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Instrument # 176709

DRIGGS, TETON, IDAHO

2006-05-09 02:05:01 No. of Pages: 5

Recorded for : NELSON ENGINEERING

KOLAN G. BOYLE

Ex-Officio Recorder Deputy
Title: DECLARATION OF COVENANTS**176709****FILED**

MAY 09 2006

TIME:
TETON CO. ID DISTRICT COURT**RECEIVED**

MAY 09 2006

TETON CO. ID
CLERK RECORDER

**Declarations of Covenants,
Conditions, and Restrictions to,
The Hay Fields Subdivision**

THIS DECLARATION, made on the day hereinafter set forth by Rocky Mountain Greenhouses, Inc. hereinafter referred to as "Declarant" the owners of the following real property located in Teton County, Idaho:

SE1/4 NW 1/4 Section 4, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho containing 40.94 acres more or less, which property is to be known as The Hay Fields Subdivision upon the recordation of the plat thereof.

The aforesaid real property is being offered for sale and will be sold and conveyed subject to the following covenants, conditions, and restrictions which are for the purpose of protecting the value and desirability of said real property and which covenants, conditions, and restrictions will run with said property and be binding on all parties having any right, title, or interest in such real property, including heirs, successors, and assigns and shall inure to the benefit of each property owner thereof.

Structural Restrictive Covenants

1. All land parcels sold shall be used for residential and/or agricultural purposes exclusively. Residential dwellings shall contain a minimum of 1500 square feet as determined by measuring the heated areas of the dwelling utilized as living space.
2. All structures shall be set back as required in the Teton County Comprehensive Plan for the A-2.5 District in existence on the date hereof and in any event, shall be set back a reasonable distance from any lot line.
3. No trailer, modular homes, mobile homes, or yurts shall be permitted. Only new construction shall be permitted. Stored motor homes and trailers shall be kept under cover and out of sight.
4. Setbacks will be enforced in accordance with Teton County Ordinances 8-4-4. 30' in the front, 30' on the sides, and 40' in rear.
5. Each structure designed for use by human beings shall be connected to an authorized waste disposal system at owner's expense. The waste and water systems on any parcel shall conform to the standards applicable to the area, including without being limited to, the Teton County, Idaho Public Health Department. It is the responsibility of the individual owner to assess groundwater on their property and to locate and to design a waste system, well, and house.
6. Any parcel or properly divided parcel may additionally contain a guesthouse, barn, and other structures associated with single-family units. The exterior completion of any structure must be completed within 2 (two) years of construction start.

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General Restrictive Covenants

1. The landowners who purchase parcels within the parcel described and referenced above (The Hay Fields Subdivision) shall allow an easement for road, underground power, phone, and irrigation for the owners of adjoining lands located in the SE1/4 NW1/4 and the NE1/4 NW1/4 Section 4, Township 5 North, Range 45 East, and the SE1/4 SW1/4 of Section 33, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho as shown on said plat of The Hay Fields Subdivision. This easement is cited on the accompanying plat.
2. The landowners who purchase parcels within the 40 acre parcel shall be allowed an easement for road, underground power, phone, and irrigation through the Cache Tracts subdivision. This easement is cited on the accompanying survey.
3. There will be an easement for road, power, and electric within The Hay Fields Subdivision.
4. Lots may not be further split.
5. Landowners encumbered with fire protection on their parcel will allow for an easement to be used by the Teton County Fire Department. Maintenance of this easement and well will be by the Homeowner's Association. The Homeowner's Association will fund improvements and maintenance to the fire system. This easement is cited in the accompanying plat.
6. The Hay Fields HOA costs associated with the maintenance and upkeep of the pond and road will be shared proportionally by lot with the adjoining subdivisions, Gooseberry Subdivision and Cache Tracts Subdivision. Fees will be determined by the cost to maintenance and upkeep divided by the number of lots in the three subdivisions.
7. A joint agreement will be formed with the adjoining subdivisions to coordinate the same snow removal contract with one contractor. Costs will be shared proportionally. Fees will be measured by the cost to snow removal divided by the number of lots in the three subdivisions.
8. Residential development will be limited until infrastructure improvements are made.
9. Low wattage lighting will be used in any street and residential exterior lighting, and must be directed downward as per the Teton County Dark Sky Ordinances.
10. Refuse, garbage, and trash shall be kept at all times in a covered container and any such container shall be kept within an enclosed structure or appropriately screened from view.
11. Each land parcel sold hereunder and all improvements located thereon shall be maintained by the owner in good condition and repair, including landscaping.
12. Fencing must be maintained around the perimeter of the subdivision property. Fencing on individual properties shall be used in coordination with agricultural and livestock endeavors on the whole of the subdivision. The type of fencing shall be coordinated with the Homeowner's Association. Fencing around the perimeter of the subdivision and fencing used for subdivision agricultural and livestock endeavors will be maintained and funded annually by the Homeowner's

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Association and the Farmer. Adjoining property fencing that borders individual lots will share material, installation, and maintenance costs.

13. No obnoxious or offensive activities shall be carried upon any land parcel which may be a nuisance, disturbance, or annoyance to other land owners in the reasonable enjoyment of their property; specifically, no trailer park, garbage dump, swine farm, or unsightly undertaking ill be permitted under any circumstance. In residential areas, the Homeowner's Association will set up parameters for livestock density in areas immediately surrounding a residential structure. Current residential livestock density parameters will be 2 acres per head of livestock and current residential will be defined per the Teton County Assessor's Zone Assessment.
14. No sign of any kind shall be displayed to the public view on any property sold hereunder except a professional sign (for sale of such property) which shall conform to local customary practice of the area for advertising said property for sale, which can only be placed on the property for a temporary period.
15. The landowners within the 40-acre parcel agree to form a Homeowner's Association to oversee the declaration of covenants, conditions, and restrictions bound to the land. Owners Rocky Mountain Greenhouses, Inc. will incur costs associated with his proportional share of the upkeep of the property. As owner sells and releases ownership, he releases himself of the responsibility of upkeep to said sold property. The Homeowner's Association will be formed when at least two lots have sold. Upon the sale of the second lot, a Homeowner's Association will be formed that will oversee and fund maintenance and improvements to any common areas, roads, snowplowing, fencing, and weed control. All costs associated with the forming and life of the Homeowner's Association will be paid for by owners within the subdivision.
16. The Homeowner's Association agrees to form a joint water company to administer the allocation of, and payments for, the irrigation water to which they are entitled; costs and revenues to be proportionally paid by the then existing landowners. At the start of each season, available water will be used first to fill the fire protection area. Once at capacity, the remainder of the water will be used for agricultural purposes. Revenues derived from the use of irrigation water on site will be shared proportionally based on an acre to share ratio. The 40 acre parcel carries 8.939 shares of Leigh Creek Canal Company; thereby, entitling each acre to 0.223475 shares of water. A 2.5-acre parcel is entitled to 0.558438 shares of water, and thus that same proportion of cost to water and revenue generated by the water.
17. There is 10 acre feet of storage water from the Fremont-Madison Irrigation District to be used to refill any used and/or evaporated fire protection water. The remainder will go to agricultural use.
18. The fire protection system will be maintained and tested annually by the Homeowner's Association.
19. Costs associated with any improvements and maintenance to common areas will be paid for by the Homeowner's Association. This includes maintenance and improvements to the fencing, roads, plowing of snow, and weed control.

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20. A weed management plan will be developed by the Homeowner's Association detailing actions that will be taken to control the germination, control, and spread of weeds on the property. The local USDA office will be consulted in the forming of this plan. Weeds will be monitored by a delegated person within the Homeowners Association. If a landowner is not in compliance, a notice will be sent to the landowner. If non-compliance after 30 days, the HOA will take action to control the weeds and bill the landowner. If the bill is not paid to the HOA, the HOA has the authority to place a lien on the property.
21. Under the Right to Farm Act, it is hereby stated that this area depends heavily on the farm use of land. All means associated with farming in this area will take precedence over any comfort or discomfort a landowner may experience from these farming means.
22. The Homeowner's Association will come to a consensus as to the agricultural use of the water. The water will be used for the common good of the subdivision. The agricultural usage of water will be agreed upon by at least 75% of the then owners. Any owners declining to participate with the 75% of other owners will not share in the revenues or cost of using and administering the water. One representative for the Homeowner's Association will administer the usage of the water.
23. The Homeowner's Association agrees to facilitate any agricultural endeavor that is being pursued. This includes the restrictive use of fencing when said fencing conflicts with agriculture. The future use of fencing on the entire 40 acres will compliment the future use of agriculture. Included in the fencing definition are cattle guards.
24. The quantity of any irrigation water that is the right of adjacent landowners and flows through The Hay Fields shall be allowed to flow unimpeded to the adjacent properties.

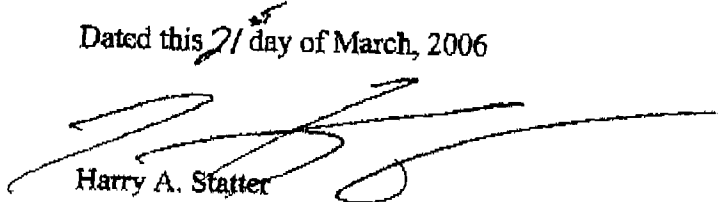
Amendments and Enforcement

1. These covenants, conditions, and restrictions cannot be altered, modified, or amended without the written consent of the undersigned except as provided herein. At such time as the undersigned no longer owns any of the property to which these covenants, conditions, and restrictions apply, said covenants, conditions, and restrictions may then be altered, modified, or amended by an instrument signed and acknowledged by seventy-five percent (75%) of the then property owners. The seventy-five percent (75%) shall be arrived at on the basis of actual acreage ownership (Example: 75% equals 30 acres).
2. Failure to enforce any provision herein shall not constitute a waiver of the right to enforce said provisions.
3. Provisions herein shall be deemed independent and severable and the invalidity or unenforceability of one shall not affect the validity of enforceability of any other.
4. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a mutually beneficial plan for the development of the property rights and management within the effected approximate 40-acre parcel.

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- 5. The grantees of any parcel, by acceptance of a deed; do also accept title subject to these covenants, restrictions, and conditions. Any parcel owner does agree to the observance and enforcement of the same.
- 6. Violations of these covenants, restrictions, and conditions shall be enforceable by any other parcel owner in the 40 acre tract by means of injunction or any other civil proceeding and the violating landowner agrees to reimburse for any legal fees and or costs incurred in obtaining compliance with the same.
- 7. Selling landowner makes it aware and references by the plat map that property boundaries and fence lines do not follow the same path. The seller shares no material, installation, maintenance, and legal liability in any action taken by buyer or adjacent landowner regarding the adjustment to the physical location of these fence lines.

Dated this 21 day of March, 2006


 Harry A. Statter
 President Rocky Mountain Greenhouses, Inc.

Agreed:

~~BOARD OF COUNTY COMMISSIONERS, TETON COUNTY, IDAHO~~

Chairman

~~PLANNING AND ZONING COMMISSION, TETON COUNTY, IDAHO~~

Chairman

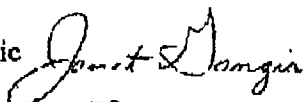
(Owner/Developer name)

State of Idaho

County of Teton

On this 21 day of March 2006, before me, a Notary Public for the State of Idaho, personally appeared Harry Statter known to be the person(s) whose name(s) is executed above, and acknowledged that he executed the same.

Notary Public



Residing

Teton

Commission expires

4/30/10

JANET GANGIS
 NOTARY PUBLIC
 STATE OF IDAHO

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