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STATE OF MONTANA MADISON COUNTY
RECORDED: 07/24/2006 10:45 KOI: CV
Peggy Kaatz CLERK AND RECORDER
FEE: \$65.50 BY: *[Signature]*
TO: HEADWATERS DEVELOPMENT PO BOX 737, SHERIDAN MT 59749

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Return to: _____

Declaration of Covenants, Restrictions and Conditions

THIS DECLARATION made on the date hereinafter set forth by R&D, LLC and Headwaters Development, LLC, hereinafter referred to as Declarants.

WITNESSETH THAT WHEREAS Declarants are the owners of certain property know as Homestead Major Subdivision in Madison County, Montana, more particularly described in Exhibit "A", attached hereto, and by this reference made a part hereof, hereinafter referred to as "Property".

NOW THEREFORE, Declarants hereby declare that any of the stipulations, agreements, covenants, restrictions or conditions herein contained shall inure to and be binding upon the heirs, personal representatives, assigns and successors of the undersigned, and are hereby declared to be covenants running with the land. All conveyances to be executed by the undersigned, and all conveyances and all transfers thereafter executed or occurring, shall be subject to the said covenants, restrictions and conditions and shall be set forth or referred to in such conveyance or transfer, each and all said covenants, restrictions and conditions shall be deemed to be an integral part of each conveyance or transfer, as fully and effectively as though set forth therein, and the acceptance of said conveyance or transfer restrictions and conditions on the part of each grantee or transferee. These covenants, restrictions and conditions shall be enforceable by either Homestead Homeowners Association, Inc. or any owner of the land, or any part thereof, or by any person purchasing any of said Property, and by the heirs, personal representatives, successors, and assigns of such owner or purchaser, hereinafter referred to as "Owner".

ONE: RIGHT TO FARM

The property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising, and the application of chemicals, operation of machinery, application of irrigation water, and other customary and accepted agricultural activities conducted in accordance with applicable state and federal laws.

These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions which may conflict with residential purposes. The Declarants hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with the use of the Property for residential purposes.

Nothing in this acknowledgment shall grant a right to adjacent property owners to ingress and egress upon or across the Property except as hereinafter set forth. Nothing in this acknowledgment shall prohibit or otherwise restrict the Declarants from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent property.

TWO: MADISON COUNTY WEED CONTROL

Responsibility for Noxious Weed Management rests with the owner, as set forth in § 7-22-2116, MCA, which states:

“Unlawful to permit noxious weeds to propagate - notice required in sale.

(1) It is unlawful for any person to permit any noxious weed to propagate or go to seed on the person’s land, except that any person who adheres to the noxious weed management program of the person’s weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with this section.

(2) When property is offered for sale, the person who owns the property shall notify the owner’s agent and the purchaser of the existence or potential existence of noxious weeds on the property offered for sale.”

It is the owner’s responsibility to comply with § 7-22-2152, MCA, which states:

“Revegetation of rights-of-way and areas that have potential for noxious weed infestation.

(1) Any person or state agency proposing a mine, a major facility under title 75, chapter 20, an electric, communication, gas, or liquid transmission line, a solid waste facility, a highway or road, a subdivision, a commercial, industrial, or government development, or any other development that needs state or local approval and that results in the potential for noxious weed infestation within a district shall notify the board at least 15 days prior to the activity.

(2) Whenever any person or agency constructs a road, an irrigation or drainage ditch, a pipeline, an electric, communication, gas, or liquid transmission line, or any other development on an easement or right-of-way, the board shall require that the areas be seeded, planted, or otherwise managed to reestablish a cover of beneficial plants.

(3) (a) The person or agency committing the action shall submit to the board a written plan specifying the methods to be used to accomplish revegetation at least 15 days prior to the activity. The plan must describe the time and method of seeding, fertilization practices, recommended plant species, use of weed-free seed, and the weed management procedures to be used.

(b) The plan is subject to approval by the board, which may require revisions to bring the revegetation plan into compliance with the district weed management plan. The activity for which notice is given may not occur until the plan is approved by the board and signed by the presiding officer of the board and by the person or a representative of the agency responsible for the action. The signed plan constitutes a binding agreement between the board and the person or agency. The plan must be approved, with revisions if necessary, within 10 days of receipt by the board.”

THREE: LAND USE AND BUILDING TYPE

A. EXEMPTION: Lot 29, being previously fully developed and detached by Mill Creek Road, is exempt from these Covenants, Restrictions and Conditions and related Architectural Guidelines for Homestead Major Subdivision and Homestead Homeowners Association, Inc.

B. FURTHER DEVELOPMENT: Lots 1 through Lot 28, inclusive, may not be further subdivided. Lot 30 may be further subdivided and developed in full compliance with Local, County and State regulations. Multi-Family residential developments and multiple condominiums sharing common real estate and the transfer by sale, lease or easement of a municipal water well will be allowed on said Lot 30 as part of any such further development or subdivision. Excepting for the transfer of the municipal water well, any such further subdivision or development of said Lot 30 will be subject to all other provisions of these Covenants, Restrictions and Conditions.

C. SINGLE FAMILY DWELLING. No owner may build, construct or cause to be constructed more than one residence or dwelling on each lot or parcel of land as platted by this subdivision. Only single family dwellings and their associated outbuildings may be constructed within the boundaries of this subdivision. Single family dwelling shall mean a building under one roof designed and intended for use and occupancy as a residence by a single family. However, this paragraph does allow the construction of guest houses under separate roof or other structures for the primary use as a private office, studio, or shop. No part or portion shall at any time hereinafter be used for business or commercial purposes of any kind or character, except for an office or studio fully contained within the single family residence or detached structure above described, which shall not be permitted for meetings with the general public for commercial purposes, customers or clients. Nothing contained herein limits the homeowner's ability to lease the dwelling for residential use, provided that any detached guest houses may not be leased or rented separately from the residence. A home occupation is an occupational use customarily conducted entirely within a dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of that dwelling as living quarters and in connection with which there are no on-premise sales of products; no on-site employment of persons other than the residents or caretakers of the dwelling; no generation of pedestrian or vehicular traffic beyond that which is customary or incidental to the residential use of the dwelling; no employees, other than caretakers, who do not reside on the premises; no use of commercial vehicles for deliveries to or from the premises; no signs or structures advertising the occupation; no excessive or unsightly storage of materials or supplies.

D. DESIGN AND LIMITATIONS: No construction of any kind shall be commenced without the prior written approval of Homestead Architectural Review Committee. All residential construction must be completed within sixteen (16) months of commencement. One outbuilding (detached shop or barn) may be constructed prior to the construction of the main residence. However, completion of the outbuilding shall be within six (6) months of commencement of same. Additionally, the main residence must be completed no later than sixteen (16) months from the completion of the outbuilding. No trailer house, mobile home or manufactured homes shall be set up or moved onto the Property as a permanent home or dwelling, nor shall they constitute a part or portion of a permanent home or dwelling thereon. (If the frame, the chassis used to transport the unit, is an integral part of the floor system, it is considered as mobile or manufactured). However, one Recreational Vehicle may be utilized as temporary residence during the construction of the permanent residence. Modular housing, such as Stratford or R-Homes, are allowed as long as they satisfy all design and limitation standards as set forth herein. All homes must be at least 1,400 square feet of gross

living area on ground level. Garages may be attached or detached, but if detached, must be constructed and sided in the same style, materials and color as the main dwelling. Non-attached garages shall have a minimum size of 400 square feet and a maximum size of 1,200 square feet. The above described guest house shall not exceed 1,000 square feet in gross living area and may not have an attached or detached garage. No more than four detached buildings are allowed on any lot. The maximum height for any structure shall be thirty-two (32) feet. All exterior surfaces shall have minimum reflective values. Natural and earth colors and materials are encouraged. Flat roofs and A-frames are prohibited.

E. HOMESTEAD ARCHITECTURAL REVIEW COMMITTEE: Homestead Architectural Review Committee will consist of three (3) Homestead Homeowners Association, Inc. members, all of whom shall be property owners within Homestead Major Subdivision and elected by the members of Homestead Homeowners Association, Inc. Committee members shall serve for a period of three years, in a staggered schedule. Homestead Architectural Review Committee shall review and approve all buildings, building improvements, the locations and plans of fencing, and other design criteria contained within the Architectural Guidelines for Homestead Major Subdivision and in accordance with the Bylaws of Homestead Homeowners Association, Inc. Homestead Architectural Review Committee may not amend or revise the provisions of these Covenants, Restrictions and Conditions or any amendments thereto.

F. FENCES: Roadway perimeter fencing shall be constructed by Declarants of driven and set wooden posts, smooth wire and, or wooden poles or rails. Maintenance of said perimeter fencing shall be the responsibility of adjoining Lot owners. All other interior perimeter fences shall be constructed and maintained by individual Lot owners. All interior perimeter fences shall be constructed of driven and set wooden posts, smooth wire and, or wooden poles or rails. No "jack leg" fencing shall be permitted. Interior yard fencing is recommended to allow for domestic pet containment and for child safety precautions. Such interior yard fencing may be chainlink, wooden or composite / PVC materials. No fencing shall be constructed within fifteen feet of the centerline boundaries of the Tilton Ditch Easement as shown on the Homestead Major Subdivision Plat.

G. SIGNS: No signs, billboards, posters, display advertisements or similar structures shall be permitted for any type of advertisement or political activities, other than temporary real estate sale signs. This does not limit Lot owners from identification of their property by means of address numbering or names within the boundaries of the property. Street signs for address and traffic control purposes shall be maintained by Homestead Homeowners Association, Inc.

H. EXTERIOR LIGHTING: Exterior lighting shall not cause glare to any lot. Mercury vapor, or similar lamps are not permitted. All exterior lighting shall be subdued and shrouded to project light downward and not horizontally.

I. BUILDING REGULATIONS. Construction of any building or structure on the Property shall comply with the minimum property standards as required by local, state, and national building codes. Building codes shall be of the latest revision enforced by any governing agency or department whose jurisdiction this subdivision is subject to.

J. STORAGE OF EQUIPMENT. The Property shall not be used for storage of any inoperable equipment or vehicles. The Property shall not be used as a salvage operation for equipment, vehicles, or other article.

K. TEMPORARY STRUCTURES. Except as set forth in clause THREE: D. (Design and Limitations) above, no structure of a temporary character, mobile home, trailer, basement, tent, or shack shall be used on any tract at any time as residence.

L. CONSTRUCTION SCHEDULES: Any and all construction, alterations or improvements shall be diligently worked on to completion and shall be completed within sixteen (16) months following commencement. Completion is defined as completion of all exterior construction. Commencement is defined as when foundation excavation is started. Domestic wells and septic systems may be completed prior to commencement. No materials shall be placed or stored upon a home site for more than thirty (30) days prior to commencement of construction, or for more than thirty (30) days following completion of construction. During any construction, the site shall be cleaned on a weekly basis and shall be maintained free of trash. The owner shall be responsible to clean up wind blown debris caused by their construction or alterations both on and off the premise.

M. SETBACKS: All structures must be at least twenty (20) feet from the side property lines and at least thirty (30) feet from the front line (front line being the side of the lot bordering the access road) and back lot lines of each lot. All improvements must also be constructed in compliance with domestic water well and septic systems as determined and approved by the Montana Department of Environmental Quality and Montana Department of Natural Resources and Conservation.

N. COMMON AREAS: Common Areas of Homestead Major Subdivision shall consist of the 3.04-acre Park Area and all interior roadways and trails as shown on the Final Plat of Homestead Major Subdivision. Homestead Homeowners Association, Inc. shall own and be responsible to maintain the Common Areas, roadways and trails. Homestead Homeowners Association, Inc. shall take such steps as are necessary to ensure that all shrubs, trees and other vegetation located in Common Areas do not block, interfere, or hinder the view from any residence. Maintenance, repairs, improvements and replacements of Common Areas, roadways and trails shall be at the expense of Homestead Homeowners Association, Inc. However, if damage is caused by a negligent or tortuous act of any site owner, members of his family, guests or employee, then such owner shall be responsible and liable for all such damage.

O. EMERGENCY ACCESS EASEMENT: A thirty foot (30') Emergency Access Easement as designated on the Final Plat of Homestead Major Subdivision shall remain unobstructed at all times. Any gates across said Emergency Access Easement shall be unlocked at all times and shall be signed to designate "Emergency Access Easement".

P. EXCEPTIONS: LOT 30 EXCEPTED FROM PORTIONS OF THESE RESTRICTIVE COVENANTS: Lot 30, being a tract of 31.02 acres, shall be excepted from certain provisions within this Section as follows: Lot 30 will be allowed to conduct certain light agricultural production related business, such as stock farm, equine training, stabling or veterinary services. The owner of Lot 30 shall be allowed to display a commercial sign to indicate its place of business, which shall be no larger than 3'x5' in size, and sign shall not be lighted. Any outdoor lighting within said Lot 30 shall not be pointed toward the sky nor toward any other home sites within the subdivision. Lot 30 has pre-existing metal buildings on the lot which shall be allowed to remain, so long as said buildings are kept in good repair and maintenance. Corrals and pens shall be kept in good, clean, safe and sound condition. The transfer by sale, lease or easement of a municipal water well will be allowed on said Lot 30. With the exception of the transfer, lease or easement of the municipal water well, all further improvements within said Lot 30 shall be subject to the review procedures of Homestead Architectural Review Committee.

FOUR: NUISANCES

A. ANIMALS. No portion of Homestead Major Subdivision shall be used as a commercial feedlot farm or any other use which would concentrate livestock numbers beyond those considered normal. No hoofed or grazing animals are allowed on Lots 1, 2, 5, 6, 10, 13 and 14. Two hoofed animals are allowed on Lots 3, 4, 7, 8, 9, 11 and 12. Four hoofed animals are allowed on Lots 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28. Thirty hoofed, grazing animals are allowed on Lot 30. Additional hoofed animals may be boarded on Lot 30 as part of a commercial equine or animal care facility; combined total of grazing and boarded hoofed animals on Lot 30 may not exceed fifty head. Hoofed animals shall include only horses, ponies, mules, donkeys, llamas and alpacas. Additionally, bovines are allowed on Lot 30. Overgrazing of pasture lands is prohibited and lands used for grazing purposes shall maintain a three to four inch (3"-4") grass and forage height during growing seasons. It is recommended that grazing be administered in accordance with Montana Department of Natural Resources and Conservation suggested practices for small agricultural tracts in Montana. All house pets shall be controlled and restrained to the property of their ownership. No domestic animals shall be allowed to roam beyond their owners' property boundaries or to interfere or harass wildlife or livestock in accordance with State and Local statutes and regulations, including, but not limited to §§ 81-7-401, 81-7-402 and 81-7-403, MCA.

B. REFUSE DISPOSAL. No part of Homestead Major Subdivision shall be used or maintained as a dumping or storage ground for rubbish, trash, garbage, or junk. There shall be no incineration of garbage or trash.

C. NOXIOUS, OFFENSIVE OR HAZARDOUS ACTIVITIES: Homestead Major Subdivision shall not be used for any purpose prohibited by law.

FIVE: UTILITIES

A. SEWAGE TREATMENT. Lot owners and all claiming under them shall comply at all times with all county, state, and federal laws and regulations pertaining to sanitary disposal systems. No condition will be permitted on Homestead Major Subdivision which pollutes the atmosphere or ground water. Furthermore, no individual sewage disposal system shall be permitted on Homestead Major Subdivision unless such a system is located, constructed, and equipped in compliance with Montana Department of Environmental Quality, Montana Department of Natural Resources and Conservation and Madison County's Septic System Regulations. The Final Plat of Homestead Major Subdivision has specific information regarding allowed locations for domestic wells and wastewater drain fields within the subdivision in accordance with Montana Department of Environmental Quality, Montana Department of Natural Resources and Conservation and Madison County requirements and regulations.

B. UTILITY EASEMENTS: A general utility easement for such items as electricity, gas, communications, telephone, television, cable communications, and other utility equipment is designated on the Plat of Homestead Major Subdivision. The Declarants make no representation that all or any of these services shall be available except electricity, natural gas and telephone. All Lot owners shall have the right to enter upon and excavate such easements with the approval of the Homestead Architectural Review Committee and following proper notice to, and approval from, the utility service provider. Easements for ingress and egress and for utilities shall not be moved, deleted or restricted without the written approval of all affected Lot owners. Utility companies and Lot owners must, at their expense, restore disturbed land as close as possible to the natural condition of the land before work commenced.

C. UTILITIES INSTALLATION AND MAINTENANCE: The Declarants shall install electric power, natural gas, and telephone utility service to the junction of the main access roads and the lots as determined by utility service providers. Lot owners shall bear all costs, responsibilities and liability from said junction to their individual home site. All utilities of every nature shall be installed and maintained underground. Piping and wiring shall be concealed. Each Lot owner shall be responsible for utility installation and maintenance in accordance with state and local regulations. Each residential building shall be connected to a private well and septic sewage system at the Lot owner's sole expense. The system must conform to all applicable standards of the State of Montana, Madison County or any other appropriate regulatory agencies. The Final Plat of Homestead Major Subdivision has specifically located the well areas and wastewater drain fields for this development pursuant to certain state and county requirements. Lot owners must carefully locate homes in specific areas within their respective lots to ensure the wells and drain field locations are protected and not disturbed.

SIX: GENERAL PROVISIONS

A. HIGHER STANDARDS: If there should be any variation between any standards required by these covenants, restrictions and conditions or any zoning or other lawful authority with jurisdiction over Homestead Major Subdivision, then adherence shall be required to the higher of the standards imposed.

B. EFFECTS OF COVENANTS ON MORTGAGE. A breach of any of the foregoing covenants, restrictions and conditions, shall not defeat or render invalid the lien of any mortgage or trust indenture made in good faith and for value on any lot, tract, or portion of Homestead Major Subdivision and any improvements thereon. Said covenants, restrictions and conditions shall be binding upon and effective against any Lot owner of any portion of Homestead Major Subdivision whose title thereto is acquired by foreclosure, trustee's sale, or other similar conveyance.

C. INCORPORATION BY REFERENCE. In any conveyance of any of the real property within Homestead Major Subdivision, it shall be sufficient to insert a provision therein to the effect that the conveyance is subject to the covenants, restrictions and conditions contained in this document without setting forth said covenants, restrictions and conditions verbatim in such conveyance.

D. ENFORCEMENT. Individual Lot owners or Homestead Homeowners Association, Inc. may enforce the provisions of these Covenants, Restrictions and Conditions. Enforcement of the Covenants, Restrictions and Conditions and other provisions set forth in this document shall be by procedures at law or in equity against any person or persons violating or attempting to violate same. Each person who has been determined in violation of these Covenants, Restrictions and Conditions by a court of competent jurisdiction shall be liable for attorneys' fees and costs incurred in connection with the litigation process. The failure by any Lot owner to enforce any Covenant, Restriction and Condition herein contained shall in no event be deemed a waiver of the right to do so thereafter. The covenants, restrictions conditions and provisions set forth in this document shall be personally binding upon any person, persons, or other legal entity only with respect to breaches committed during its ownership of any portion of Homestead Major Subdivision.

E. SEVERABILITY. Invalidation of any one of these covenants, restrictions or conditions, by court order or judgment shall in no way affect any other provisions which shall remain in full force and effect.

F. AMENDMENT. This Declaration may be amended by any instrument signed by not less than two-thirds (2/3) of the Lot owners of Homestead Major Subdivision.

IN WITNESS WHEREOF, Declarants have executed this document on the 20th day of July, 2006.

R&D, LLC

BY: David H. Maddison Member
David H. Maddison

BY: Ronald Pack Member
Ronald Pack

Headwaters Development, LLC

BY: Frank E. Colwell Member
Frank E. Colwell

BY: Kay Carter-Colwell Member
Kay Carter-Colwell

STATE OF MONTANA)
(ss.
County of Madison)

On this 20th day of July, 2006, before me, the undersigned Notary Public in and for the State of Montana, personally appeared DAVID H. MADDISON, RON PACK, FRANK E. COLWELL and KAY CARTER-COLWELL, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.

Dawne Spilman Smith

Dawne Spilman Smith
Notary Public of the State of Montana
Residing at Sheridan, Montana
My Commission expires 6 October 2009

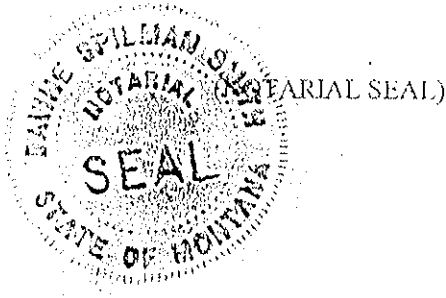


EXHIBIT "A"

Real property situated in Madison County, Montana, more particularly described as follows, to-wit:

A tract of land situated in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 25, and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26, Township 4 South, Range 5 West, P.M.M., Madison County, Montana, more particularly shown and described on Certificate of Survey filed in Book 4 of Plats, page 530, records of Madison County, Montana.

SUBJECT, HOWEVER, to any and all easements and/or rights-of-way existing in, over, under, upon or through said real property, or any part thereof, whether or not appearing of record; and SUBJECT ALSO to any and all reservations, covenants, ordinances, restrictions and exceptions set out and contained in any patent, deed or other instrument of record, including, but not limited to, any instrument whereby said real property, or any part thereof, passed from public to private ownership; and SUBJECT ALSO to any and all reservations of timber, timber rights, minerals, mineral rights, mining rights, stone, metals, geothermal rights, oil, gas, coal and other hydrocarbons saved and produced from said real property, heretofore reserved by Declarants' predecessors in interest.

