

RETURN ADDRESS

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Declaration of Covenants, Conditions, and Restrictions

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Blue Heron Aerie

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The Public

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Legal Description (abbreviated form: i.e. lot, block, plat or section, township, range, quarter/quarter)

Additional legal is on page

Assessor's Property Tax Parcel/Account Number

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12/12/2007 11:29 AM Covenant
Thurston County Washington
MARTIN RUTLEDGE



DECLARATION OF COVENANTS, CONDITIONS, and RESTRICTIONS

Blue Heron Aerie

THIS DECLARATION, made on the date hereinafter set forth by JayMar Investments LLC hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property commonly known as the Blue Heron Aerie, State of Washington, which is more particularly described as:

Legal Description

The East three quarters of the South half of the Northwest quarter of Section 14, Township 17 North, Range 1 West, W.M., in Thurston County, Washington

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to "Blue Heron Aerie Association," its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property herein before described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, which consist of the private road and its associates stormwater facilities.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable fees for the improvement, repair, or maintenance of improvements situated upon the Common Area;
- (b) the right of the Association to suspend the voting right and right to use of the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and

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for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Declaration of Use. Any Owner may delegate, in accordance with the by-laws, his/her right of enjoyment to the Common Area and improvement thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot who is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

Section 2. The Association shall have two classes of voting membership as follows:

Class A. Class A members shall all be Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the occurrence of both of the following events, or earlier, at the discretion of the Declarant:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, and
- (b) after January 1, 2009.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, except the Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties of the improvement and maintenance of the Common Areas.



Proper uses of the assessments levied by the Association shall include, but are not limited to, the expenditures of funds for taxes, fees, expenses, charges, levies, premiums, expenditures, or other costs incurred by the Association for:

- (a) Maintenance and repair of the private road, including that portion of unopened County road which bisects Lot 8 of Survey recorded under Auditor File Number 1048783.
- (b) Providing service and maintenance to the stormwater facilities as outlined in Attachment "A" to the CC&R's
- (c) Carrying out the powers and duties of the Association;
- (d) Purchase of insurance for the Association;
- (e) Any other purposes and uses that the Board shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of reserves

Section 3. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Notice and Quorum for Any Action Authorized under Sections 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60 percent of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 5. Amount of Annual Assessments.

Class A. The Association's annual assessment to be levied by the Association on all Class A lots shall be determined by the Board. The initial amount shall be \$240.00 (two hundred and forty dollars) per year.

Class B. Class B lots shall not be subject to assessment

Each Owner shall, concurrent with acquisition of its Lot, deposit with the Association a sum equal to one year's assessments as a working capital fund in addition to payment of the annual and other assessments subject to Article IV, section 6. This fee shall be due on each and every transfer of title, on each and every lot.

Section 6. Assessment Due Dates. Assessments shall be due in advance and shall be paid annually on January 1. Upon purchase of a Class A Lot the Member shall pay the assessment up to the next due date. This amount shall be prorated and shall be payable only for each full month between purchase date and the next due date.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent per annum. The arrearage shall be a lien against the lot, which the Association may record as a Homeowner's Association lien. The Association may bring legal action at law against the Owner personally obligated to pay same, or foreclose the lien against the property, or both. No Owner may waive or otherwise escape



liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. The association shall maintain a liability policy to cover Common Areas, after there are no longer any Class B members. The amount of this policy shall be determined by a majority vote of the members.

Section 10. The Association shall assume all responsibility for the Storm Water Maintenance Agreement. The Association shall be responsible for maintenance of the private road and the storm water system.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Architectural Committee Approval. Other than by the Declarant, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made 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 as to harmony of external design and location in relation to surrounding structures, and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. Committee/Declarant's Liability. The Association shall hold the Committee Members and the Declarant, if acting as the Committee, harmless from any actions taken (or actions not taken) under any previous section of this Declaration. By purchasing a Lot in Blue Heron Aerie, the Owners agree that, to the extent permitted by the Law, neither the Declarant (nor any officer, director, or representative of Declarant), nor the Committee (nor any member of the Committee) shall have any liability to the Owners or to the Association for any actions taken, or actions not taken, while acting as the Declarant or the Committee under this Declaration.

ARTICLE VI

LAND USE AND BUILDING RESTRICTIONS

Section 1. All Lots within the Properties shall be used solely for private single-family residential purposes. Private single-family residences shall consist of no less than one (1) Lot and no Lot shall be further subdivided before 1/1/2020. No Residence shall be constructed which exceeds the allowable height set forth in the Thurston County Zoning Code for this zone. Each Residence must have a private enclosed car shelter for not less than two (2) cars. No single structure shall be altered to provide residence for more than one (1) family. Family member accessory dwelling units that meet Thurston County Ordinances are permitted. Rambler-type residences (residence consisting of a basement and one story or residence consisting of a single story) shall contain at least one thousand three hundred (2,300) square feet. Multi-story residences (residence consisting of a basement and two stories or residences consisting of two stories) shall contain at least one thousand five hundred fifty (2,550) square feet. In computing the total square footage of a residence, the basement shall not be included, nor shall garages or enclosed decks be included.

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Section 2. No noxious or offensive activity shall be conducted on any Lot, nor shall anything be done or maintained on the Properties which may become an activity or condition which unreasonably interferes with the rights this Declaration gives other Owners to use and enjoy any part of the Properties. No activity or condition shall be conducted or maintained on any part of the Properties, which detracts from the value of the Properties as a residential community. No untidy or unsightly condition shall be maintained on any property. Untidy conditions shall include, but are not limited to, publicly visible storage of wood, disabled vehicles of any kind whatsoever, and landscaping which is not properly maintained. In no case shall a recreational vehicle, boat, trailer of any kind, truck, or automobile be parked in the public right-of-way for a period of time exceeding forty-eight (48) hours.

Section 3. Home day care, adult foster care, foster care, and home businesses are permitted as long as they conform to Thurston County Zoning and as long as they do not require on street parking.

Section 4. Shooting and hunt are allowed as long as they are allowed by Thurston County Code.

Section 5. No mobile or "manufactured" homes, trailers, structures of a temporary character, recreational vehicle, basement, tent, shack, garage, barn, or other out buildings shall be used on any Lot at any time as a Residence, either temporarily or permanently except for a single 12 month period prior to or during construction of the permanent structure. No vehicles parked in public rights-of-way may be used temporarily or permanently for residential purposes.

Section 6. Mining. No oil drilling, oil development operations, oil refining, quarrying, or mining operation of any kind shall be permitted on or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts shall be permitted on or in any Lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. Oil storage for residential heating purposes is permissible if the storage tank is buried, any necessary permits are obtained, and the storage complies with all applicable environmental laws, rules, and regulations.

Section 7. In no event shall any structures violate any provisions of any Thurston County zoning ordinance, or any specific setbacks as set forth on the recorded plat map, or any setbacks imposed through the establishment of easements for utilities or access.

Section 8. Signs. No signs, billboards, or other advertising structures or device shall be displayed to the public view on any Lot except one (1) sign not to exceed five (5) square feet in area may be placed on a Lot to offer the property for sale or rent. The Declarant, or his authorized agents, may install one construction sign per street frontage to a maximum of thirty-two (32) square feet to advertise lots for sale. Political yard signs, not more than ten (10) square feet in area, of a temporary nature, will be allowed during campaign periods on Lots. Within seven (7) days after the date of the election to which the sign refers, such signs must be removed from Lots.

Section 9. Livestock or poultry owned by the purchaser of any lot shall be on said lot for personal use. No livestock or poultry shall be maintained on the property in such a manner as to constitute a nuisance or as to be offensive to the other property owners. Where livestock is kept, the area shall be maintained clean and free of any accumulation of manure. Buildings for livestock shelter shall be no closer than fifty (50) feet from a property line. Any animal shelters shall be kept neat and in good repair. Any combination of more than six (6) horses, mules or cows with young not over one (1) year old shall be permitted.

Section 10. Delegation of Use and Responsibilities. Any Owner may delegate, to members of his family or his tenants, in accordance with the by-laws of the Association, the Owner's right of enjoyment of Common Areas. In the event an Owner rents or leases his property, a copy of this Declaration, as well as any rules and regulations that may be adopted by the Association, shall be made available by the Owner to the prospective renter at the time of commitment to the rental agreement. Each Owner shall also be responsible for informing guests and service personnel of the contents of this Declaration, as well as any rules and regulations that may be adopted by the Association as they may relate to appropriate community behavior. Each Owner personally, and the Owner's Lot, shall be responsible for any damages to any Common Areas (or any other area maintained by the Association), or to any other Association property,



whether real or personal, caused by an Owner's family, guest, tenant, agent, workman, contractor or other licensee or invitee. The Association shall have a lien upon the Owner's Lot for the amount of damages.

Section 11. Building Materials. All homes constructed on each Lot shall be built of new materials, with exception of "décor" items such as used brick, weathered planking, and similar items. The Architectural Control Committee will determine whether a used material is a "décor" item. In making this determination, the Committee will consider whether the material harmonizes with the aesthetic character of the Community and whether the material would add to the attractive development of the property.

The exterior of all construction on any Lot shall be designed, built, and maintained in such a manner as to blend in with the natural surroundings and landscaping within Blue Heron Aerie. The Architectural Control Committee or the Declarant must approve exterior colors. Exterior trim, fences, doors, railings, decks, eaves, gutters, and the exterior finish of garages and other accessory buildings shall be designed, built, and maintained to be compatible with the exterior of the structure they adjoin.

Section 12. Permits. No construction or exterior addition or change or alteration of any structure may be started on any portion of the Properties without the Owner first obtaining a building permit and other necessary permits from the proper local governmental authority.

Section 13. The Time of Completion. The exterior of any structures, including painting or other suitable finish and front yard landscaping, shall be completed within twelve (12) months of the beginning of construction so as to present a finished appearance when viewed from any angle. The construction area shall be kept reasonably clean during the construction period.

Section 14. Entry for Inspection. Any agent, officer or member of the Board, Committee, or Declarants may, at any reasonable predetermined hour upon twenty-four (24) hours notice during exterior remodeling, enter and inspect the structure to determine if there has been compliance with the provisions of this Declaration. The above-recited individuals shall not be deemed guilty of trespassing for such entry or inspection. There is created an easement over, upon and across the residential Lots for the purpose of making and carrying out such inspections.

Section 15. Contractor. Without prior approval of the Architectural Control Committee, no home may be constructed on any Lot by any other than a contractor licensed as a General Contractor by the State of Washington.

Section 16. Wiring. The wiring (other than interior wiring) for buildings of any kind shall be underground.

Section 17. Garbage and Refuse Disposal. No garbage, refuse, rubbish, or cuttings shall be deposited on or left on the lot premises unless placed in an attractive container suitably located and screened from public view. All garbage cans, refuse containers, and trashcans or receptacles shall be kept out of sight except on the days prescribed for pick up. No building material of any kind shall be placed or stored upon any property in the subdivision until the Owner is ready to commence construction, and then such materials shall be placed within the property lines of the building site upon which structures are to be erected or are being erected and shall not be placed in the street. No outdoor incinerators shall be permitted.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provision of this Declaration. Failure by the Association or by any Owner to

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Date:

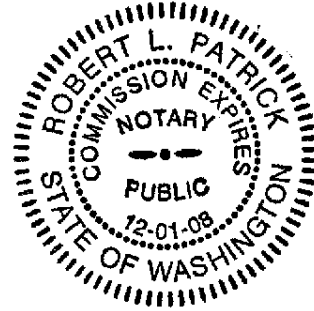
NOV. 16, 2007

Signature of Notary Public:

Robert L. Patrick

Residing at:

Tumwater



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