



2060504944

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5/26/2006 3:08 PM
D/RC \$42.00
Whatcom County, WA

Request of: MOUNTAIN VIEW RD DEV

Filed for Record at Request of:

Mountain View Road Development
405 14th St
Bellingham WA 98225

DOCUMENT TITLE(S):

Declaration of covenants, conditions,
and reservations and restrictions

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR(S) (Last name, First name and MI):

Mike Hammes

GRANTEE(S) (Last name, First name, and MI):

ABBREVIATED LEGAL DESCRIPTION (Lot, block, plat or section, township, range):

East Half of the NW quarter of the NW quarter of the NW
quarter of section 30 Township 39 North, Range 2
East of WM, Except Mtn View Rd see pg 11

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER(S):

390230 0504960000

**DECLARATION
OF
COVENANTS, CONDITIONS, RESERVATIONS AND
RESTRICTIONS
FOR THE
MOUNTAINVIEW MEADOWS SUBDIVISION**

The undersigned Owners of the following described real property do hereby adopt the following covenants, conditions and restrictions (C,C,&Rs):

See Exhibit "A," attached hereto.

(Hereinafter referred to as the "Property").

I. RECITALS

- A. The Declarant has received Final Plat approval from the City of Ferndale for a 15 lot subdivision known as "Mountainview Meadows," recorded under Whatcom County Auditor's Field No. 2060504943 in Volume of Plats, Page , records of Whatcom County, Washington, hereinafter referred to as the "Subdivision."
- B. It is the desire and intention of the Declarant to sell the Subdivision and to impose upon it mutually beneficial restrictions under a common plan or scheme of improvement for the benefit of all Lots, tracts or lands in the Subdivision, the future Owners of those lands, and such other persons, corporations or entities as may be designated herein.
- C. It is the desire and intention of the Declarant to establish and maintain a common plan for all Property included in this Subdivision which will result in a residential area where property values, desirability, and attractiveness will be enhanced and protected.

NOW, THEREFORE, the Declarant hereby certifies and declares that the conditions, covenants and restrictions herein set forth shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the Subdivision or any part thereof.

II. LAND CLASSIFICATIONS AND DEFINITIONS

- A. **"Declarant"** shall mean the undersigned Owners of the Subdivision.
- B. **"Declaration"** shall mean and refer to the contents of this entire document and amendments.
- C. **"Owner"** shall refer to the record owner, including trustees and including vendees under real estate contracts, whether one or more persons or entities, but shall not include a mortgagee or beneficiary under a deed of trust. Owners shall also include builders who purchase Lots for construction and resale.

- D. **"Lot"** shall refer to any platted single-family residential lot designated by Arabic number located within the Subdivision.
- E. **"Utility Easement"** shall refer to the non-exclusive easements established for utility access as required by the City of Ferndale for maintenance as noted on the face of the plat map.
- F. **"Association"** is the Mountainview Meadows Homeowner's Association, a private, nonprofit corporation organized for the purposes set forth in this Declaration.
- G. **"Signage Easement"** refers to the real Property within the Subdivision for locating monuments identifying the plat of Mountainview Meadows, and located outside of the building setback areas on Lots 2 and 14. The Declarant may establish such signage in such areas.
- H. **"Improvements"** improvements shall mean and include without limitation any building, outbuildings, private roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs or any other structure or landscaping.

III. LOT USE RESTRICTIONS AND REQUIREMENTS

- A. All Lots shall be used exclusively for permanent residential purposes.
- B. No business activities in violation of the City of Ferndale Ordinances shall be conducted on any Lot.
- C. All boats, utility trailers, trucks of one-ton or more capacity, campers, travel trailers, motor homes, pickup/camper and similar items or vehicles shall not be stored/parked on public streets overnight. Overnight storage and parking of said boats, trailers and trucks shall at all times be beside or behind the Owner's home, in a garage or other storage facility.
- D. No signs or billboards shall be placed on any vacant Lot except for one "for sale" sign, provided the design contains less than four (4) square feet in advertising materials and is in place only until the Lot is sold. One identification sign bearing the Owner's name and address may be placed on the Owner's Lot, and Owners may place "for rent" and "for sale" sign on their Lots as described above. During periods of political campaigns, Owners may display signs of a political nature promoting a candidate or a political proposition, subject to the size limitations herein.
- E. No Lot Owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on their Lot or about the Subdivision, except as kept in covered trash receptacles.

- F. No improvement which has been partially or totally destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction.
- G. Each Lot Owner shall keep his Lot neat and orderly in appearance and shall not cause or permit any noxious or odorous objects that are unsightly in appearance to exist on the premises.
- H. All automobiles and all other permitted vehicles, if kept parked on any Lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair, shall not be kept on any Lot.
- I. No firearms or explosives shall be discharged within the boundaries of the Subdivision.
- J. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.
- K. No Lot shall be improved in such a way as to cause excess surface water run-off that may damage or inconvenience other Lots or contiguous properties and the Owners thereof.
- L. No mobile homes, or manufactured homes shall be allowed on any Lot within the Subdivision.

IV. BUILDING RESTRICTIONS

- A. All one-story homes shall be a minimum of 1,800 square feet. All multi-level homes shall be a minimum of 2,000 square feet. All homes shall have at least minimum a two-car garage.
- B. The maximum time permitted for completing a building exterior shall be seven (7) months from start of excavation/foundation.
- C. The Declarant may require all mailboxes to be installed in a uniform style and in a location approved by the Declarant.

V. LANDSCAPING REQUIREMENTS AND RESTRICTIONS

- A. The front yard of each home (from the street to the building face) shall be covered with lawns, landscaping, decking and/or paving within seven (7) months from commencement of construction of the dwelling.
- B. Fences are permitted to enclose side and back yards only. Fences shall be composed of living material (such as hedges, shrubs or trees), or wood. No metal or cyclone fences shall be allowed. Fences shall be limited to no more than five feet (5') in height unless a lower height is required by the City of Ferndale. No front yard fences shall be allowed.

- C. All retaining walls shall be approved by a licensed professional engineer, licensed in the State of Washington. No retaining wall shall be higher than the highest grade existing prior to land disturbance for a home, without the prior written approval of the Declarant. All retaining walls shall comply with the City of Ferndale codes and these C,C,&Rs.
- D. Any amendment to Section V of these C,C,&Rs shall be of no force and effect for a period of three (3) years following the approval of the Final Plat, unless such amendment is approved in writing by the City of Ferndale Planning Department.

VI. CITY OF FERNDALE PRELIMINARY PLAT APPROVAL REQUIREMENTS

A. STORMWATER TREATMENT AND CONVEYANCE SYSTEMS

- i. The Association shall provide to the City of Ferndale on an annual basis, a report on the adequacy of the stormwater treatment and conveyance systems following an inspection by a professional engineer licensed in the State of Washington. Said report shall be prepared by the professional engineer and submitted to the City by the Association.
- ii. In the event that the above annual inspection report identifies any material deficiencies in the stormwater treatment and conveyance systems, the engineer shall include in said report proposed measures to rectify the deficiency. Any such required repair, maintenance or restoration associated within any stormwater treatment and conveyance system owned by the Association shall be the responsibility of the Association.

B. EASEMENTS CONVEYED TO THE CITY

- i. A five (5') foot Utility Easement around the perimeter of each Lot as shown in more particularity on the face of the Final Plat is granted to the City.

C. MITIGATION FEES

- i. Each Lot shall be required to pay one-half of the park impact fee and one-half of the traffic mitigation fee as those fees were established at the time when application for the Preliminary Plat approval was submitted.
- ii. Other mitigation fees and/or impact fees required as part of Preliminary Plat approval are noted on the face of the Final Plat recorded with the Whatcom County Auditor.

D. OPEN SPACE TRACT

- i. The area shown and designated on the face of the Plat as Open Space Tract and/or as Tract A shall be owned and maintained by the Association.

VII. ASSOCIATION

- A. A Homeowner's Association ("Association") shall consist of the Declarant until sixty (60) percent of the Lots are sold, at which time Declarant may appoint a Board of Directors from among Lot Owners. Thereafter, Members shall elect from their number the Board of Directors and Officers of the Association as determined by the Articles of Incorporation and By-Laws of the Association. One membership shall be appurtenant to each Lot in the Subdivision and such membership shall attach to the subject Lot and shall automatically transfer with the conveyance of such Lot. Provided however, that the Declarant shall retain control over Lots owned by the Declarant for the purposes of Articles II-V, regardless of when a Board of Directors may take control over the Home Owner's Association
- B. The Association shall be formed for the following purposes:
 - i. Regulating, protecting, preserving, maintaining, improving, and repairing areas and infrastructure owned by the Association and within the Mountainview Meadows Subdivision as shown on the Final Plat for open space, water detention and treatment facilities, drainage infrastructure, and other common infrastructure of the Subdivision.
 - ii. Regulating, maintaining, improving, and repairing Mountainview Meadows signage.
 - iii. Regulating, maintaining, improving, and repairing mail boxes installed by the Association. The Association shall seek consistency in style and design of mailboxes and supporting stands.
 - iv. Enforcement of these covenants and restrictions.
 - v. Management of the affairs relative to and affecting the Association, and matters of common interest to the Owners.
 - vi. Acquisition of insurance for the Association.
 - vii. Other matters as may be set forth in the Articles of Incorporation and/or By-Laws for the Association.

VIII. ASSESSMENTS AND LIENS

- A. Authority. The Association shall be empowered to establish and collect dues and assessments upon Lots in the Subdivision for the common benefit of such Lots.

- B. Purposes. Dues shall be collected for the purpose set forth in Section VI.B, above, and other obligations of the Association as set forth in this Declaration, or the Articles of Incorporation and/or By-Laws for the Association.
- C. Personal Obligation and Lien Foreclosure. Dues and assessments shall constitute a personal obligation of any Lot Owner of record on the due date thereof and shall also constitute a lien on the Lot assessed. Such lien may be enforced by the Association in the same form and manner of procedure as a foreclosure of real property mortgages under the laws of the State of Washington.
- D. Amounts Included. Each Owner and each party hereinafter owning or claiming an equity interest in a Lot agrees that in the event of a foreclosure action involving a Lot, the Owner or Owners thereof, or other party asserting an equity interest therein, will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Association and court costs, as well as all other costs reasonably and necessarily incurred in a foreclosure action. In any such action, delinquent assessments shall bear interest at the rate of twelve (12%) percent per annum from the date the same became due until the date of the entry of the judgment of such foreclosure thereon.
- E. Other Liens and foreclosure Actions. The method and manner provided for foreclosure of liens set forth in this paragraph shall pertain to all liens referred to in this Declaration. First mortgage liens placed upon any Lots for the purpose of constructing Improvements thereon or other bona fide liens provided for by the laws of the State of Washington shall be, from the date of recordation of such liens, superior to any and all charges, assessments, and liens thereafter asserted pursuant to this Declaration.
- F. Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Association shall for each year, commencing within one (1) year of appointment of the Board and Officers by Declarant, fix and charge a yearly and equal amount against each Lot.
- G. Annual statement. As soon as shall be practical in each calendar year, the Association shall send a written statement to each Owner setting forth the dollar amount of the assessment for such Lot for such calendar year. The Association may, in its sole discretion, provide for payment of such assessments on a periodic basis during such calendar year, with or without a service charge.
- H. Penalty on Delinquent Assessments. If an Owner fails to pay any installment of an annual assessment within thirty (30) days from the date the same is due, then the entire annual assessment for such Lot shall be delinquent and shall become immediately due and payable. The balance shall bear interest at the rate of twelve (12%) percent per annum thereafter until paid, and shall

also bear a penalty in an amount as shall be determined by the Board of the Association.

- I. Delinquency for More Than Ninety (90) Days. If the Owner of any Lot is delinquent in the payment of the annual assessment, or any installment thereof, for more than ninety (90) days following the date the same is due, then the Association shall have the right to commence legal action seeking a personal judgment against such Owner and, in addition thereto, shall have the right to foreclose its lien upon such Lot.
- J. Rules and Procedures for Billing and Collecting Assessments. The Association shall have the power and authority to adopt rules and procedures for billing and collecting annual assessments that shall be binding upon all Owners and Lots.
- K. Increase in Assessments. The amount of the annual assessment against each Lot shall be initially determined and may thereafter be increased or decreased for any one (1) year period, or any such greater period, as may be determined by the affirmative vote of at least fifty-one (51%) percent of the voting members of the Association, represented in person or by proxy, at a meeting, annual or special, called for such purpose; provided, however, that any Lot Owner who is delinquent in the payment of assessments shall not be entitled to vote thereon.
- L. Application of Assessment. The Association shall apply all funds received by it pursuant to this Declaration in the following order:
 - i. Administrative costs and expenses incurred by the Association in the exercise of its powers, authority, and duties described in this Declaration and the Association Articles of Incorporation and By-Laws, including the Service, repair, and maintenance of Association owned facilities and infrastructure.
 - ii. Payment of insurance for the Association.
- M. Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all of the sums collected or received by it during such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surplus to the reduction of the amount of the annual assessment in any future year.

IX. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER

No violation or breach of any covenant, condition, reservation or restriction contained in this Amended Declaration, or in any supplement hereto, and no action to enforce the same, shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value against any title or interest in any Lot which is the subject of an action arising from such violation or breach. A purchaser of any such Lot at a trustee's sale, Sheriff's sale or tax

foreclosure sale shall take title to such Lot free and clear of any violations or breaches which have occurred on such Lot, or by the previous Owner thereof. Purchaser shall nevertheless take title subject to this Declaration and to any amendments hereto.

X. ENFORCEMENT

The Association, the Declarant, and any Owner shall have the right to enforce, by any proceedings at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by this Declaration. The failure of the Association, of the Declarant or of any Owner to enforce any rights hereunder shall not be deemed to constitute a waiver of the right to do so thereafter. The prevailing party in any litigation involving the enforcement of any provision of this Declaration shall be entitled to judgment for the reasonable attorney's fees and costs incurred in such litigation by such prevailing party.

The City of Ferndale shall have the right to enforce the covenants and requirements set forth in Section VI.

XI. GRANTEE'S ACCEPTANCE

The Owner of any Lot subject to this Declaration shall, by the acceptance of a deed conveying title thereto or by the execution of any contract for the purchase thereof, whether from Declarant or any subsequent Lot Owner, accept such deed or contract upon, and subject to, each and every provision of this Declaration and the provisions contained herein, including the jurisdiction, rights and powers of Declarant, and by such acceptance shall, for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant and to and with the grantees and subsequent Owners of each of the Lots within the Subdivision, to keep, observe, comply with and perform all obligations set forth herein.

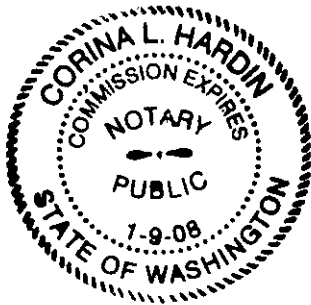
Each Owner also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all of the risks and hazards of ownership and occupancy attendant to such Lot, including, but not limited to, its proximity to the common Property.

XII. AMENDMENT TO DECLARATION

Each and every provision of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforced by, the Association, the Declarant, the Owners of any Lots subject hereto, their respective legal representatives, heirs, successors and assigns, for a period of twenty (20) years from the date this Declaration is recorded, after which time an Amended Declaration shall be automatically extended for successive periods of twenty (20) years, unless an instrument terminating or amending the Declaration is signed by not less than seventy-five (75%) percent of the Owners of all Lots within the Subdivision, which

instrument shall then be filed with the Whatcom County Auditor. During the first twenty (20) year term hereof, this Declaration may be amended by an instrument signed by not less than seventy-five (75%) percent of the Owners of all Lots within the Subdivision. Any such amendment shall take effect upon being recorded with the Whatcom County Auditor. Notwithstanding the foregoing, no amendment shall affect or bind any Lots owned by the Declarant, unless accepted or approved by the Declarant in writing, and further no amendment to Section VI, above shall be effective without the prior written approval of the City of Ferndale.

DATED this 26th day of July, 2006



OWNER/DECLARANT

Michael Hammes

Michael Hammes

Print Name:

STATE OF WASHINGTON)
) ss:
COUNTY OF WHATCOM)

On this 26th day of May 2006, before me personally appeared Mike Hammes, 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 uses and purposes therein mentioned.

GIVEN UNDER my hand and official seal the day and year first above written.

Corina Hardin
Notary Public in and for the state of Washington
Residing at Bellingham
My Commission Expires 1/9/08

EXHIBIT "A"

[Legal Description]

THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST
QUARTER OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 39
NORTH, RANGE 2 EAST OF W.M., EXCEPT MOUNTAIN VIEW ROAD.

EXCEPT THAT PORTION CONVEYED FOR ROAD PURPOSES BY DEED
RECORDED UNDER AUDITOR'S FILE NO. 1386037

SITUATE IN WHATCOM COUNTY, WASHINGTON.