

39/7

RETURNED

NOV - 1 2000

F 1621648 B 2709 p 29
SHERYL L. WHITE, DAVIS CNTY RECORDER
2000 NOV 1 9:13 AM FEE 30.00 DEP DJ
REC'D FOR BARLOW CORPORATION

Lot 1 thru 8
Pheasant Walk
Cluster Subdivision

08-274+

DECLARATION OF PROTECTIVE COVENANT, CONDITIONS,
RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY

OF

PHEASANT WALK CLUSTER SUBDIVISION
KAYSVILLE, CITY, DAVIS COUNTY, STATE OF UTAH

This Declaration, made this 28th day of June, 2000. Duncan Barlow and Greg Higley. Hereinafter referred to as 'DECLARANT'.

WITNESSETH

Whereas, Declarant is the legal and beneficial owner of real property described in Article I of this Declaration and is desirous of subjecting said real property to the restriction, covenant, reservation, and easements hereinafter set forth:

Now Therefore Declarant hereby declares that the property described in and referred to in Article I hereof is held, sold, conveyed, leased, occupied, reside upon hypothecated, and mortgaged subject to the following agreements, restriction, conditions and covenants between himself and the several owners and purchasers of said property and their heirs, successors and assigns.

Therefore, all of said restriction, condition, covenants and agreements contained herein are made for the direct, mutual, and reciprocal benefit of each and every lot created within the property described in Article I hereof and are intended to be created on the aforesaid property and to create reciprocal rights and obligations between the respective owners of all the lots so created and to create a privity of contract and estate between the grantor and the grantees of said lots, their heirs, successors and assigns, as to each said lot, and to operate as covenants running with the land for the benefit of all other lots, as follows:

ARTICLE I
PROPERTY DESCRIPTION

The real property referred to above and hereinafter is located in Kaysville City, Davis County, State of Utah and is more particularly described as follows:

PHEASANT WALK CLUSTER SUBDIVISION

Part of the Northeast quarter of section 4, Township 3 North, range 1 West, Salt Lake Base and Meridian.

Beginning at the Northwesterly corner of Old Mill Farms Plat E, located South 00°39'49" East along the East line of the Northeast quarter of said section 4, 292.97 feet along the section line and West 1585.82 feet and South 37°16'44" West 565.88 feet from the Northeast corner of section 4, Township 3 North, Range 1 West, Salt Lake base and meridian;

And thence along the Westerly boundary line of Old Mill farms Plats E and F along the following 4 courses;

1. South 34°42'00" East, 502.00 Feet;
2. North 56°50'00" East 134.92 Feet;
3. South 34°42'00" East 223.47 Feet;
4. North 56°35'00" East 63.18 Feet to the Westerly right of way line of Joshua Drive;

Thence South 17°21'18" East along said right of way, 37.46 feet to the North line of Old Mill Farms Plat I;

Thence South 56°35'00" West, 376.98 feet to the Easterly right of way line of the D&R.G.W. Railroad

Thence North 34°42'00" West, 696.00 feet to the Southeasterly right of way line of Old Mill Lane;

Thence North 37°16'44" East, 199.82 feet along said Southeasterly right of way line to the point of beginning.

Containing 4.04 acres +/-.

No property other than that described above shall be deemed subject to this Declaration unless and until specifically made subject thereto.

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

1. MEMBERSHIP- The Architectural Control Committee is composed of one Greg Higley, & John Higley. The representative shall be entitled to any compensation for services performed pursuant to his covenant.

2. TERM- The initial Committee shall remain in existence until such time as all of the lots in the said subdivision are built upon. Upon Completion of said construction a successor control committee, comprised of at least three (3) members, shall be elected by a majority of the owners of lots subject to this declaration. The successor Control Committee and the members thereof shall serve for such term or terms as said majority may determine.

3. FUNCTIONS- The functions of said committee shall be to pass upon, Approve, or reject any plans of specifications for structures to be erected on lots in said tract, in order that all structures shall conform to the restrictions and general plans of the Declarant for the improvement and development to the whole tract. Nothing in this paragraph shall be construed as authorizing or empowering the Committee to change or waive any restriction(s) set forth in this Declaration, except as herein specifically provided. The committee may act any two (2) or a majority of its members; any authorization, approval, or power made by said Committee shall be in writing and signed by at least two (2) members.

No building shall be erected, place, or altered on any lot until the construction plans and specifications and a plan showing the location of the proposed structure as to quality of

workmanship and materials, harmony of external design with existing structures and location with respect to topography and finish-grade elevation. No fence nearer to any street than the minimum building setback line, as determined by the Architectural Control Committee or Kaysville ordinances.

4. PROCEDURE- The Committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the Committee or its designated representative, shall fail to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoy the construction has been commenced prior the completion thereof, approval will not be required, and it shall be presumed that full compliance with the relevant covenant or covenants has been satisfied.

5. ENFORCEMENT- Enforcement shall be effected by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either by restraining the violation or recover damages. Either by Architectural Control person or persons or any property owner affected by any violation of these covenants is hereby authorized and empowered to bring such action.

6. SNOW REMOVAL-Homeowners will be responsible for snow removal on private drive known as Jay Street .

7. Jay Street is a private drive with ingress and egress for owner of lots #3-8 of Pheasant Walk Cluster Subdivision. No over night parking on Jay Street at any time.

ARTICLE III IMPROVEMENTS

1. TYPES OF STRUCTURES- No lot or lots shall be used for other than single family residence and agricultural purposes. There shall not exist on any lot at any time more than one residence. No outbuilding, barn, shed, guesthouse or structure for enclosing livestock shall be erected on any lot in the subdivision without approval in writing from the committee.

Every garage shall be constructed as an integral part of the residence it is intended to serve and shall be of sufficient size for at least two (2) vehicles.

2. MINIMUM HOUSE SIZE-No one story building shall be constructed on lots with a fully enclosed first floor area of less than thirteen hundred (1,300) square feet, exclusive of garage and open porches. No two (2) stories or higher building shall be constructed with a fully enclosed first floor area of less than on thousand (1,000) square feet.

No one and one-half story building shall be constructed with a fully enclosed first floor area of less than thirteen hundred (1,300) square feet. All homes must have a two (2) car garage or greater.

3. LANDSCAPING-All lots shall be landscaped as previously approved by the

Architectural Control Committee and must be kept, maintained and developed in such a fashion as to enhance the aesthetic value of the area and so as not to become a nuisance or otherwise distract from surrounding land owner. All trees, lawns, shrubs, fencing or any other permanent structures or planted material installed by the owner, shall be properly nurtured and maintained or replaced as necessary at the owner's expense. All lot area which abuts a public or private street must be landscaped and be clear of any unsightly material such as weeds, discarded building materials or other refuse and debris, within three hundred and sixty-five (365) days after the final inspection for occupancy done by the applicable city or County Inspector, and must be so maintained year round. All family dwellings are to be landscaped in front and side yards within two (2) years after construction of dwelling begins.

4. BULIDING LOCATION- All single family dwelling shall be located on the lot in such manner to comply with appropriate zoning ordinances pertaining to the area and conform with the "setback" line established by Kaysville ordinances.

ARTICLE IV ANIMAL ALLOWANCE

1. MAXIMUM ALLOWANCE-On each one-half acre lot there may be maintained two (2) horses, or two (2) cows, or four (4) sheep or fifty (50) fowl, rabbits or chinchilla, or on each additional quarter (1/4) acre there may be allowed one (1) additional horse or one (1) additional cow, or two (2) sheep or goats, or twenty (20) fowl, rabbits or chinchilla, or equivalent combinations of these kinds of animals

2. LOCATION OF ANIMAL STRUCTURES-No barn, stable, corral or other animal enclosure shall be located within fifty (30) feet from the nearest building on adjacent lots predominantly used or occupied as a residence. No animal related building or use shall be allowed in the front yard of any lot.

3. NUISANCE- In the event of the creation of odor, dust, noise or drainage, the committee may determine such to be a nuisance or a hazard to adjoining property uses may direct the restrictions or termination of the animal allowance for such lot.

ARTICLE V RESTRICTIONS

The use, development, injunction, ownership, transfer, and hypothecation of all lots and land within the property described in Article I hereof shall be subject to the following restrictions:

1. LOT USE- The principal use of each lot shall be for a private residence; however, limited livestock maintenance on each lot shall be permissible in strict accordance with Article V hereof and Kaysville ordinances. No structure of any kind shall be erected, placed or altered on any lot until the construction plans and specification hereof have been approved by the Architectural Control Committee as

detailed above. Every Building or structure shall be completed within a period of one (1) year from the date construction thereof shall start.

2. BUILDING EXTERIORS-In any event, all residences to be constructed on any of said lots shall be constructed of all brick, all rock, or brick and stucco, or rock and stucco, siding is allowed on the back of all homes only, architectural shingles, cedar shakes & tile. Plans are to be approved by the Architectural Control Committee.

3. GARAGE AND REFUSE DISPOSAL-No lot shall be used for or maintained as a dumping ground for rubbish, trash, vegetation clippings or other waste. Any containers or equipment commonly used for storage and disposal of refuse shall be kept in a clean and sanitary condition.

Each lot and its abutting street shall be kept free of trash, weeds, and refuse by the property owner at the owner's expense. If in the opinion of the Architectural Control Committee, the property owner is maintaining, or otherwise allowing the property to become unsightly, or is maintaining objects of trash and rubbish or other materials which in the opinion of the Architectural Control Committee are degrading the value of the surrounding property, then such materials shall be removed and kept out of the view of general public.

4. AUTO AND VISUAL- Without the written approval of the Committee, no audio or visual equipment, such as TV, radio, or communication antennas, will be permitted to be on any structure if they are in public view. No satellite-receiving dish will be allowed on any front or side yard.
Any and all such equipment will only be permitted in backyard areas

5. RECREATIONAL VEHICLES- No recreational vehicles, such as boats, mobile homes, snowmobiles, trailers and any kind of motorcycle, or any related equipment, shall be parked or stored on any front street to a lot. All such vehicles and equipment as above described shall be stored only to the side or rear portion of each lot, unless stored inside a garage or related structure out of public view.

6. SIGNS- No sign of any kind shall be displayed for public view on any lot or structure except to advertise the property for sale, or by the builder during construction to advertise the construction site and identify the builder.

7. NUISANCES-No obnoxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or surrounding neighbors. No clotheslines or drying yard shall be permitted unless concealed by fencing or hedges and approved by the Committee. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon the premises, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. No automobiles, trailers, or other vehicles are to be stored on the streets or front, side, or back of the lots unless they are in running conditions, properly licensed, and are being regularly used. No oil or mining operations of any kind or sort will be allowed on or in any lot or structure. No related

equipment will be allowed on or in any lot or street fronting a lot on a permanent basis. No lot or public street or private street shall be used for storage of backhoes, trucks, caterpillars, or tailors used relative thereto. Or any other equipment used in heavy excavation or construction or trucking.

In the event that any owner of any property in the subdivision shall fail or refuse to keep such premises in accord with the terms of this paragraph and specifically to keep such premise free from weeds, underbrush, or refuse piles or other unsightly growths or objects, then the Architectural Control Committee or its designee may enter upon such lands and remove the nuisance at the expense of the owner and such entrance shall not be trespass and in the event of such removal a lien shall arise and be created in favor of the Architectural Control Committee and against such lot for the full amount chargeable to such lot and such amount shall be due and payable within thirty (30) days after the owner is billed therefore.

ARTICLE VI EXCEPTIONS

1. Lot one (1) is exempt from all protective covenants in Pheasant Walk Cluster Subdivision.
2. Lot one (1) and two (2) are except from Pheasant Walk Cluster Subdivision association.

ARTICLE VII GENERAL PROVISIONS

1. EASEMENTS- Easements for installation and maintenance of utilities and drainage facilities are reserved, as shown on the recorded plats of the subdivision. No structure, planting or other material shall be placed or permitted to remain in such manner as to damage, or interfere with the installation and or maintenance of easement for utilities and drainage facilities.

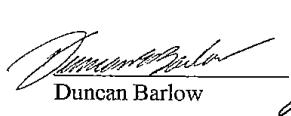
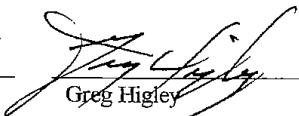
2. BINDING EFFECT/TERM- These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or part. At any time a majority of seventy-five percent (75%) of all lot owners may agree to alter, amend, abolish or otherwise change these restrictive covenants, by doing so in writing and filing the same with the Davis County Recorder's Office.

3. RE-SUBDIVISION- None of the said lots may be re subdivided, unless approved in writing by the Architectural Control Committee.

4. SEVERABILITY- It is expressly agreed that in the event any covenant, condition or restriction herein before contained or any portion thereof is held invalid or void by a court of competent jurisdiction, such invalidity or violence shall in no way effect any valid covenant, condition or restriction and such void or invalid portion shall be severed from this document and remainder shall remain in full force and effect.

above, by acceptance of contracts or deeds for an lots or any portion thereof, which are included in this document, shall be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants and agreements set forth herein.

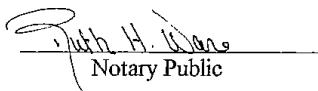
IN WITNESS WHEREOF, I have set my hand and seal this 17th day of OCT, 2000.

 
Duncan Barlow Greg Higley

STATE OF UTAH)
SS
COUNTY OF DAVIS)

BY: _____

On this day 11 of October, 2000, personally appeared before me Duncan Barlow and Greg Higley the signer of the foregoing Declaration, who duly acknowledged to me that they executed the same.


Ruth H. Ware
Notary Public

NOTARY PUBLIC
RUTH H WARE
755 WEST 4350 SOUTH
RIVERDALE UTAH 84405
My Commission Expires
MARCH 11th 2003
STATE OF UTAH