

After Recording Return to:
Cherry Hill Estates, Inc.
3611 Orchard Street
West Richland, WA 99353



BENTON FRANKLIN TITLE CO.

70355/FH/US
CHERRY HILL ESTATES, INC.'S 27#
FIFTH AMENDED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Fifth Amended Declaration of Covenants, Conditions and Restrictions (hereinafter "Fifth Amended Declaration") is made by Cherry Hill Estates, Inc., a Washington Corporation (hereinafter "Corporation"). This Fifth Amended Declaration **SUPERCEDES** the original Declaration on file herein under Benton County, Washington, Auditor's file Number 2002-014057, and the Amendments thereof, on file herein under Benton County, Washington, Auditor's File Numbers 2002-014444, 2002-023618, 2002-042788, 2002-043115, and 2003-005490.

This Fifth Amended Declaration affects the following described real property located in Benton County, Washington:

The Final Plat of Cherry Hill Estates, located in the S.W. 1/4, S.E. 1/4, Sec. 5, T. 9 N., R. 28 E., W.M., being Lots 1 through 7, Block 1, Lots 1 through 32, Block 2, Lots 1 through 6, Block 3, and Lots 1 through 6, Block 4, in the City of West Richland, Benton County, Washington, which was filed for record May 21, 2002 and recorded in Volume 15 of Plats, page 173, records of the Benton County, Washington Auditor's Office, being Parcel numbers 0598-404-0001-001 through 007; 0598-404-0002-001 through -032, 0598-404-0003-001 through 006, and 0598-404-0004-001 through 006.

WITNESSETH

WHEREAS, the Corporation owns Real Property located in the City of West Richland, Benton County, Washington which has been surveyed, developed and platted into 51 residential building Lots known as the Plat of Cherry Hill Estates; and

WHEREAS, the 51 residential building Lots shall be conveyed, subject to this Fifth Amended Declaration and other restrictions, reservations, easements, right of access, assessments and other matters of record.

NOW, THEREFORE, the Corporation hereby declares that the 51 Lots located in the Plat of Cherry Hill Estates, as recorded in Volume 15 of Plats, page 173, records of Benton County, Washington, shall be and are held, sold, and conveyed subject to this Fifth Amended Declaration. This Fifth Amended Declaration is for the purpose of enhancing and protecting the value, desirability, and attractiveness of said 51 Lots for residential purposes. This Fifth Amended Declaration shall run with said 51 Lots and shall be binding on all persons or entities having or acquiring any right, title or interest in the 51 Lots or any part thereof. This Fifth Amended Declaration is for the benefit of each Owner of a Lot in the Plat and the Columbia Irrigation District and the City of West Richland, Washington, as their interests may appear.

ARTICLE I. DEFINITIONS

1. **“Contractor” or “Contractors”** means any contractor, contractors, subcontractor and subcontractors constructing dwellings, accessory buildings and structures on the Lots on the Real Property in the Plat.
2. **“Corporation”** means CHERRY HILL ESTATES, INC., a Washington Corporation, its successors and assigns.
3. **“Dwelling” and “Dwellings”** means a single family dwelling with a private garage for not less than two (2) automobiles.
4. **“Elevation” or “Elevations”** means the exterior front, rear and sides of all dwellings constructed on all Lots in the Plat.
5. **“Lot” and “Lots”** means any one or all of the 51 residential building Lots in the Plat of Cherry Hill Estates, as recorded in the Office of the Benton County Auditor, in Volume 15 of Plats, page 173, records of Benton County, Washington.
6. **“Owner” or “Owners”** means the record Owner, whether one or more persons or entities, of a fee simple title to any Lot or Lots located in the Plat, including contract purchasers, but excluding those persons or entities having such interest merely as security for the performance of an obligation.
7. **“Plat”** means the Plat of Cherry Hill Estates as recorded in the Office of the Benton County Auditor, in Volume 15 of Plats, page 173, records of Benton County, Washington.
8. **“Properties” and “Real Property”** means the 51 residential building Lots located in the Plat of Cherry Hill Estates, as recorded in the Office of the Benton County Auditor, in Volume 15 of Plats, page 173, records of Benton County, Washington.

9. "Vehicle" or "Vehicles" means operable or inoperable automobiles, pickup trucks, buses, trucks, vans, mounted and unmounted campers, motor homes, trailers, tent trailers, sail boats, motor boats, snow mobiles, mobile homes, motorcycles, all-terrain vehicles, trail bikes, farm implements, and any and all other similar items of personal property, together with the trailers and other vehicles used for transporting same.

ARTICLE II. COVENANTS, CONDITIONS, RESTRICTIONS, USES, STANDARDS AND SIZES

1. **Enjoyment of Property:** An Owner shall use his respective Lot and Real Property for his enjoyment in such a manner so as to not offend or detract from other Owners' value and enjoyment of their own respective Lots and real properties.

2. **Residential Character of Property:** No dwelling of any kind shall be erected, altered, placed, or permitted to remain on any Lot in the Plat other than an on-site constructed single family dwelling with a private garage for not less than two (2) automobiles. No "mobile home", "manufactured home" or "modular home" shall be transported to or erected or placed on any Lot in the Plat.

3. **Architectural Control:** No dwelling, accessory building, structure, landscaping or fence shall be erected, placed, planted, or altered on any Lot in the Plat until the dwelling plans, accessory building or structure plans, alteration specifications, exterior color schemes, and fencing plans, showing the nature, kind, shape, height, materials, exterior colors and location with respect to topography, and finished ground elevation, of such dwelling, accessory building, structure, or fence have been submitted in writing to and have been approved in writing by the Corporation. Such dwelling, accessory building, structure, exterior colors schemes, and fence shall conform with the requirements of this Fifth Amended Declaration.

In the event the Corporation fails to approve or disapprove such dwelling plans, accessory building or structure plans, alteration specifications, exterior color schemes, and fencing plans within fifteen (15) days after being received by the Corporation, this paragraph concerning architectural control shall be deemed to have been fully complied with.

All dwelling plans, accessory building plans, structure plans, alteration specifications, plot plans, landscaping plans and fence plans proposed by Varsity Homes, Inc. have been accepted by the Corporation.

All other dwelling plans, accessory building plans, structure plans, alteration specifications, plot plans, landscaping plans and fence plans shall be submitted to the Corporation at the following address:

Cherry Hill Estates, Inc.
3611 Orchard Street
West Richland, Washington, 99353

4. (a) **Accessory Buildings and Structures:** Accessory buildings and structures shall be of the same construction, finish, and color as is the dwelling on the Lot, must be located at least ten feet (10') behind the front elevations of the dwellings on the Lots, and must have roof peaks and side walls not exceeding seven feet (7') in height and not containing more than one hundred (100) square feet of floor space.
- (b) **Mailboxes:** The U.S. Postal Service will provide mailbox clusters and will supply keys to the individual mailboxes. Replacement of mailboxes necessitated by damage from whatever source shall be at the expense of the Contractor, Owner, or other person or party causing the damage.
- (c) **Job Site Maintenance:** Owners and Contractors shall be responsible for maintaining the job site in an orderly manner. All debris shall be consolidated into neat piles, or picked up by the close of business every Friday. Temporary toilets shall be placed within the property boundary limits. Streets shall remain free from dirt, gravel, or other excavation materials and shall be maintained by the Owners and Contractors in a clean and orderly manner.
- (d) **Completion of Construction:** A dwelling erected on any Lot in the Plat shall be completed and ready for occupancy within six (6) months from the date the Building Permit for construction of the dwelling on the Lot is issued.
- (e) **Business and Commercial Use of Property:** No trade, craft, business, commercial or manufacturing enterprise or activity of any kind which involves any person or customer coming to the Owner's home, including but not limited to church schools, daycare and children's nurseries, shall be conducted or carried on or in any dwelling upon any of the Lots.
- (e) **Animals:** No more than two (2) dogs and two (2) cats may be kept on a Lot in the Plat.
- Animals may not walk or run off their Owner's Lot unless they are on a leash. Owners' animals' waste shall be immediately disposed of by Owners immediately after being deposited on any Lot or street in the Plat. Dogs without leashes shall not be permitted on the construction site.
- (f) **Temporary Residences:** No vehicle, basement, tent, shack, garage, barn, or other outbuilding, or any structure of a temporary character erected or placed on a Lot in the Plat shall at any time be used as a residence, temporarily or permanently.

(g) **Vehicles:** No vehicle shall be stored other than in the Owner's garage. No vehicles shall be parked on any Owner's Lot, other than in the Owner's garage, or behind a six foot (6') high fence on the side elevation of the Owner's dwelling adjacent to the dwelling's garage but only if the vehicle is located at least ten feet (10') behind the front elevation of the dwelling on the Lot and only if the vehicle cannot be seen by the general public from the public street in front of the Owner's dwelling. Only automobiles and pickup trucks may be parked on the driveway of the Owner's garage.

No vehicle or vehicles shall be dismantled on Lots or streets in the Plat. No Owner of any Lot in the Plat shall permit any vehicle owned by him or by the Owner's family members, or his or their acquaintances, to be inoperable and remain parked upon any street within the Plat for more than forty eight (48) hours.

No vehicle shall be parked on the streets in the Plat, except on an intermittent basis.

(h) **Trash Dumping:** No Lot shall be used as a disposal site for trash or rubbish of any kind. Animal waste, rocks, lawn and yard rakings, shrubbery clippings, dirt and other material resulting from landscaping work shall not be dumped onto public streets, ditches, or other Owners' Lots.

(i) **Signs:** No signs shall be erected or maintained on any Lot in the Plat, except that not more than one FOR SALE or FOR RENT sign may be placed by the Owner or the Contractor or by a licensed real estate broker on a Lot.

(j) **Radio and Television Aerials and Antennas and Satellite Dishes:** No radio aerials or antennas, rotary beams, separate towers or other similar devices shall be erected or placed on any Lot, dwelling, accessory building or structure in the Plat. The placement and location of a television dish antenna, satellite receiving dish, or other electronic receiving device, smaller than two feet (2') in diameter, may be placed on the side or rear elevations of a dwelling.

(k) **Lights:** No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed upwards or reflected onto any other street or Lot in the Plat.

5. **Landscaping Standards:** The following standards relate to the planting and growing of grass, landscaping plants, and trees on the Lots in the Plat:

(a) No sycamore, black locust, apple, or cherry trees shall be planted on any Lot in the Plat. Other fruit producing trees may be planted in the Plat if the Owner

strictly complies with all requirements for the care of fruit trees and the prevention and spread of fruit tree diseases, as recommended by the Benton County Extension Agent.

(b) Xeriscaping of Lots is encouraged as is consultation with Wildlands, Inc., 375.4177. The sides of all Lots abutting streets in the Plat must be fully landscaped before the dwelling thereon is occupied. All yards of all Lots shall be landscaped within 180 days of the time a Certificate of Occupancy is issued.

(c) A list, labeled "Exhibit A", of evergreens, shrubs, grasses, and trees suitable for planting on Lots in the Plat is attached.

6. **Irrigation:** The irrigation system which supplies irrigation water to all Lots in the Plat is owned and operated by the Columbia Irrigation District. It will assess each Lot in the Plat an annual assessment. All Lots in the Plat shall receive irrigation water only on alternate days. No Owner shall cause any Lot in the Plat to receive irrigation water on successive days. No Owner shall cause the irrigation system on his Lot to be connected to the potable water system servicing his dwelling. No Owner shall obstruct the irrigation easement on the Owner's Lot which cannot be easily removed. If the Columbia Irrigation District has to remove any objects from the easement the Owner may be assessed the costs of removal and the objects will not be replaced. No Owner shall cause a water well to be drilled on his Lot in the Plat. **(Deep watering of plants and grasses will result in better plants and grasses and ultimately reduce irrigation needs.)**

7. **Window Coverings:** Owners shall cause all windows on all dwellings in the Plat to be covered with commercially prepared temporary window shades at or before the time the dwelling is occupied. **(Temporary window coverings or "Redi-Shades" are sold for a nominal price at Home Depot.)** No newspapers, bed sheets or other makeshift window coverings shall be used as a temporary window covering on any dwelling on any Lot in the Plat at any time. No aluminum foil shall be placed at any time on or in any windows in any dwelling on any Lot in the Plat.

8. **Wood Piles:** Wood piles shall be located at least ten feet (10') behind the front elevation of a dwelling on any Lot in the Plat. **(Wood piles next to dwellings often cause termite infestations in dwellings.)**

9. **Fencing Requirements:** Fence materials, stain specifications, color, location and construction details must be approved in writing by the Corporation prior to placement on a Lot in the Plat.

No fence may be placed between the front elevation of a dwelling and the public street adjacent to the front elevation. A wall, hedge, or mass planting shall be subject to the same restriction as a fence. No chain link fences may be erected on any Lot in the Plat. Fences shall be constructed of cedar, be stained within sixty (60) days of installation, and no interior

supports, framing partitions or any other hardware shall be visible from adjacent Properties. All Lots shall use the same color stain on fences to promote aesthetic conformity in the Plat.

A Lot will be fenced prior to construction of any accessory building or structure on the Lot. Whenever possible, adjoining Lots shall use common corner posts. All fences shall be not more than six feet (6') high, and even then must conform with the City of West Richland Municipal Codes as to quality of construction and height.

ARTICLE III. MORTGAGE PROTECTED

Nothing herein contained shall impair or defeat the lien of any mortgage or deed of trust now or hereafter recorded covering any Lot or Lots, but title to any Lot obtained as a result of foreclosure shall hereafter be held subject to all of the provisions herein.

ARTICLE IV. GENERAL PROVISIONS

1. **Enforcement:** The Columbia Irrigation District and the City of West Richland, Washington, have the right to enforce by legal proceedings Article II, Sections 5 and 6 of this Fifth Amended Declaration which sections relate to landscaping and irrigation. After the Corporation sells 50 Lots, each Owner of a Lot in the Plat shall have the right to enforce by legal proceedings all restrictions, conditions, protective covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Fifth Amended Declaration. Failure of the Corporation or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. **Attorney Fees and Court Costs:** In the event of a dispute involving this Fifth Amended Declaration or any provision thereof, the prevailing party, whether before or after a legal action is commenced, shall be paid all of his or its reasonable attorney fees, out-of-pocket litigation costs, and all statutory court costs incurred in connection with the dispute and litigation.

3. **Severability:** Invalidation of any one of these covenants, conditions or restrictions by legislation or by a court of record shall not affect any other provisions of this Fifth Amended Declaration, which shall remain in full force and effect.

4. **Amendment:** The covenants, conditions and restrictions of this Fifth Amended Declaration shall run with and bind all Real Property and the Lots in the Plat, for a term of ten (10) years after the Fifth Amended Declaration is recorded and shall inure to the benefit of and be enforceable by the Columbia Irrigation District, the City of West Richland, Washington, the Corporation and the Owner of any Lot (after the Corporation sells 50 Lots) their respective legal representatives, heirs, successors, and assigns. Thereafter the Fifth Amended Declaration and its provisions shall be automatically extended for successive periods of ten (10) years unless an instrument amending or terminating this Fifth Amended Declaration or its



EVERGREENS

Rocky Mountain Juniper
Juniperus scopulorum
30" at maturity. Rugged, pyramidal tree with silvery foliage. Survives well in hot, dry summers. Hardier, more drought tolerant and wind resistant than any of its cultivars.

American Arborvitae
Thuja Occidentalis
20'-30" at maturity. Makes elegant, narrow hedge either sheared or left to its natural pyramidal shape.

SHRUBS

Butterfly Bush
Buddleia Davidii
4'-6" at maturity. Vigorous growing, steady bloomer with beautiful display of lilac colored flowers.

Purple Lilac
Syringa Vulgaris
12'-20" at maturity. Fragrant purple blossoms in May, attractive green foliage. Good choice for screening.

Mock Orange
Philadelphus Lewisii
10' at maturity. Masses of white, very fragrant blossoms. Upright form, good for hedges. Drought tolerant.

Golden Currant
Ribes aureum
3'-6" at maturity. Erect shrub with clusters of 2" long fragrant golden flowers. Colorful fruit attracts birds.

Ble Sagebrush
Artemisia tridentata
Now is being planted in large numbers at the Hanford site after the big fire two summers ago. This shrub also can be purchased for the garden.

DENSE SHRUBS

Siberian Pea Shrub
Caragana arborescens
18' at maturity. Excellent screen or windbreak. Produces bright yellow flowers in May. Drought tolerant, widely planted in all conditions.

Rugosa Rose
Rosa rugosa
4'-6" at maturity. Extremely vigorous and hardy plant. Deep pink to white flowers up to 3". Excellent hedge, provides food and cover for wildlife.

Attractive shrubs for the yard and are available for purchase.

Bitterbrush
Furshia tridentata
Purple Sage
Salvia dorii
Rock Buckwheat
Eriogonum sphaerocephalum

GRASSES

Many bunchgrasses are used in restoration and will do well in your yard. Varieties available include:

Bluebunch Wheatgrass
Pseudoroegneria spicata
Sandberg's Bluegrass
Poa secunda
Needle-and-Thread Grass
Hesperostipa comata
Indian Rice Grass
Achnatherum hymenoides
Sand Dronseed
Sporobolus cryptandrus

TREES

Double Weeping Cherry
Prunus subhirtella
'Pendula Plena Rosea'
25 feet by 25 feet
In addition to a graceful weeping form, the multiseasonal interest of double pink flowers in the spring and yellow to bronze leaf color in the fall make this tree a wonderful focal point.

This species of flowering cherry is long-lived, hardier and more heat and stress tolerant than many of the other flowering cherry species.

Flowering Pear
Pyrus calleryana
Size varies with cultivar ranging from 12 to 40 feet

Many Mid-Columbia communities are planting flowering pears as public trees because they are so durable and have a pretty display of fragrant white flowers in the spring, along with attractive fall colors.

They have few pest or disease problems and tolerate Mid-Columbia conditions quiet well.

Many of the cultivars have more of an upright pyramidal shape, becoming more rounded with age. There also are some cultivars with columnar, rounded or very compact rounded crowns.

Red Maple
Acer rubrum
40-by-45
The true red maples (not to be confused with Norway maples with purple leaves) just can't be beat for their riotous display of brilliant orange to bright red leaves in the fall.

October Glory has some of the best fall color you can find. October Glory is better adapted to areas like the Mid-Columbia with hot summers. During the spring and summer the leaves of red maple are green.

Heritage River Birch
Betula nigra 'Cully'
40-by-30
Many white-barked birches in the Mid-Columbia are succumbing to bronze birch borer, so if you want to grow a birch with interesting bark this is the one to try.

The peeling bark is a mottled mosaic of cream, orange and tan colors. The leaves are large, glossy and light green.

Red Oak
Quercus rubra
50-by-45
If you want an oak, pick this one. It tolerates the Mid-Columbia's alkaline soil conditions and grows relatively fast, plus its dark green leaves turn a beautiful rich red in the fall. This is a bit large as a focal point tree but worth considering for larger homes and landscapes.

Quaking Aspen
Populus tremuloides
20' at maturity. Beautiful fast growing native tree that is extremely cold hardy. Green heart shaped leaves turn brilliant yellow in the fall.

Honey Locust
Gleditsia tricanthos
50' at maturity. Thornless, fast growing, upright and spreading. Tolerant of wide range of soil and climatic conditions.