



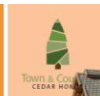
“Local Brokerage, National Results.”

Maps & Documents

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Instrument # 188409
TETON COUNTY, IDAHO
2007-06-11 01:31:00 No. of Pages: 8
Recorded for : NELSON ENGINEERING
MARY LOU HANSEN Fee: 24.00
Ex-Officio Recorder Deputy M. Webster
Index to: AGREEMENT

**PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
DARBY RANCH SUBDIVISION AND EQUESTRIAN CENTER
TETON COUNTY, STATE OF IDAHO**

THIS DECLARATION IS MADE THIS _____ DAY OF _____, 2007

In order to protect Homeowners and subsequent lots of Darby Ranch Subdivision, Driggs, Idaho, the Developer, Darby Development LLC, hereby establishes the following restrictive covenants on said real estate, which covenants shall be prior to any and all claims of any type and which covenants shall run with the land.

When used hereinafter, the term Darby Ranch shall mean Darby Ranch Subdivision or any successor in interest by merger or consolidation and any successor to all or any particular interest under this declaration under an instrument of assignment or conveyance specifically designating the assignee to grantee as such successor in interest to Darby Ranch Subdivision.

I.

GENERAL PURPOSES

1. **GENERAL PURPOSES:** This declaration is executed to establish and maintain as part of a general plan any property now or hereafter subject here to as part of a scenic and pastoral mountain residential area of the highest possible quality and value; and to provide seclusion and a pleasant environment to persons acquiring title to such property.

II.

PROPERTY SUBJECT TO DECLARATION

2. **PROPERTY COVERED:** Real property located in Teton County, Idaho designated as Darby Ranch Subdivision according to the plats thereof, recorded _____ as Instrument No. _____, or as amended, records of Teton County, Idaho.

III.

LAND CLASSIFICATIONS AND DEFINITIONS

3. **LOTS:** As used herein a lot shall be any lot, site or tract shown on recorded plat.

4. **PROPERTY:** As used herein, property shall mean any and all property, which is now, or may hereafter be subject to this declaration, including lots, and including public or private streets and roads, and any private or public easements or ways, and including any and all improvements or any of the foregoing.

5. COMMON AREAS: Common areas shall include the common road, fire ponds, surrounding landscaped green belt areas, main entrance, and Lot 24 as shown on the recorded plat.

6. COMMON SERVICES: Common Services shall mean roadway maintenance, including weed control and snow removal services, utility line maintenance or repair services for common road and utility lines located in the right of ways of such roads. Utility lines shall include electric and telephone lines. Irrigation lines shall be located in the irrigation right of way, located on the subdivision boundary. Additional common services shall include periodic payments to the irrigator water association to ensure water irrigation rights and for maintenance of the exterior boundary line fences, equestrian center (lot 24), main entrance, fire pond and surrounding landscaped areas.

6a. MAINTENANCE OF COMMON SERVICES: The developer shall be responsible to maintain the common services until the Homeowner's Association (The Association) is established, at such time, The Association shall assume responsibility. All roads, easements and right-of-ways within the interior boundary of Darby Ranch Subdivision are hereby dedicated for public use and shall be maintained, by The Association, to county standards.

7. ASSOCIATION AND BOARD OF DIRECTORS: The Association shall mean all of the homeowners of Darby Ranch. The Association shall be represented by the Board of Directors. The Board of Directors initially consists of three representatives of the Developer. After 50% of the lots are sold, the existing lot owners may elect two Directors to serve on the Board of Directors, in addition to the Developers representatives. After 100% of the lots are sold, the owners may elect three additional Directors and the Developer representatives will resign from the board.

8. POWERS: The Directors or other board established by the Directors will have the power specified herein plus those powers necessary to enforce the covenants, conditions and restrictions established by the declaration. All decisions of the Board of Directors will be made by a majority vote of the Directors.

9. DUTIES: It shall be the duty of the Board of Directors to consider and act upon such proposals for plans submitted to it from time to time and to adopt architectural control rules. The Board of Directors shall also enforce the covenants, conditions, and restrictions established herein.

10. AUTHORIZED STRUCTURES: No buildings or structures shall be constructed, placed or maintained on any lot except one (1) primary residence, a garage facility, one (1) guest house, and associated out buildings such as stable, barn and corral facilities, not to exceed four (4) buildings or structures on any lot. All structures are to be similar in design and materials.

11. DESIGN CHARACTER: In order to compliment the scenic corridor and allow for a more appealing subdivision, all houses must contain a rustic and natural appearance on all sides of the house. This may be accomplished through the use of natural rock, cultured stone, wood siding, wood pillars, and other types of materials with natural earth tones. The facial appearance

of the house must be authorized by the Directors to verify that it compliments the scenic corridor. No Residence shall be smaller than 2,200 square feet in the living area. An attached or detached garage, which can accommodate a minimum of two (2) cars, must be constructed at the same time as the principal residence. All outbuildings shall be of the same materials and style as the main residence. The existing outbuildings on lot one (1) may be retained due to their historical significance.

(A). All improvements shall be of a new construction and all primary roofs shall have a minimum pitch of five (5) feet in twelve (12) feet and all secondary roofs shall have a minimum pitch of four (4) feet in twelve (12) feet. All roofs must have a minimum overhang of twenty-four (24) inches. All roofs should be "Class A" fire resistant. Pre-built components, modular construction, or manufactured homes or trailer houses are not permitted.

(B). Exterior finishes on natural wood shall be semi-transparent or heavy bodied stains, or pigmented or clear non-glossy preservatives. All exposed metal and vinyl shall have a flat, non-reflective dull colored finish, or shall be flat color anodized or painted.

(C). Exterior colors shall be subdued and in the earth tone range. Color samples, on pieces of all exterior materials and roofing materials to be used, shall be submitted to the Directors for approval.

(D). All spoils from excavating must be replanted within two (2) months, weather permitting. No dirt may be piled on a lot longer than the time required to backfill the dwellings foundations.

(E). If a lot owner has a basement, the lot owner assumes all responsibility for any resulting water issues related to their basement. The Developers and Board of Directors recommend that lot owners consult with their homebuilders and engineers when considering a structure with a basement and do not warrant the suitability of any lot for basements.

(F). All decks shall be fully skirted with no exposed structure.

(G). All propane tanks must be underground.

IV.

GENERAL RESTRICTIONS

All real property within Darby Ranch shall be held, used and enjoyed subject to the following limitations and restrictions:

12. SUBDIVIDING: No lot may be further subdivided, nor any easement or other interest therein less than the whole be conveyed by the owner.

13. ANIMALS: Pets must be common indoor household pets such as dogs, cats or birds and must be kept solely as domestic pets and not for any commercial purpose. Such pets shall not be larger in size than common household dogs. No lot shall house more than two (2) dogs. No lot

shall house more than two (2) cats. Any external pet structure will be subject to approval by the board of Directors and must be fully screened from the street and from adjacent lots, so as not to be visible. If any domestic, household pets, such as dogs are harassing livestock, wildlife, or people, the Directors shall have authority to have such animal or animals impounded. Owners shall be responsible for any cost of impoundment. No owner of any animal or animals impounded for harassing livestock, wildlife or people shall have the right to legal action against the Association, Board of Directors or any member thereof.

14. HORSES: No lot under the size of three (3) acres shall house more than two (2) horses, with exception to lots one (1) and three (3), which may have three (3) horses. No lot over the size of three (3) acres shall house more than four (4) horses. Llamas, mules, and donkeys may substitute horses.

15. PASTURE MAINTENANCE: All pastures are to be maintained in a greened, verdant condition, as the seasons allow. A one-quarter (1/4) acre (104' x 104' square) or smaller size paddock is required. The paddock is to be used to rest the pastures, as required to maintain its verdant condition. A round pen may be used instead of a paddock. A hose bib must be accessible to the paddock or round pen to water down dust. The paddock or round pen must be set back ten foot (10') from the property with evergreen screening between it and the neighboring views. Round pen may be covered if the roofing material matches the house. The paddock or round pen shall not be built within fifty feet (50') of the property line between subdivision lots.

16. NUISANCES: No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within Darby Ranch. No weeds or grass on unimproved lots shall be permitted to grow higher than 12 inches before it is mowed. Each owner shall take all actions necessary to control noxious weeds as defined by the standards and guidelines established by Teton County, Idaho and/or by the Board of Directors. No odors shall be permitted to arise from any lots so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property. No owner shall install or maintain any exterior lighting, which obtrudes on any of the other lots or creates a glare source as viewed from other properties. Exterior lighting shall be of a downward direction and be limited to 100 watts. All exterior lighting shall be in conformance with the Dark Sky regulations set forth in the Teton County Subdivision Ordinance, Section 9-4-12, or as amended.

17. REPAIR OF BUILDINGS: No improvement upon any property within Darby Ranch shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the owner.

18. NO HAZARDOUS ACTIVITIES: No activities shall be conducted on any property and no improvements constructed on any property, which are or might be unsafe or hazardous to any person or property. No open fires shall be lighted or permitted on any property, except in a

contained barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace.

19. UNSIGHTLY ARTICLES:

Trailers stored on owner lots shall be out of sight and in an enclosed structure approved by the Board of Directors. No unsightly articles shall be permitted to remain so as to be visible from adjoining property. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, snowmobiles and snow removal equipment shall be kept at all times, except when in actual use, in an enclosed structure approved by the Board of Directors. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or fully screened from view, so as to not be visible; and no lumber, grass shrub or tree clippings or plant waste, metals, bulk materials or script or refuse or trash shall be kept, stored, or allowed to accumulate on any property except within an enclosed structure or fully screened from view, so as to not be visible.

20. NO TEMPORARY STRUCTURES: No tents, shacks, or other temporary buildings, improvements or structure shall be placed upon any property.

21. RIGHT TO FARM ACT: This Declaration shall be in compliance with the Right to Farm Act – Idaho Code Title 22, Chapter 45, 22-45-01 through 22-45-04 is here by made of this document.

22. IRRIGATION: Irrigation water is obtained through the Garden Water Company and North Darby Pipeline Company. Water use is governed by the bylaws of the Garden Water Company. Rotational delivery and reduced flows can be expected during times of scarcity. The Board of Directors is responsible for enforcing these bylaws within the subdivision.

23. NO TEMPORARY STRUCTURES: No tents, shacks, or other temporary buildings, improvements or structure shall be placed upon any property.

24. NO MINING OR DRILLING: No property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel, or earth.

25. NO REMOVAL OF LIVING TREES: No living trees shall be removed unnecessarily, except those in actual building sites. The removal of living trees shall be submitted to the Board of Directors, prior to removal.

26. GARAGES AND DRIVEWAYS: All dwellings shall include, at a minimum a two-car attached or detached garage. All dwellings shall have a driveway running from the street to the dwelling and the driveway shall be of sufficient area to park at least two (2) cars off the street right-of-way. Such driveways shall follow the finished contour of the road right-of way. Driveways shall not obstruct the swell within the street right-of-way created to facilitate water drainage. Culverts are not permitted within the road right-of-way.

27. **CONSTRUCTION:** Before commencement of construction, the lot owner shall provide to the Board of Directors evidence of financial capability (i.e. bonding, bank loan, or financial statement) to assure completion of the dwelling per approved plan. All plans must be presented to the Board of Directors, and receive written approval by the Board of Directors, prior to commencement of construction. The Board shall act upon each application submitted within 15 days of receipt. If the applications are not approved, construction may not be undertaken. All setbacks and construction envelopes shall meet all city ordinances. All construction shall be completed within one year after initial groundbreaking.

V.

PERMITTED USES AND RESTRICTIONS ON RESIDENTIAL AREAS

28. **FENCES:** Fences shall be pole and post type three (3) rail fence and shall be kept in good repair by the owner. No chain link fencing shall be allowed. Electric tape mounted on rail fence shall be allowed for pasture fencing. Round pens may be powder coated metal panels painted grey or brown. All fencing must be presented to the Board of Directors for approval.

29. **LOCATION:** Building sites shall be designated on the recorded master plan for Darby Ranch. The Board of Directors must approve any deviation from the recorded master plan. In no event shall the setbacks be less than required in the City of Driggs statutes. Barns must have a minimum of a 20' setback from the property lines.

30. **RESIDENTIAL USE:** No residence shall be used for any purpose other than single-family residential purposes. No gainful occupation, profession, trade, or other non-residential use shall be conducted on any such residential area, provided, however, that nothing in this declaration shall prevent the rental of property within residential area by the owner thereof for residential purposes.

VI.

LANDSCAPING

31. **LANDSCAPING:** All landscaping of yards shall be completed within a reasonable length of time, and not more than two (2) months after construction has been completed and residence is occupied, as weather will allow. All vacation homes and rentals shall be deemed occupied when the City of Driggs has approved the home for occupancy. All lots shall have a good and operable automatic sprinkler system that services 100% of the lawn and landscaped area. All landscaping shall be maintained in a neat and weeded manner. All lawns, including road right-of-ways, shall be mowed frequently to maintain a neat appearance and grass height shall not be allowed to exceed eight inches (8") in height. Fire resistant and drought tolerant landscaping is encouraged. The road right-of ways finished grade may not be altered as to disturb its water retention designed. The Board of Directors shall be provided with the construction plans and specifications, estimated completion dates for dwelling construction or alteration, and landscaping. The Board shall be provided, in writing, a justification for any delays beyond the above specified completion dates.

32. EASEMENT: The owner or occupant of a lot shall at his or her own expense, keep and preserve that portion of any easement within his property in good repair and condition, and shall neither erect nor permit erection of any fence, of any kind, within the easement. A fifteen-foot (15') wide irrigation, horseback riding and cross-country skiing easement surrounds most of Darby Ranch as shown on the subdivision map.

33. VIOLATIONS-ENFORCEMENT-LIENS-COSTS: The limitations and requirements for land use and development set forth in these Covenants, Conditions, and Restrictions shall be enforceable by the Board of Directors, or by any owner of a lot within Darby Ranch. In addition, the Teton County Council shall have the authority to enforce those portions of these Covenants, Conditions, and Restrictions, which establish building envelopes and limit all development on any parcel or lot. In no way does this document allow building or use of property that contradicts existing statutes of the City of Driggs.

Any lot owner found to be in violation of these Covenants, Conditions, and Restrictions will be provided a written notice of such violation. Fifteen (15) days from the delivery or mailing of the notice, the Board of Directors may take action to rectify the violation and will bill the lot owner for any resulting costs. Every owner of a lot within Darby Ranch hereby grants the Board of Directors, or their representatives; access to their lot for the express purpose of rectifying a violation of these Covenants, Conditions, and Restrictions for which a written notice has been delivered or mailed and the fifteen (15) day response period has expired. Each lot owner further consents to the entry of an injunction against him or her or his or her tenants or guests, to terminate and restrain any violations of these Covenants, Conditions, and Restrictions. Any lot owner who uses, or allows his or her lot to be used, or developed in violation of these Covenants, Conditions, and Restrictions further agrees to pay all costs incurred by the Board of Directors or other lot owner in enforcing these Covenants, Conditions, and Restrictions, including reasonable attorney's fees. The Covenants, Conditions, and Restrictions shall have a lien against each lot and the improvements thereon to secure the payment of any billing permitted under these Covenants, due to the Board of Directors from the owner of interest permitted by Idaho law. The Association is authorized to record a notice of lien as filed in the County Clerk's office. Such may be sent to the owner by certified or registered mail. Any lien may be foreclosed in the manner provided for foreclosure of mortgages by the statutes of the State of Idaho. In addition to the principal amount of the lien plus interest, the Association shall be entitled to the payment of all costs incurred in the establishment or enforcement of any lien, including filing costs and attorney's fees.

VII.

HOMEOWNER ASSOCIATION FEES, EQUESTRIAN CENTER MEMBERSHIPS, OPERATION AND ASSOCIATED OPERATING COSTS

34. HOMEOWNER & ASSOCIATION FEES: Darby Ranch Subdivision and Equestrian Center shall be operated as a non-profit organization, and monthly Association Fee's shall be assessed to the Homeowners accordingly, to cover the maintenance, improvements and operating costs of Darby Ranch Subdivision and Equestrian Center.

VIII.

AMENDMENTS

None of the above restrictive covenants shall be altered, amended, waived, or rescinded without the written consent of two thirds of the current property owners and Board of Directors of Darby Ranch.

IX.

ACCEPTANCE OF COVENANTS

Every owner or purchaser of a lot within the Darby Ranch Subdivision shall be bound by and subject to all of the provisions of this declaration, and every lot owner or purchaser through his or her purchase or ownership expressly accepts and consents to the operation and enforcement of all of the provisions of this declaration.

Jonathan D. Allen by Tammy Allen, his Attorney
Jonathan D. Allen, Developer *in fact*

April 26, 2007
Date

County of }
 }ss
State of }

On this 26 day of April, in the year 2007 before me, a Notary Public in and for said state, personally appeared Tammy Allen, known or identified to me to be the person who executed the within instrument and is also the Power of Attorney for Jonathan Douglas Allen [husband], and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Rachelle Fullmer
Notary Public for the State of: Idaho
Residing at: Tetonia, Idaho
Commission Expires: 11-12-2008