed on the other sidewall for the same purpose. It is anticipated that Neighborhood Electric Vehicles will have an on-board charging capacity, therefore only a standard 110-volt outlet connection is required.

# SECURITY

To provide for comprehensive interoperability, including ease of home control and energy management, certain criteria must be followed for the installation of wired and wireless security capabilities. The majority of home control and automation desired by consumers today can be managed via PLC technologies incorporated within appropriate security panels and ancillary products. Advanced automation, management and control capabilities require that the structured wiring CPC and subsequent subsystems have interconnectivity to allow for remote access and the addition of future enhanced services.

It is required that CAT 5 cabling be placed from the CPC proximate to the 110 VAC service panel, to the thermostat location(s) and the security system main control panel. As future technologies emerge, these CAT 5 cables will provide the pathways for true system integration and control.

The following requirements encompass the majority of scenarios present within the Aurene community plans for construction of residential environments. Careful attention must be given to fully understand the following guidelines to appropriately provision the unique variations of residences planned for the Aurene community.

## *Pre-wiring of security system*

As a baseline, all keypads, sensors and switches included in this minimum requirement must be hardwired; all pre-wiring to sensors and ancillary equipment must be homerun to the security system main control panel. Regional grounding and coding requirements must be followed for all security pre-wiring and trim out. If any requirements listed here are in conflict with local codes, the local codes apply.

All security system wiring, and the security system main control panel must be located within

16" (sixteen inches) of the structured wiring CPC. This will facilitate the separate systems integration, and will allow for the utilization of the two, two-inch (2") conduits placed at the CPC

for future additions and enhancements to the security system. The security system control panel must be powered by the same non-GFI circuit as the structured wiring CPC.

It is required that two (2) keypad locations be pre-wired with a minimum of eight (8)-wire, 22 gauge twisted wire, placing one in the entry area and one in the master bedroom. A minimum of one (1) motion detector must be installed and the sensor must have pet immunity circuitry.

All ground floor moveable openings must be pre-wired for intrusion sensors, and window opening pre-wiring must allow for "venting" capabilities. All door openings must be wired with independent, homerun wires. Window openings may be looped, providing that the openings are in a single living space. It is preferred for window contacts to be flush mounted. If the residence has a second floor, it is recommended that all openings follow the above requirements.

Pre-wired switches and sensors must be wired with a minimum of four (4)-wire, 22 gauge stranded wire. When fire detection sensors are installed, these sensors must be hardwired with a minimum of four (4)-wire, 18 gauge solid fire rated cabling, must be fully supervised and looped back to the control panel location.

Wire runs must be clearly labeled and recorded as to termination location.

### *Trim-out of Security System*

When the final installation of the security system is provided, the following requirements must be satisfied.

The security panel must include a panel lock and key, a minimum of one (1) 7 amp-hour battery backup, minimum of 6 zones of detection and must have both hardwired and wireless sensor capability (for the addition of enhanced products at a later date), and must include a PLC interface.

If a fire sprinkler system is installed, the riser must utilize a double pole flow switch (to be supplied by sprinkler installation company), must be fully supervised and looped back to the security panel.

As a minimum, fixed English keypads must be installed, however, it is recommended that true alphanumeric keypads be utilized. Installed keypads must include independent buttons for activation of audible police alert and audible fire alert. A minimum of one (1) interior siren must be installed, and should be located on the ground floor.

The finished system must include a RJ-31X jack installed with line seizure configuration and must adhere to the zone naming convention provided by Aurene (to be developed by Aurene and the Community Association) for continuity. The system must be powered up, fully tested, left "data unlocked" and must be configured as a local system.

A copy of all documentation of zoning, sensors installed and system-programming configuration must be left in the control panel.

## **UNIVERSAL DROP REQUIREMENT**

It is the intent of Aurene to provide active connectivity to all homes at the time of original construction. Although CATV may not be provided as a universal service offering, there will be Community-wide information and entertainment services that most, if not all, residents and businesses will likely wish to take advantage of. In support of this objective, certain universal (external) pre-wire conditions must be completed. These are noted in the following sections.

### ***Conduit for Drop Placement***

In addition to required conduits for service providers, the builder must install an additional 1.5" (1.5 inch) conduit with electrical bends, (no "plumbers" 90-degree bends) from the NID point to the designated point of connection at the front property line for the addition of future enhanced services. A single 1" (one inch) conduit must be installed from a point adjacent to the commonly grouped meters (electric and gas) to the NID, if the meters are not within 6' of the NID.

The service provider conduits will be used for placement of the drop wire(s) and should terminate on the outside of a side garage wall, where the NIDs are to be mounted.

Copper (six-pair wire) and coaxial cable will be placed in the service provider conduit(s) to ensure that all communication facilities are available at the time and point of appliance installation.

Internal RG-6 and CAT 5 service feed pre-wiring must exit the home through a single point, within 24" (twenty-four inches) of the NID locations.

### ***Depth of Drop Burial***

All communication conduits from the property line to the dwelling unit must be buried at least 24" (twenty-four inches) underground. This depth is required to ensure that the telecommunications facilities will not be subject to damage and/or destruction caused by maintenance, construction or other movement of earth, landscaping or hardscaping.

## CONCLUSION

Aurene recognizes that technology will become the economic development driver for the 21st century. Technology will sell homes; technology will bring new business and jobs to this community. Effective planning and high quality construction today ensures that technology extends far beyond the television, computer or the Internet. Once these specifications are in place, and the homes in this community have been constructed with the capability of receiving advanced services, the future alliances between development and telecommunications will provide services and build networks that meet proven consumer needs.

It is in this exciting partnership that this community begins to work with world leaders in the telecommunications industry to develop a "hidden" infrastructure that is simply "there" and effectively delivers the pathway linking every building and every person in Aurene. While companies such as our telecommunications partners are experts at technology, blending technology expertise with community development expertise may have worldwide significance in building systems and design, in affecting families and their quality of life.

Working together we will ensure that our building designs and concepts are combined into an exciting package that meets the consumers needs today and into the future.

"Communities used to position themselves around waterways, railroads and highways...nowadays the real avenues of commerce are information systems."

*The Wall Street Journal*

*June 3, 1996*

# SUMMARY

## Highlights of the Aurene Home Pre-wiring

- Homes must contain a minimum of two universal and two data/voice outlets: Universal outlets containing a minimum of two RG6 coaxial cables and at least one CAT 5 twisted pair cable with appropriate connectors and data/voice outlets containing at least one CAT 5 cable with appropriate connectors.
- Homes must contain a CPC of appropriate size, centrally located with modular interconnection devices and 110 VAC supply contained within.
- Wiring systems must include additional conduit from/to the following locations: From the property line to the NID (one 1.5"), from the NID to electric and gas meter locations (one 1"), from the NID to CPC (one 1"), and from the CPC to the attic/basement space (two 2").
- All conduits must contain a pull string labeled "For communication use only".
- Additional runs of CAT 5 must be run from the service center proximate to the 110 VAC service panel, HVAC thermostat location(s) and security panel location. These runs of CAT 5 are left without termination, for the addition of enhanced services.
- Only RG6 and CAT 5 wiring may be used within the home, regardless of placement.
- All cable runs must adhere to minimum bend radius specifications and must include a minimum of 18" additional cable behind box or mud ring.
- All cable runs must be at least 6" from parallel 110 VAC runs and if crossing, must do so at 90-degree paths.
- All cable runs must utilize modular jacks and plugs for cross-connection, be home run, and must be labeled to identify termination location.

- No hard fasteners may be used in the pre-wiring or trim-out stages.
- Cabling exiting the house at the NID location must exit at the same point, and must include at least 30" of additional cabling.
- All CPC, cabling and connectors must meet approved vendor criteria or approved equivalents.
- All connections must meet minimum criteria for RG6 and CAT 5 termination.



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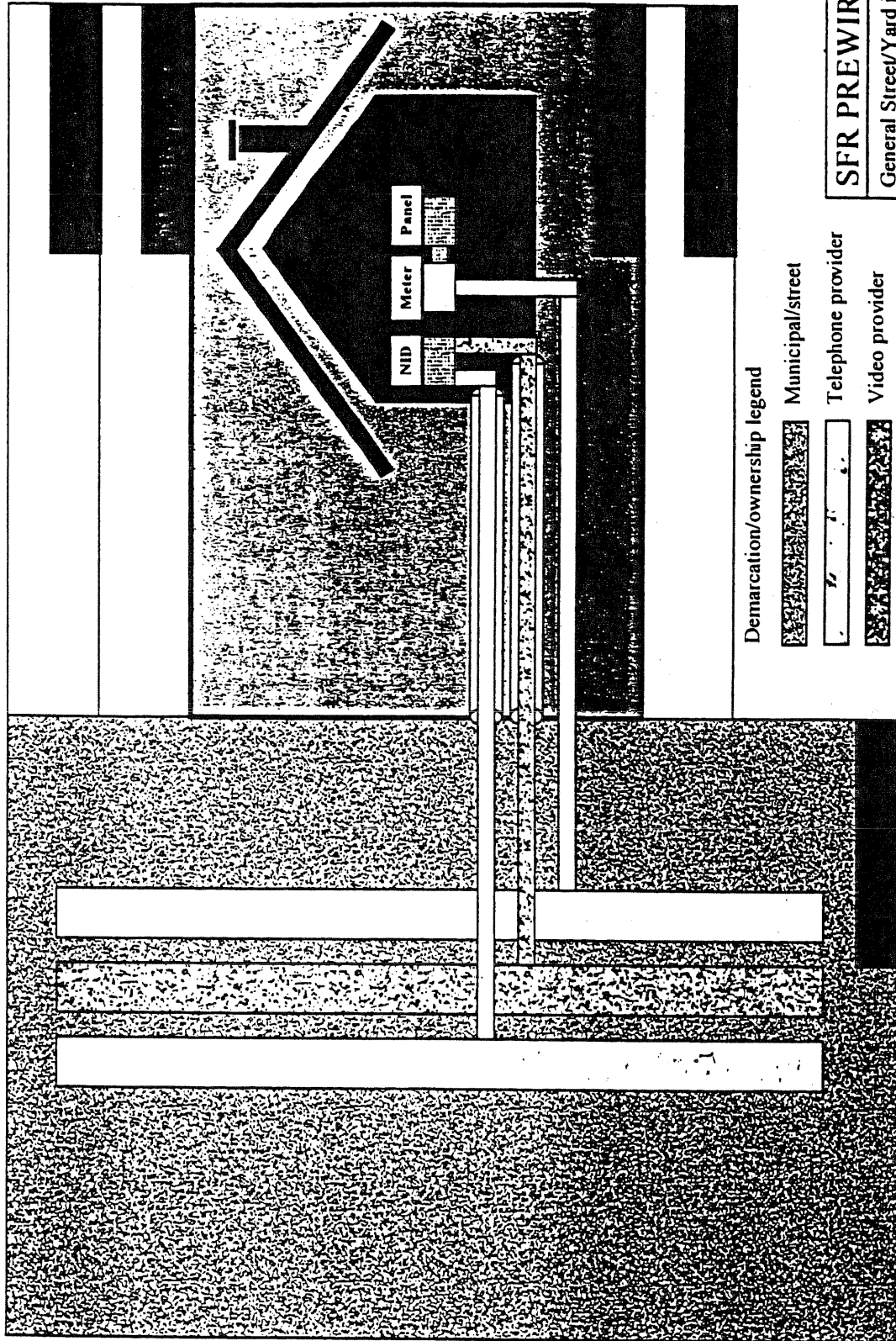
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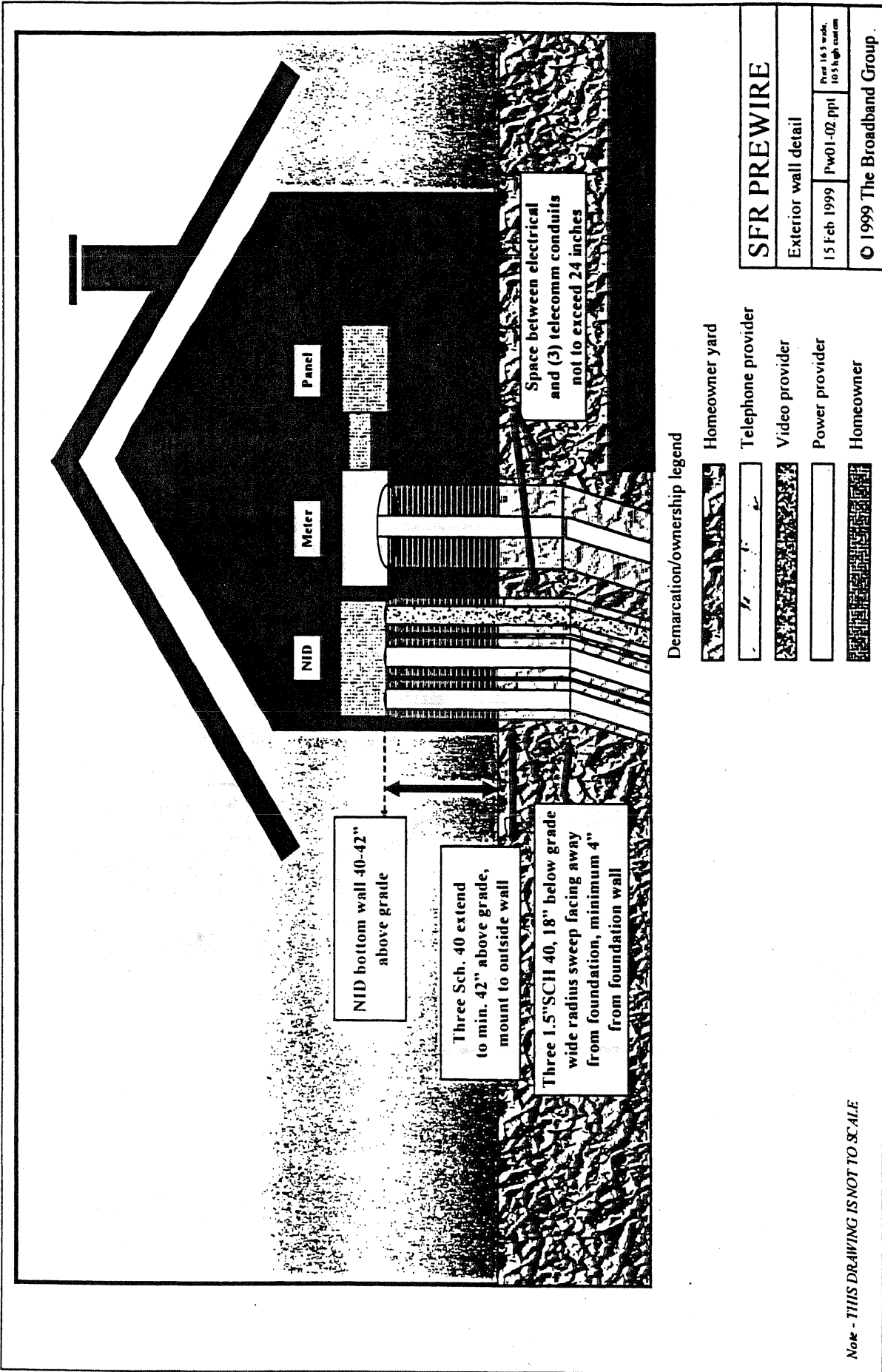


Demarcation/ownership legend

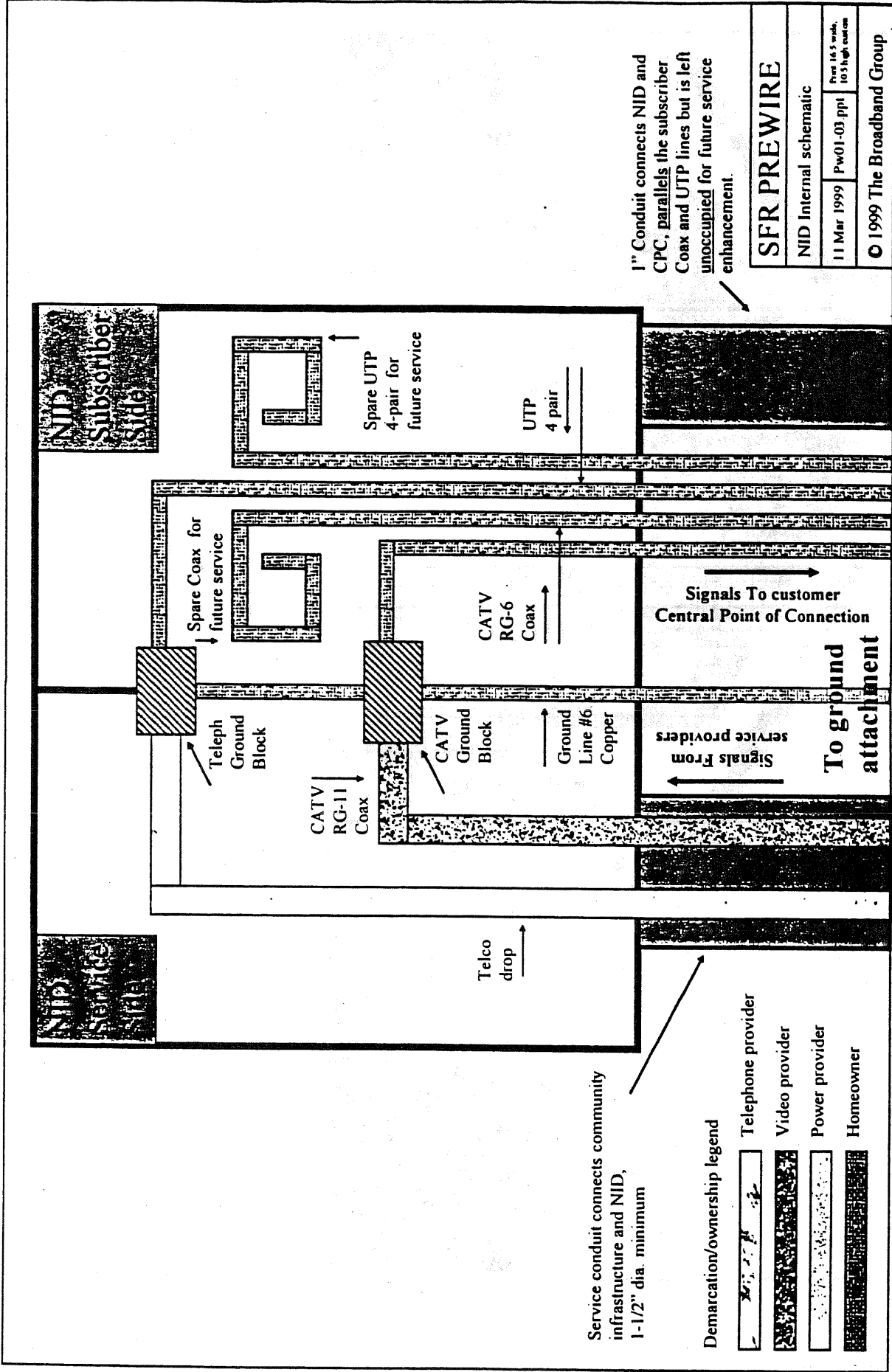
-  Municipal/street
-  Telephone provider
-  Video provider
-  Power provider
-  Homeowner

**SFR PREWIRE**  
 General Street/Yard interface  
 11 Mar 1999 Pw01-01 ppt  
 Print 16.5 wide,  
 105 high, custom  
 © 1999 The Broadband Group

*Note - THIS DRAWING IS NOT TO SCALE*



Note - THIS DRAWING IS NOT TO SCALE



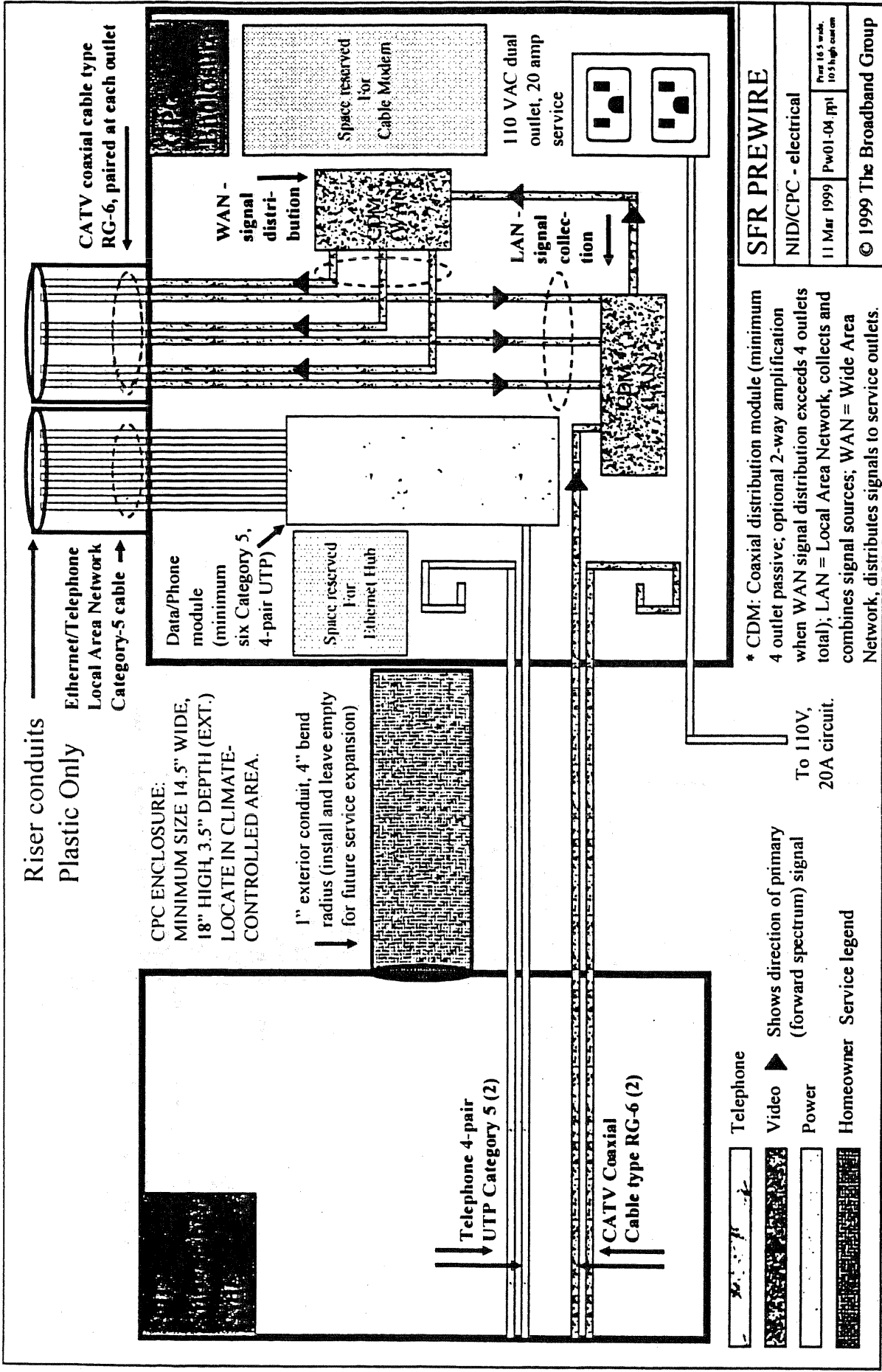
Service conduit connects community infrastructure and NID, 1-1/2" dia. minimum

Demarcation/ownership legend

- Telephone provider
- Video provider
- Power provider
- Homeowner

1" Conduit connects NID and CPC, parallels the subscriber Coax and UTP lines but is left unoccupied for future service enhancement.

<b>SFR PREWIRE</b>	
NID Internal schematic	
11 Mar 1999	Pw01-03 ppt
From 16.5 work, 10.3 high cutout	
© 1999 The Broadband Group	



Riser conduits  
Plastic Only

Ethernet/Telephone  
Local Area Network  
Category-5 cable

CATV coaxial cable type  
RG-6, paired at each outlet

CPC ENCLOSURE:  
MINIMUM SIZE 14.5" WIDE,  
18" HIGH, 3.5" DEPTH (EXT.)  
LOCATE IN CLIMATE-  
CONTROLLED AREA.

1" exterior conduit, 4" bend  
radius (install and leave empty  
for future service expansion)

Telephone 4-pair  
UTP Category 5 (2)

CATV Coaxial  
Cable type RG-6 (2)

Space reserved  
for  
Ethernet Hub

Data/Phone  
module  
(minimum  
six Category 5,  
4-pair UTP)

Space reserved  
for  
Cable Modem

110 VAC dual  
outlet, 20 amp  
service

WAN -  
signal  
distrib-  
ution

LAN -  
signal  
collec-  
tion

- Telephone
- Video
- Power
- Homeowner Service legend

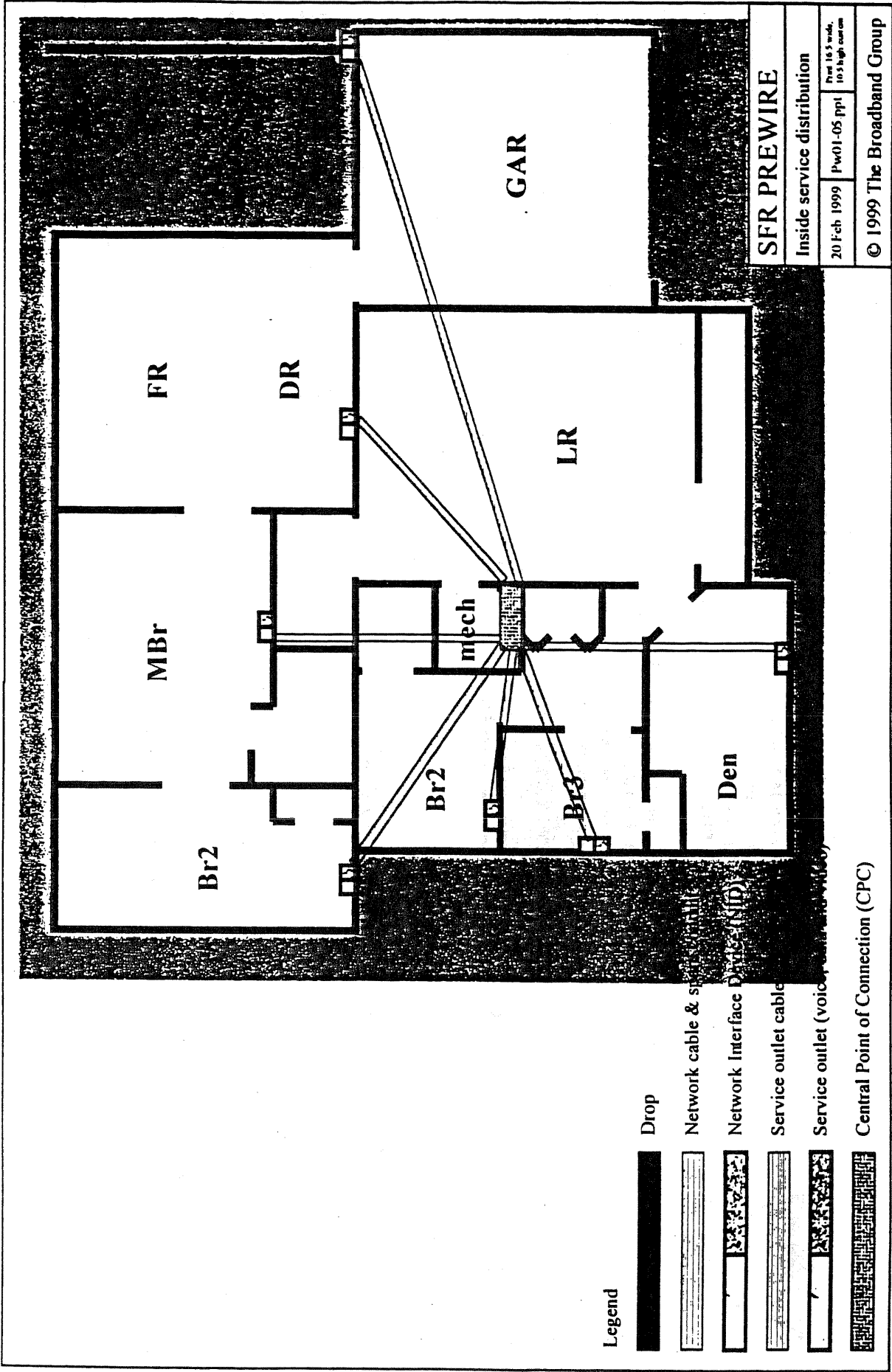
Shows direction of primary  
(forward spectrum) signal

To 110V,  
20A circuit.

\* CDM: Coaxial distribution module (minimum 4 outlet passive; optional 2-way amplification when WAN signal distribution exceeds 4 outlets total); LAN = Local Area Network, collects and combines signal sources; WAN = Wide Area Network, distributes signals to service outlets.

<b>SFR PREWIRE</b>	
NID/CPC - electrical	
11 Mar 1999	Pw01-04.rpt
© 1999 The Broadband Group	

Page 165 web,  
103 high custom



**SFR PREWIRE**  
 Inside service distribution  
 20 Feb 1999 Pw01-05 ppt  
 Rev 16 5" max, 10' 5" high curtain  
 © 1999 The Broadband Group







504 Cash

When recorded, return to:

Upstate Partners, L.C. ✓  
Box 548  
Coming, NY 14830

FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AURENE SUBDIVISION  
ERWIN, NEW YORK

DEC 11 3 33 PM '00

STEUBEN COUNTY CLERK'S OFFICE

All of the real property within Aurene, Phase One, Erwin, New York, as it appears on the official plat of record in the office of Steuben County Clerk, is subject to the Declaration of Covenants, Conditions and Restrictions (the "Declaration") recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds at Page 92.

1617  
92

This First Amendment to the Declaration affects the following described property located in Steuben County, New York:

All lands in Aurene, Phase One, as shown in the official plat thereof recorded in the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656.

A 30-day notice of this amendment was mailed to all Owners of record on October 23, 2000. A required majority of more than 70% of the Owners gave their approval, and the following amendments to the Declaration were adopted:

1. Replace the entire definition of "Floor Area" in Section .1.1. with the following definition:

*"Floor Area" shall mean the total of all floor surfaces located above finished grade and surrounded by the exterior walls of a Dwelling. Porches, patios, balconies, decks, and garage area of 500 square feet or less shall not be included in such calculations.*

2. Replace the next to last sentence of Section .2.2.b. with the following sentence:

*The Committee may vary the plan review fee up or down based upon an applicant's prior construction activities within the Community.*

3. Replace Section .3.12. in its entirety with the following language:

*All clothes lines, service yards, storage yards, and exterior mechanical equipment must be screened from the public view in a manner acceptable to the Committee.*

4. Replace Section .4.4.b in its entirety with the following language:

*The construction, maintenance and use of Permitted Fencing, Trails and their appurtenances, stormwater management structures, and all other improvements shown on the approved construction plans for subdivision of the Property.*

5. Replace Section .5.8.a. in its entirety with the following language:

- (a) *Shapes. Double-pitched roofs, hip roofs, and partial hip roofs are permitted. Shed roofs are only permitted if they are smaller, secondary roof forms attached and terminating with their ridge or highest point in continuous contact with a major building form. Mansard roofs, A-frames, gambrel roofs, domes and curvilinear roof elements are prohibited. Flat roofs are permissible only when out of the Public View, and may not exceed 10% of the total roof area. Except for permitted flat roofs, all roofs shall overhang exterior walls by a minimum of 6 inches. Roof pitches shall be not less than 6 in 12 pitch, and not more than 12 in 12 pitch, and should follow or respond to the underlying grade, with steeper pitches used on steeper terrain, and flatter pitches used on flatter terrain. All roof planes descending from a common ridge or connected ridge shall be of the same pitch, regardless of length. A second roof pitch on any one Dwelling may be used only for secondary roof forms such as permitted sheds or dormers. Only hip roofed or double-pitched roof dormers are permitted. Two or more dormers placed above and well-apart from the eave line on the same roof surface shall be spaced no closer than 0.75 times the width of the largest such dormer unless their fascias intersect, in which case they shall be considered as a continuous or repetitive dormer.*

*No turrets, towers, or other thematic decorative elements are permitted and no complex, multi-faceted roof planes twisting to conform to irregular building shapes are permitted.*

6. The first sentence of Section .5.19. is replaced in its entirety with the following sentence:

*Each Lot with less than 150 feet of frontage on a Street shall be permitted only one curb-cut for a driveway.*

7. Replace the second sentence of Section .6.4. in its entirety with the following sentence:

*When a retaining wall is necessary, it's exposed surface shall be constructed of treated landscape timber, natural stone, brick, or rough-faced interlocking masonry sections designed and pre-fabricated for such purpose.*

8. Replace the last sentence of Section .9.7. in its entirety with the following sentence:

*Multiple Lots under construction by the same Builder may share one such device.*

9. Add the following sentence at the end of Section .9.16.:

*With advance approval from the Committee, a Builder may stop construction work on a Dwelling for up to 60 days between December 15 and March 31.*

10. Replace the Minimum Side Setback on Exhibit "D" for Lots #1 through #46 with:

*15 feet*

11. Add the following language to the end of Note #6 to Exhibit "D":

*The "Schedule of Maximum Floor Areas, Maximum Disturbance Areas, Minimum Setbacks, and Wooded Designations for Each Phase One Lot" shown on the Plat is not a governmental requirement. As such, it may be revised and superseded by proper amendment to this Declaration.*

12. Replace Section .2.b.ii. of Exhibit "E" in its entirety with the following language:

*Mailboxes shall be located at curbside within five feet of the driveway, on the same side of the driveway as the primary entrance to the Dwelling, unless a different location is required by the local postmaster.*

13. Replace Section .2.b.iii. of Exhibit "E" in its entirety with the following language:

*All mailboxes shall be mounted on sound wood posts measuring 6" or less in cross-section. Mailbox posts may have wood cross-arms to support the mailbox and shall be installed plumb and level, and maintained in good condition. All mailbox post foundations or mountings shall be concealed below finished grade so that only the mailbox post, mailbox, and cross-arm, if any, is visible to the public.*

14. Replace Section .2.b.v. of Exhibit "E" in its entirety with the following language:

*Mailboxes shall be finished in a single non-glare color, either black, gray or silver. Mailbox posts shall be treated with an environmentally-safe preservative, or finished in a color to match the siding or trim color of the associated Dwelling.*

*No Owner names, Street names, or other information shall appear on the mailbox or post structure except as provided in "vi" below.*

15. Replace Section .3.b.iii. of Exhibit "E" in its entirety with the following language:

*If a mailbox has been installed, a newspaper tube for the same Dwelling shall be mounted on the same mailbox post.*

16. Replace Section .4.b.ii. of Exhibit "E" in its entirety with the following language:

*Street numbers applied to a Dwelling shall be located on a header, transom or casing adjacent to the main entrance to the Dwelling.*

17. Replace Section .4.b.iii. of Exhibit "E" in its entirety with the following language:

*The individual numbers comprising the Street number shall be placed together in a straight horizontal line, close enough together to clearly indicate the address of the Dwelling.*

18. Replace Section .4.b.iv. of Exhibit "E" in its entirety with the following language:

*Street numbers applied to a dwelling shall be finished in brass or black. Street numbers may also be cut into stone and placed in a Dwelling's masonry veneer.*

19. Replace Section .5.b.i. of Exhibit "E" in its entirety with the following language:

*The sign shall not exceed 20 square feet and shall be of a form and style approved by the Committee.*

20. Replace Section .5.b.ii. of Exhibit "E" in its entirety with the following language:

*The sign shall contain no more than the following information, in a form and style approved by the Committee:*

*the Aurene logo  
the lot number or street number and name  
the builder's name, logo, and telephone number  
the Realtor's name and telephone number  
the Owner's name*

21. The remainder of the Declaration shall remain of full force and effect.

22. The parties signing this First Amendment to the Declaration certify that they comprise the 70% affirmative vote required to approve these amendments.

23. These amendments will take effect upon the recording of this instrument with the Office of the Steuben County Clerk.

UPSTATE PARTNERS L.C., L.L.C.

By: [Signature]  
Its Manager

Dated 12/7/00

STATE OF NEW YORK )

:ss

COUNTY OF STEUBEN )

On the 7<sup>th</sup> day of December, 2000, before me, the undersigned, a notary public in and for said state, personally appeared Gerald A. Jackson, Manager of Upstate Partners, L.C., LLC personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature: Christine Jackson-Sullivan]  
Notary Public

My Commission Expires:

CHRISTINE JACKSON-SULLIVAN  
NOTARY PUBLIC, STATE OF NEW YORK  
STEUBEN COUNTY NO. 4978988  
TERM EXPIRES 3/18/01









By: Winifred J. Peer

LIBER 1695 PAGE 74

Owner of Lot # K-24

Dated Dec. 7, 2000

STATE OF NEW YORK )  
:SS  
COUNTY OF STEUBEN )

On the 7<sup>th</sup> day of December, 2000, before me, the undersigned, a notary public in and for said state, personally appeared Winifred J. Peer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Christine Jackson Sullivan  
Notary Public

My Commission Expires:

CHRISTINE JACKSON-SULLIVAN  
NOTARY PUBLIC, STATE OF NEW YORK  
STEUBEN COUNTY NO. 4978988  
TERM EXPIRES 3/18/01











When recorded, return to:

Upstate Partners, L.C.  
Box 548  
Corning, NY 14830

2001 MAY -2 P 3:45  
STEUBEN COUNTY  
CLERK'S OFFICE

**SECOND AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AURENE SUBDIVISION, ERWIN, NEW YORK**

The first phase of Aurene ("Phase One") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656. The second phase of Aurene ("Phase Two") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on March 7, 2001 as Case Map #14549.

Phase One and Phase Two are subject to the Declaration of Covenants, Conditions and Restrictions (the "Declaration") recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds beginning at Page 92. The Declaration was amended on December 7, 2000. A copy of such First Amendment was recorded in the Office of the Steuben County Clerk on December 19, 2000 in Liber 1695 of Deeds, beginning at Page 66.

A "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Two" was recorded in the Office of the Steuben County Clerk on February 5, 2001 in Liber 1702 of Deeds, beginning at Page 79.

This Second Amendment to the Declaration affects all of the lands shown on the official plats for Phase One and Phase Two. Acting in accordance with paragraph 12.6 of the Declaration, Declarant hereby corrects, clarifies, and amends the "PRE-WIRING GUIDELINES FOR TELECOMMUNICATIONS" as follows:

1. Replace that portion of Exhibit F of the Declaration ("PRE-WIRING GUIDELINES FOR TELECOMMUNICATIONS") entitled "Summary" and commencing on page 30 of said exhibit with the following language:

**Summary of the Aurene Home Pre-wiring**

**Notwithstanding the foregoing discussion, the following are the only pre-wiring improvements that are required at Aurene:**

- Each Dwelling must contain at least one conventional telephone jack or Data/Voice Outlet or Universal Outlet in each bedroom, study, den, kitchen, living room family room and great room.
- Each Dwelling must contain at least two Data/Voice Outlet and two Universal Outlets.
- Each Universal Outlet must contain at least two RG6 coaxial cables and at least one CAT 5 twisted pair cable with appropriate connectors.
- Each Data/Voice Outlet must contain at least one CAT 5 twisted pair cable with appropriate connectors.
- Each Dwelling must contain a CPC of appropriate size, conveniently located, to be installed with modular interconnection devices. Each CPC shall contain a 110 VAC supply, or provide for its easy addition in the future.

**The following pre-wiring improvements are recommended, but are not required:**

- Security systems are not required at Aurene, but pre-wiring with CAT 5 twisted pair cable for the easy future addition of security systems and other enhancements is strongly recommended.
- For maximum flexibility, wiring systems at Aurene should include conduit from/to the following locations: From the property line to the NID (one 1.5"), from the NID to electric and gas meter locations (one 1"), from the NID to CPC (one 1"), and from the CPC to the attic/basement space (two 2").
- All data/voice conduits should be properly labeled and contain a pull string labeled "For communication use only".
- When not located adjacent to each other, CAT 5 twisted pair cable should be run from the CPC to the 110 VAC service panel.
- CAT 5 twisted pair cable should be run from HVAC thermostat location(s) to the CPC. These runs should be left without termination for the future addition of enhanced services.
- CAT 5 twisted pair cable should be run from the CPC to the likely future locations of the security system components. These runs should be left without termination for the future addition of enhanced services.



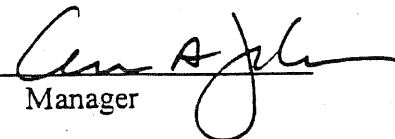
- We recommend that only RG6 cable and CAT 5 twisted pair cable for data/voice should be used within the home
- All data/voice cable runs should adhere to minimum bend radius specifications and must include a minimum of 18" additional cable behind box or mud ring.
- All data/voice cable runs should be at least 6" from parallel 110 VAC runs and if crossing, should do so at 90-degree paths.
- All cable runs should utilize modular jacks and plugs for cross-connection, be home run, and labeled to identify termination location.
- No hard fasteners should be used in the pre-wiring or trim-out stages.
- Cabling exiting the house at the NID location should exit at the same point, and should include at least 30" of additional cabling.
- All CPC, cabling and connectors should meet approved vendor criteria or approved equivalents.
- All connections should meet minimum criteria for RG6 and CAT 5 termination"

2. The remainder of the Declaration shall remain of full force and effect.

3. The parties signing this Second Amendment to the Declaration certify that they comprise the 70% affirmative vote required to approve these amendments.

4. This Second Amendment will take effect upon the recording of this instrument with the Office of the Steuben County Clerk.

UPSTATE PARTNERS L.C., L.L.C.

By:   
Manager

Dated April 25, 2001

STATE OF NEW YORK )  
:SS  
COUNTY OF STEUBEN )

On the 25 day of April, 2001, before me, the undersigned, a notary public in and for said state, personally appeared Gerald A. Jackson, Manager of Upstate Partners, L.C., LLC personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Kristine Harris*  
Notary Public



My Commission Expires:

*1/22/03*

**EXAMINED**  
*Judith M. Hunter*  
STEUBEN COUNTY CLERK

cornccrssecondamend

2001 MAY - 2 P 3:45  
STEUBEN COUNTY  
CLERK'S OFFICE





When recorded, return to:

Upstate Partners  
Box 548  
Corning, NY 14830

2001 OCT 11 P 4: 35  
STEUBEN COUNTY  
CLERK'S OFFICE

**THIRD AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AURENE SUBDIVISION, ERWIN, NEW YORK**

The first phase of Aurene ("Phase One") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656. The second phase of Aurene ("Phase Two") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on March 7, 2001 as Case Map #14549. The third phase of Aurene ("Phase Three") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 2001 as Case Map #14813.

Phase One, Two and Three are subject to the Declaration of Covenants, Conditions and Restrictions (the "Declaration") recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds beginning at Page 92.

The Declaration was first amended on December 7, 2000. A copy of such First Amendment was recorded in the Office of the Steuben County Clerk on December 19, 2000 in Liber 1695 of Deeds, beginning at Page 66.

A "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Two" was recorded in the Office of the Steuben County Clerk on February 5, 2001 in Liber 1702 of Deeds, beginning at Page 79

A further "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Three" was recorded in the Office of the Steuben County Clerk on August 28, 2001 in Liber 1734 of Deeds, beginning at Page 34.

The Declaration was amended again on April 25, 2001. A copy of such second Amendment was recorded in the Office of the Steuben County Clerk on May 2, 2001 in Liber 1715 of Deeds, beginning at Page 338.

This Third Amendment to the Declaration affects all of the lands shown on the official plats for Phase One, Two and Three.

71  
17/5

1617  
92

Acting in accordance with paragraph 12.6 of the Declaration, Declarant hereby amends the Declaration as follows:

1. Replace Section .1. entitled "PERMITTED FENCING of Exhibit E ("PERMITTED OUTDOOR ACCESSORIES")" of the Declaration with the following language:

*“.1. PERMITTED FENCING: Only the following types of fencing may be constructed, installed, maintained or allowed to stand within the Community:*

- (a) All fences existing on the Property as of the date of recording of this Declaration are permitted.*
- (b) Post and rail style fences that satisfy the following specifications:*
  - (i) Rails shall be round, peeled pine or equivalent, free from rot, disease or insects, with a minimum diameter of 4 inches, reduced to a minimum 2 inch diameter dowel end 3 inches long, treated with a clear, environmentally safe preservative.*
  - (ii) Posts shall be round, peeled pine or equivalent, free from rot, disease or insects, with a minimum small-end diameter of 7 inches, treated with a clear, environmentally safe preservative. Posts shall be spaced no more 8 feet apart.*
  - (iii) No part of any fence shall exceed 4'-6" above grade, or be painted above grade.*
  - (iii) Smooth wire mesh fence may be fastened to the Owner's side of a post and rail fence. Farm fence shall be of woven or welded steel wire with a constant or varying mesh size. Top and/or bottom strands of 10 gauge smooth steel wire may also be applied.*
  - (iv) Gates, braces and other usual appurtenances shall be constructed of weather resistant wood to match the appearance of the post and rail fence. All gate hardware shall be of weather resistant or protected metals.*
  - (v) All fences shall be erected on undisturbed natural ground and shall deviate from a straight line to negotiate trees and obstacles. Such deviations must be contained within the installing Owner's Lot unless a Fenceline Agreement exists between the abutting Owners.*
  - (vi) All fences shall be shown on the site plan and approved in advance by the Architectural Committee. Once approved, permitted fences shall be constructed to meet the dimensions,*

*lines and grades shown on the approved plans.*

- (vii) *Once the fence has been installed, the Lot shall be cleaned up to present a natural appearance, and any remaining materials and construction debris shall be removed from the Community.*
- (c) *Picket style fences that satisfy the following specifications:*
- (i) *Rails shall be of rectangular, sound cedar or equivalent, free from rot, disease or insects, with a nominal cross sectional area of no less than 8 inches, and treated with a clear, environmentally safe preservative.*
  - (ii) *Posts shall be of sound cedar or equivalent, free from rot, disease or insects, and with a nominal cross sectional area of not less than 16 inches, and treated with a clear, environmentally safe preservative. Posts shall be spaced no more 8 feet apart.*
  - (iii) *No part of any fence shall exceed 4'-6" above grade, or be painted above grade.*
  - (iv) *Pickets shall be of sound cedar or equivalent, free from rot, disease or insects, with a nominal cross sectional area of not greater than 4 square inches. Pickets shall be set tight together, or spaced no more than 2" apart. The tops of all pickets on a Lot shall be cut to a straight line, or to a single convex "arch, or to a single concave "sag" between posts.*
  - (v) *Gates, braces and other usual appurtenances shall be constructed of sound cedar or equivalent to match the appearance of the appurtenant fence. All gate hardware shall be of weather resistant or protected metals.*
  - (vi) *All fences shall be erected on undisturbed natural ground and shall deviate from a straight line to negotiate trees and obstacles. Such deviations must be contained within the installing Owner's Lot unless a Fenceline Agreement exists between the abutting Owners.*
  - (vii) *All fences shall be shown on the site plan and approved in advance by the Architectural Committee. Once approved, permitted fences shall be constructed to meet the dimensions, lines and grades shown on the approved plans.*

(vii) *Once the fence has been installed, the Lot shall be cleaned up to present a natural appearance, and any remaining materials and construction debris shall be removed from the Community."*

- 2. The remainder of the Declaration shall remain of full force and effect.
- 3. The parties signing this Third Amendment to the Declaration certify that they comprise the 70% affirmative vote required to approve these amendments.
- 4. This Third Amendment will take effect upon the recording of this instrument with the Office of the Steuben County Clerk.

UPSTATE PARTNERS LC, L.L.C.

By: *Gerald A. Jackson*  
Manager

Dated 10/4/01

2001 OCT 11 P 4: 35  
STEUBEN COUNTY  
CLERK'S OFFICE

STATE OF NEW YORK    )  
  :SS  
COUNTY OF STEUBEN    )

On the 4 day of October, 2001, before me, the undersigned, a notary public in and for said state, personally appeared Gerald A. Jackson, Manager of Upstate Partners, LC, LLC personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Brenda Sue Tucker*  
Notary Public

**EXAMINED**

*Judith M. Minter*

**BRENDA SUE TUCKER  
NOTARY PUBLIC, STATE OF NEW YORK  
STEUBEN COUNTY NO. 01TU6063376  
COMMISSION EXPIRES AUG. 27, 2005**

cornccrsthirdamend  
**STEUBEN COUNTY CLERK**







Record and return to:

Upstate Partners, L.C.  
Post Office Box 548  
Corning, NY 14830

2001 FEB -5 P 3:35

STEBEN COUNTY  
CLERK'S OFFICE

**SUPPLEMENT TO DECLARATION**  
**OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS**  
**FOR AURENE, PHASE TWO**

THIS SUPPLEMENTAL DECLARATION, is made and entered into on this 19 day of January, 2001, by Upstate Partners, L.C., L.L.C., a Utah limited liability company, with a local office at Box 548, Corning, New York 14830, referred to below as "Declarant".

RECITALS

A. Declarant is the owner of certain real property located in the Town of Erwin, County of Steuben and State of New York, a portion of which real property is described on Exhibit "A" hereto (hereinafter, the "Phase Two Property"). Declarant plans to develop the Phase Two Property as the second phase ("Phase Two") of a residential community known as Aurene.

B. The first phase ("Phase One") of Aurene is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656. Phase One is subject to an initial Declaration of Protective Covenants, Conditions and Restrictions (the "Declaration") which was recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds, beginning at Page 92. The Phase Two Property is part of the land described in Exhibit B-1 of the Declaration. The terms of the Declaration authorize Declarant to bring all or any portion of the land described in said Exhibit B-1 within the scope of the Declaration by supplemental declaration recorded in the Office of the Steuben County Clerk at any time within twenty years following the recording of the Declaration.

C. The Declaration was subsequently amended on December 7, 2000. A copy of such First Amendment was recorded in the Office of the Steuben County Clerk on December 19, 2000 in Liber 1695 of Deeds, beginning at Page 66. For convenience, the initial Declaration for Phase One, and all amendments thereto of record, are referred to collectively hereinafter as the "Declaration".

## DECLARATION

The Declaration, as amended, is herein incorporated by reference, and the full scope of the covenants, conditions, restrictions and easements thereof is hereby extended to and shall be binding upon the Phase Two Property, except as and to the extent modified by this Supplement. With respect to the lots within Phase Two, the following Exhibit "D" shall replace in its entirety the Exhibit "D" annexed to the Declaration.

EXHIBIT "D"SCHEDULE OF MAXIMUM FLOOR AREAS, MAXIMUM DISTURBANCE AREAS,  
MINIMUM SETBACKS, AND WOODED DESIGNATIONS FOR EACH LOT

<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
63	0.32 ac.	3,200 SF	unlimited	30 feet	20/25 feet	no
64	0.37 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
65	0.39 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
66	0.38 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
67	0.40 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
68	0.41 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
69	0.39 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
70	0.39 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
71	0.38 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
72	0.40 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
73	0.40 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
74	0.45 ac.	3,000 SF	unlimited	35 feet	15/25 feet	no
75	0.46 ac.	3,000 SF	unlimited	35 feet	15/25 feet	no
76	0.38 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
77	0.37 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
78	0.35 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
79	0.34 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
80	0.34 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
81	0.37 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
82	0.37 ac.	3,200 SF	unlimited	30 feet	25/15/25 feet*	no
83	0.35 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
84	0.35 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
85	0.36 ac.	3,200 SF	unlimited	30 feet	15/25/25 feet*	no

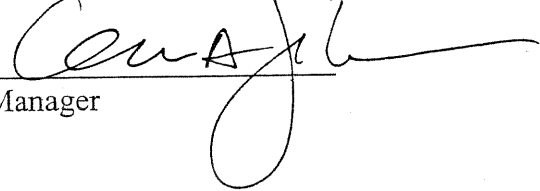
Notes:

1. The column heading "SB" is an abbreviation for the term **Setback**. The column heading "Maximum Dist. Area" is an abbreviation for **Maximum Disturbance Area**.
2. For Lot #82, the left (south) side setback shall be no less than 25 feet, the right (north) side setback shall be no less than 15 feet, and the rear setback shall be no less than 25 feet.
3. For Lot #85, the left (south) side setback shall be no less than 15 feet, the right (north) side setback shall be no less than 25 feet, and the rear setback shall be no less than 25 feet.

4. *In the event of a conflict between a Lot area or dimension described by this Declaration and a Lot area or dimension described by the Plat, the Plat shall govern.*
5. *When there is a difference between a setback distance required by this Declaration, and a setback distance required by the Town of Erwin, the larger setback distance shall govern.*
6. *Notwithstanding the provisions of the Declaration, Declarant may in the future eliminate Lot #81 and use all or a portion of said land to construct and dedicate a new street providing access and utilities to the adjacent land.*

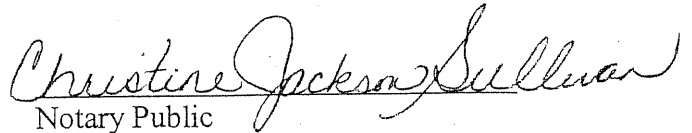
This Supplemental Declaration shall take effect as of the date that this instrument is recorded in the Office of the Steuben County Clerk.

UPSTATE PARTNERS L.C., L.L.C.

By:   
Its Manager

STATE OF NEW YORK     )  
  :SS  
COUNTY OF STEUBEN    )

On this 1<sup>st</sup> day of February, 2001, before me, the undersigned, a notary public in and for said state, personally appeared Gerald A. Jackson, Manager of Upstate Partners, L.C., LLC personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

CHRISTINE JACKSON-SULLIVAN  
NOTARY PUBLIC, STATE OF NEW YORK  
STEUBEN COUNTY NO. 4978988  
TERM EXPIRES 3/18/01

**WEILER ASSOCIATES****LAND SURVEYORS**

206 Gardner Road  
 Horseheads, NY 14845  
 PH(607)739-4476 FAX (607)739-4920

**SURVEYOR'S DESCRIPTION****Overall Lands - Phase Two Aurene Subdivision**

Job #11505.08

October 20,2000

**ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erwin, County of Steuben and State of New York, bounded and described as follows:

**Beginning** at the intersection of the northerly boundary of Aurene Drive and the westerly boundary of Phase One of Aurene Subdivision, said point being 210 feet, more or less, westerly along said northerly boundary of Aurene Drive from its intersection with the westerly boundary of Fieldstone Lane;

**Thence** S. 15°51'27" E., crossing said Aurene Drive, a distance of 62.50 feet to a point on the southerly boundary of said Aurene Drive;

**Thence** S. 74°08'31" W. a distance of 230.71 feet to a point of curvature;

**Thence** westerly along a curve to the right having a radius of 523.75, an arc distance of 81.21 feet (producing a chord of S. 78°35'03" W., 81.13 feet) to a point;

**Thence** N. 07°14'22" W. a distance of 103.81 feet to a point;

**Thence** westerly along a non-tangent curve to the right having a radius of 803.20, an arc distance of 147.71 feet (producing a chord of N. 81°00'56" W., 147.50 feet) to a point;

**Thence** N. 00°25'09" E. a distance of 603.14 feet to a point;

**Thence** N. 18°02'40" W. a distance of 441.75 feet to a point;

**Thence** N. 29°42'24" W. a distance of 175.10 feet to a point;

**Thence** N. 50°52'44" E. a distance of 163.80 feet to a point;

**Thence** southeasterly along a non-tangent curve to the right having a radius of 25.00 feet, an arc distance of 32.12 feet (producing a chord of S. 45°05'29" E., 29.96 feet) to a point on the westerly boundary of Conhocton Road (proposed extension);

**Thence** along the westerly boundary of said Conhocton Road, the following two (2) courses;

1. Northerly along a curve to the right having a radius of 335.00 feet, an arc distance of 88.93 feet (producing a chord of N. 00°40'49" W., 88.67 feet) to

a point on the easterly boundary of Lot 47 of Phase One of Aurene Subdivision;

2. Continuing northerly along the easterly boundary of said Lot 47 along a curve to the right having a radius of 335.00 feet, an arc distance of 47.52 feet (producing a chord of N. 10°59'18" E., 47.48 feet) to a point;

Thence S. 61°26'24" E., crossing said Conhocton Road along a southwesterly boundary of said Phase One of Aurene Subdivision, a distance of 51.70 feet to a point on the easterly boundary of said Conhocton Road;

Thence, along the southwesterly and westerly boundaries of said Phase One "Open Space", the following eight (8) courses:

1. S. 63°15'51" E. a distance of 74.07 feet to a point;
2. S. 37°27'08" E. a distance of 339.39 feet to a point;
3. S. 29°55'52" E. a distance of 149.59 feet to a point;
4. S. 12°46'53" E. a distance of 136.40 feet to a point;
5. S. 00°21'17" E. a distance of 419.18 feet to a point;
6. S. 07°12'25" E. a distance of 116.55 feet to a point;
7. S. 12°51'31" E. a distance of 114.53 feet to a point;
8. S. 15°51'30" E. a distance of 148.57 feet to the **POINT OR PLACE OF BEGINNING;**

Being 12.262 acres of land, more or less.

STEUBEN COUNTY  
CLERK'S OFFICE

2001 FEB -5 P 3:35

**EXAMINED**

*Judith M. White*

STEUBEN COUNTY CLERK









TT (5)  
20.50  
5

Record and return to:

Upstate Partners, L.C.  
Post Office Box 548  
Corning, NY 14830

STEBEN COUNTY  
CLERK'S OFFICE

2001 AUG 28 P 4: 26

**SUPPLEMENT TO DECLARATION  
OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS  
FOR AURENE, PHASE THREE**

THIS SUPPLEMENTAL DECLARATION, is made and entered into on this 22nd day of August, 2001, by Upstate Partners, L.C., L.L.C., a Utah limited liability company, with a local office at Box 548, Corning, New York 14830, referred to below as "Declarant".

1617  
92

RECITALS

A. Declarant is the owner of certain real property located in the Town of Erwin, County of Steuben and State of New York, a portion of which real property is described on Exhibit "A" hereto (hereinafter, the "Phase Three Property"). Declarant plans to develop the Phase Three Property as the third phase ("Phase Three") of a residential community known as Aurene.

B. The first phase of Aurene ("Phase One") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656. Phase One is subject to the initial Declaration of Protective Covenants, Conditions and Restrictions (the "Declaration") which was recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds, beginning at Page 92.

C. The Declaration was subsequently amended on December 7, 2000. A copy of such First Amendment was recorded in the Office of the Steuben County Clerk on December 19, 2000 in Liber 1695 of Deeds, beginning at Page 66.

D. The second phase of Aurene ("Phase Two") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on March 7, 2001 as Case Map #14549. Phase Two is subject to the initial Declaration, the First Amendment described above, and the "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Two" which was recorded in the Office of the Steuben County Clerk on February 5, 2001 in Liber 1702 of Deeds, beginning at Page 79.

E. The third phase of Aurene ("Phase Three") is part of the land described in Exhibit B-1 of the Declaration. The terms of the Declaration authorize Declarant to bring all or any portion of the land described in said Exhibit B-1 within the scope of the

Declaration by supplemental declaration recorded in the Office of the Steuben County Clerk at any time within twenty years following the recording of the Declaration.

F. For convenience, the initial Declaration for Phase One, and all amendments and supplements thereto of record, are referred to collectively hereinafter as the "Declaration".

### DECLARATION

The Declaration, as amended, is herein incorporated by reference, and the full scope of the covenants, conditions, restrictions, and easements thereof is hereby extended to and shall be binding upon Phase Three. With respect to the specific lots within Phase Three, the following Exhibit "D" (in italics) shall supplement each Exhibit "D" that appears in the Declaration.

### EXHIBIT "D"

#### SCHEDULE OF MAXIMUM FLOOR AREAS, MAXIMUM DISTURBANCE AREAS, MINIMUM SETBACKS, AND WOODED DESIGNATIONS FOR EACH LOT IN PHASE THREE

<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
301	0.30 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
302	0.32 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
303	0.37 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
304	0.32 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
305	0.29 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
306	0.32 ac.	3,000 SF	unlimited	30 feet	15/25 feet	no
307	0.43 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
308	0.33 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
309	0.30 AC.	3,200 SF	unlimited	30 feet	15/25 feet	no
310	0.31 AC.	3,200 SF	unlimited	30 feet	15/25 feet	no
311	0.31 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
312	0.33 ac.	3,200 SF	unlimited	30 feet	15/25 feet	no
313	0.48 ac.	3,400 SF	unlimited	35 feet	15/25 feet	no
314	0.34 ac.	3,400 SF	unlimited	35 feet	15/25 feet	no
315	0.33 ac.	3,400 SF	unlimited	30 feet	15/25 feet	no
316	0.36 ac.	3,400 SF	unlimited	35 feet	15/25 feet	no
317	0.35 ac.	3,400 SF	unlimited	35 feet	15/25 feet	no
318	0.39 ac.	3,400 SF	unlimited	35 feet	15/25 feet	no
319	0.38 ac.	3,400 SF	unlimited	30 feet	15/25 feet	no
320	0.39 ac.	3,400 SF	unlimited	30 feet	15/25 feet	no
321	0.49 ac.	3,200 SF	unlimited	35 feet	15/25 feet	no

Notes:

1. The column heading "SB" is an abbreviation for the term *Setback*. The column heading "*Maximum*



Exhibit "A"**SURVEYOR'S DESCRIPTION  
"Aurene Subdivision, Phase Three"**

Job # 12104.01

March 21, 2001

**ALL THAT TRACT OR PARCEL OF LAND** situate in the town of Erwin, County of Steuben and State of New York, bounded and described as follows:

**Beginning** at a point on the northeasterly boundary of Conhocton Road at the southerly corner of Lot 62 as shown on a map of Aurene Subdivision, Phase One (filed in the Steuben County Clerk's Office as Case Map 13656);

**Thence** N. 46°40'12" E., along the southeasterly boundaries of said Lot 62 and Lot 58 of said subdivision, a distance of 293.39 feet to a point;

**Thence** passing through lands now or formerly of "Upstate Partners, L.C." the following two (2) courses:

1. S. 43°19'47" E. a distance of 50.00 feet to a point;
2. S. 82°47'56" E. a distance of 94.45 feet to a point on the northwesterly boundary of lands, now or formerly of "The Town of Erwin" (see Liber 1552 of Deeds, Page 246);

**Thence** along the southwesterly boundaries of the remaining lands of "The Town of Erwin" the following three (3) courses:

1. S. 34°54'16" E. a distance of 664.48 feet to a point;
2. S. 14°37'42" E. a distance of 285.59 feet to a point;
3. S. 29°03'29" E. a distance of 56.57 feet to a point;

**Thence** S. 35°41'19" W. again passing through lands now or formerly of "Upstate Partners, L.C." a distance of 181.14 feet to a point on the northerly boundary of Aurene Drive;

**Thence** westerly along said northerly boundary of Aurene Drive, along a non-tangent curve to the left having a radius of 1208.75 feet, an arc distance of 179.63 feet (producing a chord of N. 68°58'38" W., 179.46 feet) to a point of reverse curvature;

**Thence** along the northeasterly boundary of the Aurene Drive/Conhocton Road bypass, the following three (3) courses:

1. Northwesterly along a curve to the right having a radius of 270.00 feet, an arc distance of 107.92 feet to a point (producing a chord of N. 61°47'01" W., 107.21 feet);
2. N. 50°20'01" W. a distance of 170.20 feet to a point of curvature;
3. Northwesterly along a curve to the right having a radius of 275.00 feet, a arc distance of 190.01 feet (producing a chord of N. 30°32'21" W., 186.26 feet) to

a point of reverse curvature on the northeasterly boundary of Conhocton Road;

**Thence** along the northeasterly boundary of said Conhocton Road the following two (2) courses:

1. Northwesterly along a curve to the left having a radius of 1,015.00 feet, an arc distance of 436.11 feet to a point (producing a chord of N. 23°03'13" W., 432.77 feet);
2. N. 35°21'46" W. a distance of 101.05 feet to **the point or place of beginning;**

Being 9.776 acres of land, more or less.

2001 AUG 28 P 4: 26  
STEUEREN COUNTY  
CLERK'S OFFICE

**EXAMINED**

*Judith M. Mester*

STEUEREN COUNTY CLERK









Record and return to:

Upstate Partners, L.C.  
Post Office Box 1776  
Park City, Utah, 84060

**SUPPLEMENT TO DECLARATION**  
**OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS**  
**FOR AURENE, PHASE 4-C**

THIS SUPPLEMENTAL DECLARATION, is made and entered into on this 22nd day of December, 2005, by Upstate Partners, L.C., L.L.C., a Utah limited liability company, with an office at Box 1776, Park City, Utah, 84060, referred to below as "Declarant".

**RECITALS**

A. Declarant is the owner of certain real property located in the Town of Erwin, County of Steuben and State of New York, a portion of which real property is described on Exhibit "A" hereto (hereinafter, the "Phase 4-C Property"). Declarant plans to develop the Phase 4-C Property as the fourth phase ("Phase 4-C") of a residential community known as Aurene.

B. The first phase of Aurene ("Phase One") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656. Phase One is subject to the initial Declaration of Protective Covenants, Conditions and Restrictions (the "Declaration") which was recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds, beginning at Page 92.

C. The Declaration was subsequently amended on December 7, 2000. A copy of such First Amendment was recorded in the Office of the Steuben County Clerk on December 19, 2000 in Liber 1695 of Deeds, beginning at Page 66. The Declaration was further amended on April 25, 2001. A copy of such Second Amendment was recorded in the Office of the Steuben County Clerk on May 2, 2001 in Liber 1715 of Deeds, beginning at Page 338. The Declaration was further amended on October 4, 2001. A copy of such Third Amendment was recorded in the Office of the Steuben County Clerk on October 11, 2001 in Liber 1740 of Deeds, beginning at Page 254.

D. The second phase of Aurene ("Phase Two") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on March 7, 2001 as Case Map #14549. Phase Two is subject to the initial Declaration, the First and Second and Third Amendments described above, and the "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Two" which was recorded in the Office of the Steuben County Clerk on February 5, 2001 in Liber 1702 of Deeds, beginning at Page 79.



E. The third phase of Aurene ("Phase Three") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on \_\_\_\_\_, 2001 as Case Map # \_\_\_\_\_. Phase Three is subject to the initial Declaration, the First and Second and Third Amendments described above, and the "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Three" which was recorded in the Office of the Steuben County Clerk on August 28, 2001 in Liber 1734 of Deeds, beginning at Page 34.

F. The fourth phase of Aurene ("Phase 4-C") is part of the land described in Exhibit B-1 of the Declaration. The terms of the Declaration authorize Declarant to bring all or any portion of the land described in said Exhibit B-1 within the scope of the Declaration by supplemental declaration recorded in the Office of the Steuben County Clerk at any time within twenty years following the recording of the Declaration.

G. For convenience, the initial Declaration for Phase One, and all amendments and supplements thereto of record, are referred to collectively hereinafter as the "Declaration".

DECLARATION

The Declaration, as amended, is herein incorporated by reference, and the full scope of the covenants, conditions, restrictions, and easements thereof is hereby extended to and shall be binding upon Phase 4-C, except that attached and/or detached garages shall be allowed on Lots #401 and #403.

With respect to all of the lots within Phase 4-C, the following Exhibit "D" (in italics) shall supplement each Exhibit "D" that appears in the Declaration.

EXHIBIT "D"

SCHEDULE OF MAXIMUM FLOOR AREAS, MAXIMUM DISTURBANCE AREAS,  
MINIMUM SETBACKS, AND WOODED DESIGNATIONS FOR EACH LOT IN PHASE 4-C

<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
401	9.970 ac.	8,000 SF	80,000 SF	35 feet	20/50 feet	yes
402	1.519 ac.	6,000 SF	20,000 SF	35 feet	20/50 feet	yes
403	3.622ac.	8,000 SF	20,000 SF	35 feet	20/50 feet	yes

Notes and further conditions:

1. The column heading "SB" is an abbreviation for the term **Setback**. The column heading "**Maximum Dist. Area**" is an abbreviation for **Maximum Disturbance Area**.



2. *In the event of a conflict between a Lot area or dimension described by this Declaration and a Lot area or dimension described by the Plat, the Plat shall govern.*
3. *When there is a difference between a setback distance required by this Declaration, and a setback distance required by the Town of Erwin, the larger setback distance shall govern.*
4. *Each home built in Phase 4-C shall be equipped with a pressure reducing valve on the water service lateral as it enters the home.*
5. *Each home built in Phase 4-C shall be drained and graded so as to discharge all run-off and groundwater from the lot into the storm sewer system or an appurtenant natural drainage channel.*

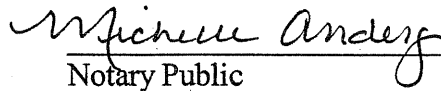
This Supplemental Declaration shall take effect as of the date that this instrument is recorded in the Office of the Steuben County Clerk.

UPSTATE PARTNERS L.C., L.L.C.

By:   
Its Manager

STATE OF UTAH                    )  
  :SS  
COUNTY OF SUMMIT         )

On this 22<sup>nd</sup> day of December, 2005, before me, the undersigned, a notary public in and for said state, personally appeared Gerald A. Jackson, Manager of Upstate Partners, L.C., LLC personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public







# WEILER ASSOCIATES

## LAND SURVEYORS

206 Gardner Road  
Horseheads, NY 14845  
PH(607)739-4476 FAX (607)739-4920

### SURVEYOR'S DESCRIPTION

*"Part of Lands of Upstate Partners, L.C., L.L.C.  
Phase 4C - Aurene Subdivision"*

Job 12394.04

April 15, 2005

**ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erwin, County of Steuben and State of New York, bounded and described as follows:

**Beginning** at the intersection of the westerly boundary of Conhocton Road and the northerly boundary of Lot R47 of Aurene Subdivision;

**Thence** along the northerly boundary of said Lot R47, the following two courses:

1. Along a curve to the left having a radius of 30.00 feet and producing a chord of N. 17°27'17" W., 42.78 feet, an arc distance of 47.62 feet to a point of tangency;
2. N. 62°55'40" W., a distance of 213.57 feet to the northwesterly corner of said Lot R47;

**Thence** S. 27°40'08" W., along the westerly boundaries of said Lot R47 and Lot R86 of said Aurene Subdivision, a distance of 317.39 feet to the southwest corner of said Lot R86;

**Thence** along the northerly boundary of lands designated as "Open Space" for said Aurene Subdivision, the following two (2) courses:

1. N. 48°57'52" W., a distance of 130.03 feet to a point;
2. N. 80°17'55" W., a distance of 479.16 feet to a point;

**Thence** N. 01°07'01" W., passing through lands of "Upstate Partners, L.C., L.L.C." (see Liber 1617 of Deeds, Page 204), a distance of 966.84 feet to a point in the centerline of the Cohocton River;

**Thence** S. 84°16'48" E., along the centerline of said Cohocton River, a distance of 1232.07 feet to a point;

**Thence** S. 27°39'46" W., along the westerly boundary of other lands designated as "Open Space" and along the westerly boundaries of Lot 50 and Lot R49 of said Aurene Subdivision, a distance of 821.76 feet to the southwest corner of said Lot R49;

**Thence** along the southwest boundary of said Lot R49, the following two (2) courses:

1. S. 62°55'40" E., a distance of 136.94 feet to a point of curvature;
2. Along a curve to the left having a radius of 30.00 feet and producing a chord of N. 81°20'23" E., 35.04 feet, an arc distance of 37.42 feet to a point on the aforesaid westerly boundary of Conhocton Road;



**Thence** southwesterly along said westerly boundary of Conhocton Road, along a curve to the left having a radius of 335.00 feet and producing a chord of S. 36°48'46" W., 102.84 feet to the point or place of beginning;

Being 21.819 acres of land, more or less.







Judith M. Hunter, County Clerk  
3 East Pulteney Square  
Bath, NY 14810  
(607) 776-9631

## Steuben County Clerk Recording Cover Sheet

**Received From :**  
TICOR TITLE  
34 LIBERTY ST STE 102  
BATH, NY 14810

**Return To :**  
UPSTATE PARTNERS LC LLC  
PO BOX 1776  
PARK CITY, UT 84060

**First GRANTOR**

UPSTATE PARTNERS LC LLC

**First GRANTEE**

NONE

**Index Type :** Deeds

**Book :** 2031

**Page :** 49

**Type of Instrument :** Restrictive Covenant

**Type of Transaction :** Miscellaneous Deed Item W/Out  
Tp584

**Recording Fee :** \$53.50

**Recording Pages :** 7

### Recorded Information

State of New York

County of Steuben

I hereby certify that the within and foregoing was  
recorded in the Clerk's office for Steuben County,  
New York

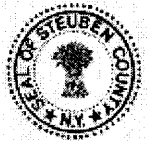
On (Recorded Date) : 07/19/2006

At (Recorded Time) : 2:59:21 PM



Doc ID - 000953350007

*Judith M. Hunter*  
Judith M. Hunter, County Clerk



1617  
92





Record and return to:

Upstate Partners, L.C.  
Post Office Box 1776  
Park City, Utah, 84060

**SUPPLEMENT TO DECLARATION**  
**OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS**  
**FOR AURENE, PHASE FOUR-B**

THIS SUPPLEMENTAL DECLARATION, is made and entered into on this 25th day of May, 2006, by Upstate Partners, L.C., L.L.C., a Utah limited liability company, with an office at Box 1776, Park City, Utah, 84060, referred to below as "Declarant".

**RECITALS**

A. Declarant is the owner of certain real property located in the Town of Erwin, County of Steuben and State of New York, a portion of which real property is described on Exhibit "A" hereto (hereinafter, the "Phase Four-B Property"). Declarant plans to develop the Phase 4-B Property as the fifth phase ("Phase Four-B") of a residential community known as Aurene.

B. The first phase of Aurene ("Phase One") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on August 17, 1999 as Case Map #13656. Phase One is subject to the initial Declaration of Protective Covenants, Conditions and Restrictions (the "Declaration") which was recorded in the Office of the Steuben County Clerk on June 22, 1999 in Liber 1617 of Deeds, beginning at Page 92.

C. The Declaration was subsequently amended on December 7, 2000. A copy of such First Amendment was recorded in the Office of the Steuben County Clerk on December 19, 2000 in Liber 1695 of Deeds, beginning at Page 66. The Declaration was further amended on April 25, 2001. A copy of such Second Amendment was recorded in the Office of the Steuben County Clerk on May 2, 2001 in Liber 1715 of Deeds, beginning at Page 338. The Declaration was further amended on October 4, 2001. A copy of such Third Amendment was recorded in the Office of the Steuben County Clerk on October 11, 2001 in Liber 1740 of Deeds, beginning at Page 254.

D. The second phase of Aurene ("Phase Two") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on March 7, 2001 as Case Map #14549. Phase Two is subject to the initial Declaration, the First and Second and Third Amendments described above, and the "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Two" which was recorded in the Office of the Steuben County Clerk on February 5, 2001 in Liber 1702 of Deeds, beginning at Page 79.

1617  
92



E. The third phase of Aurene ("Phase Three") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on \_\_\_\_\_, 2001 as Case Map # \_\_\_\_\_. Phase Three is subject to the initial Declaration, the First and Second and Third Amendments described above, and the "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Three" which was recorded in the Office of the Steuben County Clerk on August 28, 2001 in Liber 1734 of Deeds, beginning at Page 34.

F. The fourth phase of Aurene ("Phase Four-C") is shown on the official plat recorded in the office of the Office of the Steuben County Clerk on March 6, 2006 as Case Map #17195. Phase Four-C is subject to the initial Declaration, the First and Second and Third Amendments described above, and the "Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Three" described above, and the Supplement to Declaration of Protective Covenants, Conditions and Restrictions for Aurene, Phase Four-C" which was recorded in the Office of the Steuben County Clerk on March 6, 2006 in Liber 2004 of Deeds, beginning at Page 235.

G. The fifth phase of Aurene ("Phase 4-B") is part of the land described in Exhibit B-1 of the Declaration. The terms of the Declaration authorize Declarant to bring all or any portion of the land described in said Exhibit B-1 within the scope of the Declaration by supplemental declaration recorded in the Office of the Steuben County Clerk at any time within twenty years following the recording of the Declaration.

H. For convenience, the initial Declaration for Phase One, and all amendments and supplements thereto of record, are referred to collectively hereinafter as the "Declaration".

#### DECLARATION

The Declaration, as amended, is herein incorporated by reference, and the full scope of the covenants, conditions, restrictions, and easements thereof is hereby extended to and shall be binding upon Phase Four-B, except that attached and/or detached garages shall be allowed on all of the lots in Phase Four-B.

With respect to all of the lots within Phase Four-B, the following Exhibit "D" (in italics) shall supplement each Exhibit "D" that appears in the Declaration.



EXHIBIT "D"

SCHEDULE OF MAXIMUM FLOOR AREAS, MAXIMUM DISTURBANCE AREAS,  
MINIMUM SETBACKS, AND WOODED DESIGNATIONS FOR EACH LOT IN PHASE FOUR-B

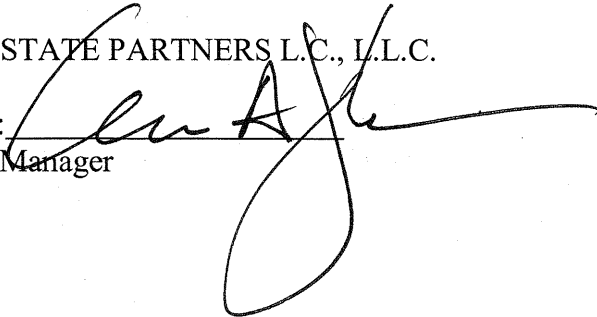
<u>Lot #</u>	<u>Lot Size</u>	<u>Maximum Floor Area</u>	<u>Maximum Dist. Area</u>	<u>Minimum Front SB</u>	<u>Minimum Side/Rear SB</u>	<u>Wooded Lot?</u>
404	5.98 ac.	8,000 SF	40,000 SF	35 feet	20/50 feet	yes
405	4.51 ac.	6,000 SF	30,000 SF	35 feet	20/50 feet	yes
406	4.27 ac.	6,000 SF	30,000 SF	35 feet	20/50 feet	yes
407	4.11 ac.	6,000 SF	30,000 SF	35 feet	20/50 feet	yes
408	4.75 ac.	6,000 SF	30,000 SF	35 feet	20/50 feet	yes
409	1.01 ac.	4,000 SF	20,000 SF	35 feet	20/50 feet	no
410	1.14 ac.	4,000 SF	20,000 SF	35 feet	20/50 feet	no
411	1.11 ac.	6,000 SF	20,000 SF	35 feet	20/50 feet	no
412	1.03 ac.	6,000 SF	20,000 SF	35 feet	20/50 feet	no
413	1.77 ac.	6,000 SF	20,000 SF	35 feet	20/50 feet	no

Notes and further conditions:

1. The column heading "SB" is an abbreviation for the term **Setback**. The column heading "**Maximum Dist. Area**" is an abbreviation for **Maximum Disturbance Area**.
2. In the event of a conflict between a Lot area or dimension described by this Declaration and a Lot area or dimension described by the Plat, the Plat shall govern.
3. When there is a difference between a setback distance required by this Declaration, and a setback distance required by the Town of Erwin, the larger setback distance shall govern.
4. Each home built in Phase Four-B shall be equipped with a pressure reducing valve on the water service lateral as it enters the home.
5. Each lot built upon in Phase Four-B shall be drained and graded so as to discharge all run-off and groundwater from the lot into the storm sewer system or an appurtenant natural drainage channel.

This Supplemental Declaration shall take effect as of the date that this instrument is recorded in the Office of the Steuben County Clerk.

UPSTATE PARTNERS L.C., L.L.C.

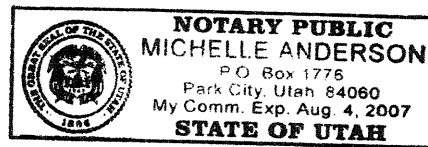
By:   
Its Manager



STATE OF UTAH                    )  
  :SS  
COUNTY OF SUMMIT            )

On this 25th day of May, 2006, before me, the undersigned, a notary public in and for said state, personally appeared Gerald A. Jackson, Manager of Upstate Partners, L.C., LLC personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Michelle Anderson*  
Notary Public



corn phase 4-B ccrs supplement





Exhibit "A"

**SURVEYOR'S DESCRIPTION  
Aurene Subdivision, Phase 4B  
(Overall)**

**ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erwin, County of Steuben and State of New York, bounded and described as follows:

**Beginning** at the intersection of the westerly boundary of Conhocton Road and the northwesterly corner of the westerly terminus of Aurene Drive as shown on a map of Aurene Subdivision, Phase Two (see Filed Map No. 14549 in the Steuben County Clerk's Office);

**Thence** S.  $07^{\circ}14'22''$  E., along the westerly terminus of Aurene Drive, a distance of 103.81 feet to a point;

**Thence** easterly along the southerly boundary of said Aurene Drive, along a non-tangent curve to the left having a radius of 523.75 feet and producing a chord of N.  $78^{\circ}35'03''$  E., 81.13 feet, an arc distance of 81.22 feet to a point;

**Thence** N.  $74^{\circ}08'31''$  E., continuing along said southerly boundary of Aurene Drive,  
a distance of 120.21 feet to a point;

**Thence** S.  $15^{\circ}51'29''$  E., along a westerly boundary of Phase 4A of Aurene Subdivision, a preliminary map of which was made by Weiler Associates dated Dec. 27, 2005 and last revised Mar. 23, 2006 (Job No. 13598.02), a distance of 7.00 feet, to the northerly corner of lands now or formerly of "Steuben County Industrial Development Association" (see Liber 1556 of Deeds, Page 243), said lands being formerly owned by NYSEG;

**Thence** S.  $28^{\circ}30'17''$  W., along the northwesterly boundary of the aforesaid lands of "SCIDA", a distance of 236.70 feet to a point;

**Thence** S.  $88^{\circ}52'59''$  W., along the northerly boundary of lands now or formerly of "Corning Enterprises Inc." (see Liber 1046 of Deeds, Page 537, Schedule B), a distance of 1163.90 feet to a point;

**Thence** N.  $01^{\circ}07'01''$  W., a distance of 1800.99 feet to the southwesterly corner of Phase 4C of Aurene Subdivision as shown on a map by Weiler Associates dated May 3, 2005 and last revised Feb. 6, 2006 (Job No. 13515);

**Thence** S.  $80^{\circ}17'55''$  E., along a southerly boundary of said Phase 4C of Aurene Subdivision, a distance of 479.16 feet to an angle point in the southerly boundary of Lot 402 of said Phase 4C;



**Thence** S. 48°57'52" E., along southwesterly boundaries of said Phase 4C and of Lots R-86 and R-85 as shown on a map of "Re-Subdivision of Lots 47, 48, 49 and 85 of Aurene Subdivision, Phases One and Two" by Weiler Associates dated Jan. 11, 2002 and last revised Mar. 11, 2002 (Job No. 12198.04), a distance of 350.09 feet to a point;

**Thence** S. 29°45'20" E., along the westerly boundaries of Lot R-85 of the last-mentioned map and Lot 84 of Phase Two of Aurene Subdivision, a distance of 175.51 feet to a point;

**Thence** along the westerly boundaries of said Phase Two of Aurene Subdivision, the following two courses:

1. S. 18°02'40" E., a distance of 441.75 feet to a point;
2. S. 00°25'09" W., a distance of 603.14 feet to a point;

**Thence** easterly along a southerly boundary of said Phase Two of Aurene Subdivision, along a non-tangent curve to the left having a radius of 803.20 feet and producing a chord of S. 81°00'56" E., 147.50 feet, an arc distance of 147.71 feet to the point or place of beginning;

**Being** 35.798 acres of land, more or less.





