After recording, return to:

Mr. Donald A. Gatzke
243 Lake Blaine Drive
Kalispell, MT 59901

200700024921 Fees: $90.00 by: JL
DECL CCR by DONALD GATZKE
Date 8/16/2007 Time 12:55 PM Page: 1 of 10
Paula Robinson, Flathead County Montana

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CEDAR POINTE ESTATES

CONDITIONS, COVENANTS AND RESTRICTIONS

THIS DECLARATION, made by the undersigned, Donald A. Gatzke, 243 Lake Blaine Drive, Kalispell, MT 59901, hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain real property known as CEDAR POINTE ESTATES, according to the recorded plat on file in the Office of the Clerk and Recorder of Flathead County, Montana, and

WHEREAS, Declarant wants to subject the real property to the conditions, covenants and restrictions set forth here;

NOW, THEREFORE,

Declarant hereby declares that the real property is hereby subject to the following design guidelines, conditions, covenants, and restrictions. The design guidelines, conditions, covenants and restrictions are designed to provide a uniform plan for the development of the whole subdivision.

1. Vision

CEDAR POINTE ESTATES is located in a residential area approximately ¼ mile south of the intersection of US Highway 2 and Nucleus Avenue in Columbia Falls, Montana. CEDAR POINTE ESTATES consists of single family residential structures (houses, townhouses, duplexes) with each residence situated on its own deedable lot. Each Owner is responsible for complying with and meeting the spirit and intent of the criteria of the Planned Unit Development (PUD) plan, and the Design Guidelines, Conditions, and Covenants and Restrictions. This includes, in particular, the lots, building envelope, the site/building design elements, and the construction procedures.

2. Cedar Park Homeowners Association

The Declarant shall create an organization consisting of all lot owners to be called the CEDAR POINTE ESTATES Home Owners Association (CPEHOA).

The CPEHOA shall be formed at a time to be designated by the Declarant, but no later than when 75% of the lots have occupied structures and shall consist of the owners of each lot of CEDAR POINTE ESTATES. The owner or owners of each lot shall be entitled to a single vote per lot in the Association. Each lot owner becomes a member of the Association by virtue of his acquisition of the lot.

The CPEHOA is responsible for the care and maintenance of the common properties and insurance coverage for these common properties. Each homeowner's use of the common properties shall be governed by such rules as adopted by the CPEHOA. For the purposes of maintaining and caring for these common properties, the Board of Directors will make reasonable annual assessments to the owners of lots and such assessment may be collected in a suit subject to the provisions stated below for enforcement of covenants and may become a lien upon the land by a filing by the Board of Directors of a lien that shall describe the lot, state the amount of the assessment that has not been paid and when it was assessed. A lot owner whose lot is subject to such a lien must pay the assessment, costs for preparation of the lien, the lien release and all recording costs before the lien is released. This lien may also be foreclosed in the manner of foreclosure for mortgages with the prevailing party entitled to attorney's fees. Common properties as used here shall include designated parkland and common area.

3. Design Review Board

The Design Review Board (DRB) shall consist of the Declarant (who shall act as president), a technical representative that Declarant appoints, and a lot owner (after at least one lot is sold and if Declarant is able to find a lot owner willing to serve) within CEDAR POINTE ESTATES. Each member of the DRB shall have one vote.

The Declarant has the right to serve as a member of the DRB until 75% of the lots have occupied structures. At any time prior, the Declarant may resign from the DRB. If this occurs, or after 75% of the lots have occupied structures, the president of the CPEHOA shall appoint a lot owner within CEDAR POINTE ESTATES to serve as the president of the DRB. Successors to the DRB shall serve 2-year terms and shall be replaced by appointment by the president of the CPEHOA.

The technical representative may serve on the board until 75% of the lots have occupied structures. The representative may resign at any time. If the representative resigns from the DRB, or the president of the DRB chooses to replace the technical representative, the president shall appoint a new technical representative. The technical representative may be compensated at normal billing rates for all activities performed while serving as a member of the DRB.

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The president and at-large members of the DRB may review projects without input from the technical representative if they agree on the decision.

The lot owners, CPEHOA, and DRB shall defend, indemnify and hold the members of the DRB, their employees, and agents harmless from and against any and all claims, demands, causes of action, losses, damages, and settlements, which may be asserted against the members of the DRB arising from or attributable to or caused directly or indirectly by the lot owners, CPEHOA, DRB members and officials, employees or agents; or any negligent or intentional act, omission or misrepresentation by the lot owners, CPEHOA, DRB members and officials, employees or agents. If it is necessary for purposes of resisting, adjusting, compromising, settling, or defending any claim, demand, cause of action, loss damage or liability, or of enforcing this provision, for members of the DRB to incur or to pay any expense or cost, including attorney fees or court costs, the lot owners, CPEHOA, and DRB agree to and shall reimburse the DRB members within a reasonable time. Lot owners, CPEHOA, and DRB agrees to and shall give members of the CPEHOA notice of any claim, demand, cause of action, loss damage or liability within ten calendar days.

4. Process

The DRB is responsible for reviewing and approving all development within CEDAR POINTE ESTATES; from concept to completion. This includes, but is not limited to:

All new building and site development, including the exterior surfaces of structures and improvements.

Any proposed revisions to previously approved plans, prior to or during construction.

Any renovation, expansion or refinishing of the exterior of an existing structure or improvement.

Any proposed revisions to building envelopes.

5. Building Size, Materials and Restrictions

Each dwelling unit shall contain not less than 1,500 square feet of total living space; exclusive of attached garage, basements, and open porches, and shall include an attached garage for at least two cars. Each townhouse shall contain not less than 1,000 square feet of total living space; exclusive of attached garage, basements, and open porches, and shall include an attached garage for at least one car. In case of substantial hardship, the DRB may grant variances for these minimums, particularly on lots where the slope exceeds 25%.

Screen walls enclosing or screening patios and courtyards must be within the building envelope. Their design shall be treated as an extension of the building architecture, constructed of materials and finishes that match or complement the main building, and not over 13 feet in a single line or panel and five feet maximum in height. Partial roof, trellis,

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or arbor features may be considered.

Buildings shall not be sited outside the buildable limits shown on the plat. Every building shall be constructed in accordance with city building codes including limitations of distance to the property line. Portions of the building fronting the street shall have an exterior wall covering that consists of at least 20% native stone or wood with nature tones. The exterior of buildings may not be vinyl, plastic or equivalent materials. Buildings shall not cover more than 30% of the lot area. Building height shall not exceed 35 feet above the average immediately adjacent ground height.

composite?

6. Out Buildings

Out buildings such as a sauna or maintenance shed are to be developed to coordinate with the architectural motif and finish of the building. They shall be located within the building envelope. Only one outbuilding is permitted on any lot and shall not exceed 120 square feet in area, or 12 feet in height and shall bear an exterior that matches the building to which it is accessory. No outside storage is permitted; including vehicles parked for periods in excess of thirty consecutive days.

– ? city requirement

7. Driveways

Driveways and access roads may be considered individually or in common with a suitable adjacent lot and owner. Lot owners may be required to provide a shared access agreement if undertaking to incorporate a common driveway or amenity. Lots with less than 50 feet of frontage shall share a driveway approach with an adjacent lot. The location must consider safe road design, in particular relative to intersections, vehicle stacking and natural landscape impact on safe driver site lines.

Driveway approaches shall have an approach width not to exceed 22 feet, except shared approaches may be a maximum width of 28 feet. Driveway widths must be 20 feet, except shared driveways may be a maximum width of 26 feet. Approaches that enter the adjacent street on a curve possessing a street centerline radius of less than 200 feet shall be not closer than 50 feet to the next adjacent approach.

8. Mechanical Equipment

Mechanical equipment such as air conditioning compressors, cooling towers or rooftop units shall not be visually exposed. Consideration should be given to alternatives, e.g., GSHP's that do not require exterior equipment placement or building wall penetration.

9. Exterior lighting

Exterior lighting is to be limited to the building envelope and the public open space areas. Low intensity non-glare fixtures shall be used to provide adequate illumination for safety and aesthetic enhancement. Light fixtures that are uncovered, non-focused, and non-

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downward are not permitted.

10. Building Accessories

Building accessories are limited as follows:

A. Antennae are restricted to interior attic applications only.

B. Satellite dishes may be used if discretely located on the building, colored to match or blend with the relative exterior finish and a maximum 24" diameter. Screen with plantings from adjacent street, neighboring property and walkway views. Large ground mounted satellite dishes are prohibited.

C. Address identification, applied to a landscape or integrated architectural element is mandatory and is suggested near the road by the vehicle access driveway; for delivery and emergency response purposes.

11. Garbage

Garbage must be contained near the side or rear of each residence in containers furnished by garbage disposal services. — enclosed? no non visib from street

12. Recreational facilities

Recreational facilities such as hot tubs and swimming pools may be considered and are to be developed within the defined building envelope.

13. Grades and Drainage

Each lot owner is responsible for maintaining the natural lot and road right-of-way drainage. Culvert installation, with appropriate end treatment or provision of a suitable swale in the driveway surface along the boulevard, may be required as part of access development.

All lots shall meet the design standards of the Columbia Falls Subdivision Regulations. Lots with slopes in excess of 25% must have a defined buildable area and any slopes in excess of 25% must remain undisturbed and outside of a designated building envelope. For lots containing slopes in excess of 25%, where a building is proposed which may impinge upon the slope, a geotechnical report prepared by a licensed engineer must be submitted to and approved by the City prior to the issuance of a foundation or building permit.

Lots 18 through 22 possess a buried drain structure between lot lines. This structure must be kept in working condition. Owners in this area must use great care when doing any work in the vicinity of these structures and repair any damage immediately. Owners are advised to build no part of any structure below the top of the drainage structure. ? — what is this? french drains

14. Landscape Design Guidelines

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All open or undeveloped area of the lot should be seeded or sodded in conjunction with any other plants, shrubs or trees and maintained appropriately. Tree planting is encouraged as part of the lot and development process. Lawn areas should be seeded or sodded with a mowable seed mixture. Retaining walls are to be designed and constructed so as to blend into the natural landscape.

Trees shall not be removed from the property except for the specific purpose of house, adjoining buildings, and access road construction after approval by the DRB. No healthy tree with a diameter greater than 12 inches, measured 3 feet above the immediately adjacent ground surface, shall be damaged or removed anywhere within the subdivision without the prior written approval of the Columbia Falls city manager or his designee. ?

15. Purpose, Use and Activities

A. No lot shall be used except for single-family residential purposes. A lot may be used for a home business if the DRC approves that use in writing.

B. No lot shall be further subdivided.

C. No temporary building, house trailer, mobile home, basement or partly finished building or structure shall be erected or placed upon this property during construction. All construction shall be complete within one year from the date construction begins. All homes must be of a new construction. & landscaping add

D. The parking or storage of campers, camping trailers, pick-up campers, trucks over one-ton, boats, snowmobiles, trailers or unlicensed vehicles must be adequately screened from public view.

E. No advertising, billboards or advertising structures of any kind shall be erected, used or maintained on the property, except realtor signs and political signs (not to exceed three square feet) during the 30 days before the election. No items shall be displayed for sale on any portion of the property. approved Standards

F. No manufacture, trade, vehicle repair shop of any kind, or similar commercial activity may be conducted on the premises.

G. Fuel tanks above ground are not allowed.

H. All utilities shall be underground.

16. Open Space / Park (Recreational Area)

A. The Open Space shall remain in its natural native vegetation state and shall be enjoyed as such. Improvements can be made if determined in the best interest of the CPEHOA and does not degrade the nature or naturalistic intent

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of the open space. The nature of improvements will be determined by the Board of Directors of the Homeowners Association as to whether it is in the best interest of the CPEHOA.

B. The maintenance of the Open Space shall be provided at the expense of the CPEHOA. Any expenses incurred for such maintenance shall be included as dues or assessments as the Board of Directors shall determine. Assessment for taxation and special improvements for lands within the common area shall be proportionally shared among all lots in the subdivision. The proportion may be equal or based upon the area of the lot in proportion to the total area of all lots. Such assessment shall be reported to the City and Flathead County Treasurer.

C. Any real estate taxes imposed by any agency having jurisdiction upon the park space, or any other expenses deemed appropriate by the Board of Directors shall be paid by the CPEHOA.

D. Developer has provided the City a waiver of protest to create a Special Improvement District to provide maintenance for all land within the subdivision not platted in lots or public right-of way and not part of the non-motorized trail system. The CPEHOA shall develop a maintenance schedule for the open space. Such schedule shall prescribe weed abatement, re-vegetation of disturbed areas, keeping the creek free of debris to maintain creek and pond flows, and general maintenance and cleanup of the common area and walk paths. Noxious weeds shall be controlled and eradicated. The CPEHOA may petition the City to implement such an improvement district.

17. Animals, Birds, and Pets

No animals, livestock or poultry of any kind shall be kept on any lot, with the exception of dogs, cats or other household animals, provided that they are not kept, bred or maintained for any commercial purpose. The number of dogs and cats residing on any lot shall not exceed two in aggregate and must be confined to their owner's property and must be kept under their direct control. Dogs shall not be allowed to run at large or to create a disturbance for other owners. When not on owner's lots, animals shall be leashed and the owner shall pick up all animal waste.

18. Removal of Waste, Property Appearance and Upkeep

Noxious or offensive activity shall not be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood, including barking dogs.

All structures upon the property shall be kept in good repair and appearance.

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No part of this property shall be used or maintained as a dumping ground or storage ground for rubbish, trash, garbage, old automobiles or other waste. All waste stored outside of the structure shall be stored in containers furnished by garbage disposal services and shall be promptly removed from the property in a timely manner.

19. Compliance with other regulations

It remains the responsibility of the Owner/Builder to ensure that the construction of any buildings on the site conforms with state, town or municipal laws, regulations, by-laws or other enactment's, and any encumbrances affecting the title to the property, including, without limitation, utility rights-of-way, easements and restrictive covenants and all requirements outlined on the grade slip and Lot Location Plan. In addition, it shall be the responsibility of the Owner/Builder to comply with any and all requirements of the Planned Unit Development ("PUD") plan associated with Cedar Pointe Estates.

20. General Provisions

These covenants are to run with the land, and shall be binding on all parties, and all persons claiming under them, for 30 years from the date these covenants are recorded, after which time these covenants shall be automatically extended for successive periods of ten years, unless an instrument signed by a majority of the owners of the lots has been recorded and after the changes have been approved by the Columbia Falls city attorney. These covenants may be amended at any time when the amendment is approved by 75% of the lot owners and the Columbia Falls city attorney.

Declarant and every person receiving any right, title or interest in any tract of this property shall have the right to prevent or stop violation of any of the restrictions by injunction or other lawful procedure, in law or in equity, against the person or persons violating or threatening to violate these restrictive covenants. Any person who shall prosecute an action successfully may recover any damages resulting from such violation. The prevailing party in any action shall be entitled to its costs and reasonable attorney's fees. The CPEHOA shall be entitled to enforce these regulations as if it was a lot owner.

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

21. Enforcement

Before legal proceedings are commenced, the CPEHOA or DRB intending to enforce the covenants shall notify the lot owner violating any covenant in writing, which may be delivered by: (1) both certified mail and first class mail; or (2) in person, specifying the failure and demanding that it be remedied within a period of 30 days of the date of the notice. If the owner fails or refuses to remedy the violation within 30 days, then the CPEHOA or DRB may undertake any action that it in its sole discretion deems necessary and reasonable to terminate or correct the act or condition that violates the covenants,

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including obtaining legal or equitable relief. No entry upon a lot by the DRB, the Board of Directors, or its agent for purposes of enforcing these covenants shall be deemed a civil or criminal trespass. Before a suit is filed, the parties shall seek mediation in good faith.

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Donald A. Gatzke

State of Montana)
:ss
County of Flathead)

This instrument was acknowledged before me on August 16, 2007, by Donald A. Gatzke.

BRANDI J. EATON NOTARIAL SEAL STATE OF MONTANA

Notary Public for the State of MT
Printed name: Brandi J. Eaton
Residing at Kalispell, MT
My commission expires: 08-20-2008
(For year, use all four digits)

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