

409 S 23rd PASCO
99201



1603958
Page: 1 of 9
04/04/2002 10:34A
Franklin Co, WA

DECLARATION OF PROTECTIVE COVENANTS FOR DESERT ESTATES

THIS DECLARATION is made on the 16th day of October 2001, by the undersigned owners of the real property herein described.

WITNESSETH:

WHEREAS, the property herein described is currently planned for private, residential lots, and

WHEREAS, it is the undersigned's intention that said lots will be developed and sold subject to certain protective covenants, easements, conditions, restrictions, and reservations, as hereinafter set forth;

NOW, THEREFORE, the undersigned hereby declare that all the properties described below shall be held, sold, conveyed and developed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing the value and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties now having or hereafter acquiring any right, title or interest in the described properties or any part thereof and shall inure to the benefit of each owner thereof.

SECTION ONE

Definitions

A. Owner. The term "Owner" shall mean and refer to the record owner, whether one or more person or entities, of a fee simple title to any Lot or portion of said plat, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

B. Developer. The term "Developer" shall mean and refer to Bitton/Barton.

SECTION TWO

Real Property

A. Desert Estates. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the declaration is located in the City of Pasco, County of Franklin, State of Washington, and legally described as follows:

The Plat of Desert Estates, as recorded in City of Pasco, records of Franklin County, Washington.

Contains 18 acres more or less.



1603958

Page: 2 of 9
04/04/2002 10:34A
Franklin Co, WA

B. Annexation of Subsequent Phases. Developer may, from time to time, annex to Desert Estates and adjacent real property now owned or hereafter acquired by Developer. The annexation of such additional phases shall be accomplished as follow:

1. The Developer shall record a declaration which shall, among other things, describe the real property to be annexed, establish any additional or different limitations, restricts, covenants, and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to these covenants.

2. The property included by any such annexation shall become a part of these covenants.

3. Declaration with respect to any annexed property may:

a. Establish such new land classification and such limitations, restrictions, covenants and conditions with respect thereto as Developer may deem to be appropriate for the development of such annexed property subject to applicable municipal regulations.

b. With respect to existing land with classifications, establish such additional or different limitations, restrictions, covenants, and conditions with respect thereto as declarants may deem to be appropriate for the development of such annexed property.

SECTION THREE

BUILDING AND DESIGN COMMITTEE

A. Creation of Building and Design Committee. There shall be created a Building and Design Committee, which shall be responsible for reviewing the plans for all proposed new construction, additions, or modifications. Such committee shall be responsible to ascertain that the plans and subsequent construction meet the minimum building requirements set forth in this declaration. The primary purpose of such committee shall be to assist property owners in achieving compliance with such building restrictions. Such committee shall allow the greatest possible latitude and flexibility in the design of homes to be built on the lots in the subdivision and shall not discourage new or innovative design concepts or ideas.

B. Composition of Building and Design Committee. The Building and Design Committee shall consist of three (3) property owners within the real property described above; provided the Building and Design Committee shall compose solely of the developers above names until least 85% of the lots have been sold to third parties. Thereafter, membership on said committee shall be determined annually at a meeting of property owners at which the committee will be selected by majority vote of those property owners present.



C. Submission of Plans. Any property owner seeking to construct a new home or other appurtenant structure, or to add to or modify any portion of the exterior of an existing home or structure, shall submit the plans to the Building and Design Committee for review. A modification of the home exterior will include decks, hot tubs, patios, pools, and similar alterations. Construction of new structures includes equipment and material housing, dog runs, gazebos, arbors associated with landscaping, and other similar construction.

D. Approval of Plans. No construction, change, modification, or alteration for which plans are to be submitted to the Building and Design Committee pursuant to Paragraph C., immediately above, shall commence until the plans and specifications showing the nature, kind, shape height, materials, and location of the same shall have been submitted to and approved in writing by the Building and Design Committee, approval will be based upon factors set forth in Section IV below, but is not limited to those considerations so long as the committee acts reasonably, uniformly and consistently in its approval or disapproval. In the event the Building and Design Committee fails to approve or disapprove such design and location plan within sixty (60) days after such plans and specifications have been submitted to it, approval will not be required and full compliance with this section of the declaration will be deemed to have occurred.

E. Liability of Committee and Homeowner Compliance. In spite of the foregoing provisions, the Building and Design Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in the declaration, and no member of the Building and Design Committee shall have any liability, responsibility, or obligation whatsoever, for any decision or lack thereof, in the carrying out of duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the Building and Design Committee and each of its members on account of any activities of the Building and Design Committee relating to such owner's property or buildings to be constructed on his or her property.

SECTION FOUR

BUILDING AND USE RESTRICTIONS

A. Building Restrictions. No building except a single-family residential building together with such other accessory buildings as may be permitted by local land use or ordinances shall be permitted. Such accessory buildings shall not be used for, or in connection with, multi-family living, and each building site shall be used for no more than one family. No manufacturing or commercial activities shall be permitted on any lot.



B. Dwelling Size Restrictions. No building shall be permitted on any lot if said building has a market value of less than \$190,000.00, exclusive of land, based on price levels prevailing on the date these covenants are recorded. The floor areas of the main structures, exclusive of one-story open porches and garages, shall be not less than 1,900 square feet for a one story non-basement dwelling, 2,200 square feet for a split level dwelling (three levels), 2,400 square feet for a two story, or split foyer dwelling (3 levels, but excluding basement) and 1,900 square feet of main structure for a dwelling with at least a half basement.

C. Residence Restrictions. No trailer, tent, shack, garage, barn, or other outbuildings shall at any time be used as a residence, temporarily or permanently, on any building site. No contractor or subcontractor shall live on or near the building site during construction

D. Substantial Completion of Construction. Purchasers of any lot or lots must begin construction within six months from the date of acquisition. Acquisition shall include purchase under contract. Construction shall be completed as to exterior appearance including finished painting and restoration of lot grade within 10 months from the date of commencement of construction. If these requirements are not met, the Developer shall have the option of repurchasing the lots or lots at its original price less 20% for sale costs. Seeding of restored lot to grass, planting, or the equivalent shall be completed within 60 days from the commencement of construction or ground breaking. All landscaping shall be to the general standards of adjoining properties.

E. Sign Restrictions. No sign of any kind shall be displayed to public view on any building site, except for a sign, limited to one, advertising the property for sale, which sign shall not larger than sixteen (16) square feet.

F. Water Run-off and Control Restrictions. All lot owners shall provide and maintain proper facilities to control storm water run-off onto adjacent properties and to insure that sediments do not enter the natural drainage system. Lot owners are liable for dust control from the date of reservation and/or subsequent purchase

G. Compliance with Applicable Building Codes. All buildings and improvements shall be constructed in compliance with the pertinent zoning and building codes for the city of Pasco, County of Franklin, and any and all other governmental entities that have jurisdiction thereof at the time of undertaking such buildings and improvements. No dwelling house, garage, or their accessory building or part thereof (exclusive of fences and similar structures) shall be places nearer to the front lot line or nearer to the side lot line or to the rear lot line that the minimum building setback lines, in any, imposed by the City of Pasco, or as shown on the recorded plat of the subdivision, whichever is more restrictive. The purchaser of any lot will be required to install a sidewalk meeting City of Pasco specifications and requirements along all street borders. No fences beyond front of house.

H. Roofing Material. All roofing material shall be approved by the Building and Design Committee, thirty year roof minimum.

I. Roof Design. Flat roofs are prohibited. Minimum of 7/12 pitch.

J. Exterior. A minimum of 25% of the exterior surface of the walls including garages shall consist of stucco, dryvit, brick, or masonry. No vertical siding may be used without the written approval of the Building and Design Committee; the Building and Design Committee may specify a minimum grade or equivalent laminate roofing material. All structures must be roofed by architectural laminate roofing material or tile roofing with a minimum thirty-year warranty approved in advance by the Building and Design Committee. Colors of the main structure and secondary structures shall be the same or complementary. Exterior colors including roofing must be approved by the Building and Design Committee prior to construction.

K. Wire and Utility Height Restrictions. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground and no such wires shall show on the exterior of any building unless the same shall be underground or in a conduit attached to a building. No television or radio antenna or aerial shall be installed that has a height in excess of twenty (20) feet above ground. For this purpose, the ground level shall be determined by using the same ground level as is used for determining the maximum height restriction for houses to be constructed on the property under the then-prevailing zoning and building restrictions. Such ground level shall apply whether or not the antenna or aerial is located above the roofline of the residence.

L. Exposed Mechanical Equipment. Heat pumps, propane tanks, solar devices, chimney flues, hot tub pumps, swimming pools pumps and filtration systems, satellite dishes, and similarly exposed mechanical equipment, shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety concerns.

M. Driveways and Parking Strips. All driveways and parking bays shall be constructed of concrete, concrete aggregate, brick, or asphalt unless written approval for the use of some material is given by the Building and Design Committee.

N. Restrictions on Construction of Fences. No fences shall be constructed except after approval and review by the Building and Design Committee, and all fences shall be designed and constructed so as to be compatible with the neighborhood. All fences shall be designed and constructed so as not to constitute a nuisance or offensive effect on other persons residing within the subdivision.

O. Nuisance and Use Restrictions. No noxious, illegal, or offensive use of property shall be carried on any lot, nor shall anything be done thereon that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or



noncommercial, religious or otherwise, including church schools, nor shall such premises be used for any other purpose whatsoever except for the purpose of providing a private, single-family dwelling or residence.

P. Refuse and Maintenance Restrictions. No trash, garbage, ashes, of other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects, shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

Q. Stored or Abandoned Vehicles and Equipment. Any automobile or other vehicle deemed to be in inoperative condition in excess of ten (10) days and which causes an undesirable affect on the area may be removed by suit commenced at the request of any Owner. This Property shall not be used for storage for construction machinery, rental equipment or farm equipment. No inoperable machinery, including tractors, trucks, or automobiles may be held on the Property for more than three months. No used machinery or scrap equipment, implements, automobiles, or conspicuous parts of such equipment which serve no purpose in operation of the estate may be held or accumulated on the Property.

R. Mailbox/Postal Box Design and Maintenance Restrictions. All Mailboxes and mailbox holders shall be of a standard design accepted by the Building and Design Committee and adhering to the applicable specifications of the U.S. Postal Service. All mailboxes shall be located as directed by the U.S. Postal Service. Each lot owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it a state of repair at all times.

S. Livestock Restrictions. Domesticated cats and dogs, not to exceed a total to three (3) are permitted

T. Vehicle Parking. All vehicle parking will be off street parking. No parking of commercial vehicles of any kind or nature is permitted anywhere on the Property. All RV's shall be parked behind a fenced area.

U. Refuse. No lot shall be used or maintained as a dumping ground for rubbish, trash, yard debris, garbage, or other waste. Any waste must be kept in sanitary containers until properly disposed of.

V. Easements. Easements shown on the face of the plat of the Real Property shall be maintained by the owners of the lot subject to the easement. No plantings, structures, barriers of any type, or other materials shall be placed upon said easements in a manner which may damage or interfere with the installation and maintenance of utilities, which may hinder the access or use for which the easement was established. Owners of lots must be aware that fences, structures, or barriers of any type that interfere with access to the easement or the use for which the easement was established, may require the removal at the lot owner's cost and expense.

W. Variances. Variances to the Covenants, Conditions, Restrictions, Reservations and Easements, may be made in the sole discretion of the Building and Design Committee on a case by case basis to accommodate various circumstances including, but not limited to, lot size, irregularities of lot contour or lot lines, view enhancement or restriction and similar matters.

SECTION FIVE

MISCELLANEOUS AND GENERAL PROVISIONS .

A. Modification of Restrictions. By written consent of seventy-five percent (75%) of all of the lot owners, the association may be given such additional powers as may be described by the association, or otherwise modify or amend this declaration in any manner, Provided, so long as Developer continues to own, or have an ownership interest in adjoining properties, these covenants may not be modified or terminated without prior approval and consent of Developer (signature of any one member of the Developer group will be sufficient), it being understood that Developer will not unreasonably prohibit modification of these covenants so long as the proposed amendments do not impair the value of the surrounding property owned or retained by Developer.

B. Severability Clause. The association shall, at all time, observe all of the laws, regulations, ordinances, and the like of the City of Pasco, County of Franklin, State of Washington, and the United States of America, and if at any time, any of the provisions of this declaration shall be found to be in conflict therewith, then such parts of the declaration as are in conflict with such laws, regulations ordinances, and the life shall become null and void, but no other part of this declaration not in conflict therewith shall be affected thereby.

C. Termination of Declaration, Covenants, Conditions, and Restrictions. This declaration may be terminated, and all of the real property now or hereafter affected may be released from all or any part of the terms and conditions of this declaration, by the owners of seventy-five percent (75%) of the properties subject hereto at any time it is proposed to terminate this declaration, by executing and acknowledging and appropriate written agreement or agreements for that purpose, and filing at the same with the office of the Franklin County Auditor, County of Franklin, State of Washington.

D. Covenants, Conditions, and Restriction Run with the Land. All of the provisions of this declaration shall be deemed to be covenants running with the land, and shall be binding on the inure to the benefit of the owners of the properties described above, their heirs, successors, and assigns, and all parties claiming by, through, or under them shall be taken to hold, agree, and covenant with such owners, their successors in title, and with each other, to confirm to and observe all of the terms and conditions contained in this declaration.



1603958

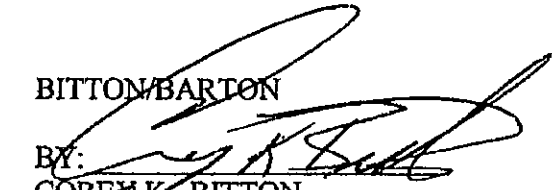
Page: 8 of 9
04/04/2002 10:34A

E. Standing to Enforce Terms of Declaration. Any lot owner, or the Building and Design Committee, on behalf of all owners, may maintain legal proceedings to compel or enforce any of the terms and conditions of this declaration. In addition, so long as the Developer has an interest in any adjoining properties, Developer, acting through one of its representatives, may enforce these covenants. In any such action, the prevailing party shall be entitled to recover its reasonable costs and attorney fees.

IN WITNESS WHEREOF, the undersigned have caused this declaration to be executed at Pasco, WA on the date indicated below.

DATED this 7th day of March, ²⁰⁰²~~2001~~.

BITTON/BARTON

BY: 
COREY K. BITTON

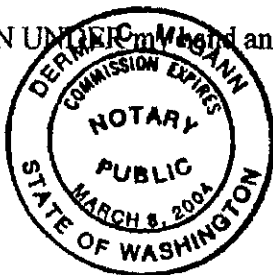

ROBERT G. BARTON


STATE OF WASHINGTON)

COUNTY OF Franklin)ss.

On this 7th day of March, ²⁰⁰²~~2001~~, personally appeared before me Corey K. Bitton, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that they signed the same as their free and voluntary act and deed for the purposes therein mentioned.

GIVEN UNDER MY hand and official seal this 7th day of March, ²⁰⁰²~~2001~~.




Notary Public in and for the State of Washington, residing at

