

98662

INSTRUMENT NO. _____
PAGE 1 OF 8

After Recording Return to:

WILDERNESS WEST, L.L.C.
P.O. BOX 18213
SEATTLE, WA 98118

Instrument # 98662

COUNCIL ADAMS, IDAHO

2000-09-11 01:58:27 No. of Pages: 8

Recorded for : GORDON SORENSON

MICHAEL FISK Fee 24.00

Ex-Officio Recorder Deputy *Joey Pinkal*

**CUDDY VIEW ADDITION
PHASE I AND PHASE II
DECLARATION OF BUILDING RESTRICTIONS
AND PROTECTIVE COVENANTS**

WILDERNESS WEST, L.L.C., a Washington Limited Liability Company ("WW"), hereinafter referred to as Grantor, does hereby certify and declare:

Section 1. General Provisions. The Grantor is the owner of certain land which is legally described in Exhibit A attached hereto, located in Adams County, Idaho, and which property has been subdivided in accordance with the plat of Cuddy View Addition - Phase I as recorded in the office of the County Recorder of Adams County, Idaho, in Book 3 of Plats on page 2 on the 11th day of SEPTEMBER, 2000, and in accordance with the plat of Cuddy View Addition - Phase II as recorded in the office of the County Recorder of Adams County, Idaho, in Book 3 of Plats on page 3 on the 11th day of SEPTEMBER, 2000 (hereinafter sometimes referred to as "Cuddy View Addition"). Grantor does hereby establish a general plan for the development, improvement, maintenance and protection of the real property, and for that purpose does hereby establish the building restrictions and protective covenants set forth herein. Said building restrictions and protective covenants shall attach to and shall pass with the land, and shall bind all persons who may at any time hereafter and from time to time own or claim any right, title, or interest in and to said land, and the successors in title and interest to said land, whether acquired through voluntary act or through operation of law.

Section 2. Definition of Terms. That the term "Grantor" wherever used herein shall refer either singularly or collectively, to the above named Grantor, and to its successors, representatives and assigns, and to any person or persons, or other legal entity to whom the rights and obligations of the Grantor as set forth in these building restrictions and protective covenants shall be specifically transferred.

The term "Grantee" used herein shall refer not only to the person, corporation, association or other legal entity who originally purchased a Lot or parcel of land in Cuddy View Addition from the Grantor, but also to any person, corporation, association or other legal entity who hereafter shall assert or claim any right, title, claim or interest in and to said land or any Lot piece thereof, whether as successors in title voluntarily or by operation of law.

The term "Lot" shall refer to a piece of real estate which is separately described, and which is recognized by Adams County as a legal and separate piece of real estate, and which property is included in Cuddy View Addition which is subject to these building restrictions and protective covenants.

The term "Lot Owner" shall mean the person or persons holding fee title to a Lot or purchasing a Lot by contract of sale.

Section 3. Violation and Enforcement. If any Grantee violates or attempts to violate any of the provisions of these building restriction and protective covenants, then any person or persons, corporation, association or other legal entity owning a Lot of land in Cuddy View Addition or by a homeowners association comprised of such Lot owners or by the Architectural Control Committee or by a lawful municipal authority, shall have full power and authority, to prosecute any proceeding at law or in equity against the grantee violating or attempting to violate any of the provisions of these building restrictions and protective covenants, and either to prevent him or them from so doing or to recover damages sustained by reason of such violation. The prevailing party in any such legal action shall recover reasonable attorneys fees and all litigation costs from the non-prevailing party.

In the event that any provision, sentence or paragraph contained in these building restrictions and protective covenants is invalidated by judgment or court order, it shall not affect or invalidate any of the other provisions, sentences or paragraphs of these building restrictions and protective covenants, but the same shall remain in full force and effect.

Section 4. Term of Restrictions/Amendment. These building restrictions and protective covenants shall run with the land described herein and shall be binding upon the parties hereto, and all successors in title and interest of any of the said parties, or any part thereof, until January 1, 2010, at which time said restriction shall be automatically extended for a successive period of ten years, unless the owner or owners of the legal title to not less than two thirds of the Lots, agree to amend or terminate these building restrictions and protective covenants. In addition, so long as Grantor retains fee title to any Lot, Grantor shall have the right and power to unilaterally amend these building restrictions and protective covenants, provided that any amendment shall not materially diminish the general quality and character of the property development required under these building restrictions and protective covenants. Any amendment or termination of these building restrictions and protective covenants shall be in writing, duly signed and acknowledged, and shall become effective upon the filing of the same in the office of the county recorder of Adams County, Idaho.

Section 5. Temporary Structures. No structure of a temporary character, camp trailer, basement, tent or shack shall be used on any Lot at any time as a residence, except as temporary living quarters while a permanent dwelling is under construction. Any such temporary structure will be

permitted on the Lot for a maximum of six months, after which it must be removed or properly garaged. No working or commercial vehicle, one and one half ton or greater, or trailers or mobile homes shall regularly or as a matter of practice be parked on any building site, nor on the street adjacent thereof, unless properly garaged.

Section 6. Building Restrictions. Each Lot shall constitute a building site and not more than one detached single family dwelling and one detached guest house shall be placed, constructed or maintained on each building site. Except as specifically provided herein, no building site shall be used except for residential or agricultural purposes, and no building shall be erected, altered, placed, or permitted to remain on any building site other than one detached primary single family home and one detached guest house.

Each primary residential dwelling erected, constructed, maintained, or permitted on each building site shall contain a minimum of at least one thousand two hundred (1,200) square feet of floor area, exclusive of garages, open entries, porches, basements, decks, and terraces, and each primary residential dwelling shall cost at least a minimum of EIGHTY THOUSAND DOLLARS (\$80,000.00) based upon minimum construction cost levels of \$66.00 per square foot prevailing on date these covenants are recorded, exclusive of the cost of said building site; and for this purpose, the cost shall be construed to mean the actual cost or contract price of erecting and constructing said primary residential dwelling and garage. Any detached guest house shall likewise have a minimum construction cost of \$66.00 per square foot based upon cost levels prevailing on the date these covenants are recorded as provided herein. Unless otherwise allowed by the Architectural Control Committee, the detached guest house shall contain a minimum of 600 square feet and a maximum of 1,500 square feet of residential floor area exclusive of garages, open entries, porches, basements, decks, and terraces. The guest house may be of a "carriage house" style where the ground floor is devoted to garage, personal shop or similar uses and the second story is the living area and a guest house may be constructed whether or not a primary residential dwelling is constructed.

It shall be permissible, where a single family residence has been erected on a particular parcel, to erect in connection therewith appropriate fences, corrals, stalls, barns, and shop buildings, for the storage and keeping of machinery, hay and feed, and for the keeping of livestock.

Any building plans and buildings erected on said land shall be subject to approval by the authorities of the lawful municipal authority, and shall comply with all present and future existing codes of Adams County.

Section 7. Prosecution of Work. The work of construction of all buildings, alterations, and additions thereof, shall be prosecuted diligently and continuously from commencement of construction until such buildings, alterations and additions are completed and painted. All buildings, alterations and additions shall be fully completed as to external appearance, within six months of commencement unless prevented by cause not due to grantee's neglect, or failure to prosecute diligently the work to completion.

Section 8. Limitation of Use. No building or structure of any type shall be moved onto said building site except a new prefabricated structure of a type and design complying with Section 6 as set

forth therein. Any prefabricated residential building must have a roof pitch of 4:12 or greater (minimum of 4" rise in 12" run) and must have a roof eave that is at least 18 inches wide as measured from the exterior wall surface. NO TRAILER HOUSE, MOBILE HOME, OR SO-CALLED DOUBLE-WIDE MOBILE HOME SHALL BE MAINTAINED OR INSTALLED UPON ANY BUILDING SITE AS A RESIDENCE OR FOR ANY OTHER PURPOSE.

Section 9. No Subdivision of Lots. Any Lot which is subject to these Building Restrictions and Protective Covenants, and which is conveyed to any Grantee by Grantor, shall at no time be divided or subdivided into smaller Lots.

Section 10. Other Development Projects of Grantor. With regard to any real estate owned by Grantor, other than Cuddy View Addition as described in Section 1, which Grantor shall seek to subdivide, re-zone, improve or otherwise develop, each Grantee, as a condition for purchasing a Lot from Grantor designates and appoints Grantor as Grantee's special attorney-in-fact to approve, consent to and support any such land use action or development sought by Grantor. This designation of authority and proxy, is coupled with an interest and shall not be revoked without the written consent of Grantor. Further, all Grantees waive any and all right of protest and shall not act in any way inconsistent with this designation of authority to Grantor.

Section 11. Sewage Disposal. All bathroom sinks and toilet facilities shall be inside the dwelling house and shall be connected by underground pipes with a septic tank of a depth and type of construction approved by Adams County and State of Idaho Health Authorities. The drains from said septic tanks shall be kept within each Lot, unless otherwise allowed by written easement. The effluent from septic tanks shall not be permitted to discharge into any streams or open drains.

Section 12. Refuse. No car bodies, discarded appliances or unsightly materials may be stored upon the real property.

Section 13. Billboards and Signs. No signs or billboards of any kind for any use shall be erected, painted or displayed upon any of the land; except, however, there shall be a right to display signs during the period that a grantor or grantee, or its authorized agents, are placing any building site or sites upon the market for sale.

Section 14. Architectural Control Committee. The Architectural Control Committee ("ACC") shall consist of three (3) members who shall be appointed initially by Wilderness West, L.L.C. and shall remain in office until such time as eighty percent (80%) of the Lots subject to this Declaration have been built upon and conveyed from WW to a Grantee. From and after such time, or such earlier time as determined by WW, the ACC shall be composed of three (3) or more representatives elected by a majority of the owners of the Lots.

Section 15. Building Restriction Zone. Unless otherwise approved in writing by the ACC, all buildings, structures of any type, AND all roads or driveways shall be constructed on that portion of any Lot that has a natural ground slope of less than thirty percent (30%). This restriction does not apply to roads which are dedicated to public use with the filing of the plat and does not apply to fences. The areas which have a natural slope of 30% or more are shown on the face of the plat and shall

constitute the NO BUILDING ZONE. At the time of recording each plat, the area of the NO BUILDING ZONE is staked on the ground in accordance with the recorded plat.

Section 16. Approval of Plans by ACC. All buildings and structures, antennas, satellite dishes of four (4) feet or larger in diameter, or other structures to be constructed within the Lot, shall be approved by the ACC. Complete plans and specifications of all proposed buildings, structures and exterior alterations, together with detailed plans showing the proposed location of the same, shall be submitted to the ACC. All plans and specifications for approval by the ACC must be submitted at least thirty (30) days prior to the proposed construction or alteration starting date. Construction or alteration shall not be started until written approval thereof is given by the ACC.

In the event ACC fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required.

Three copies of the plan drawing(s) shall be submitted to the ACC for any new construction or proposed modification to any exterior of a building or structure. The plan shall show an elevation drawing of each side of the building or structure and shall indicate thereon the type and quality of exterior materials and their final colors. For new construction, the plan shall include a site drawing showing how the building(s) will be situated on the lot. The plan shall show building dimensions and vertical elevations, with vertical elevations not necessarily tied to a true datum. All buildings, both the house and associated out buildings, within a single lot shall be constructed of similar materials and the same or coordinating colors.

The powers of the ACC are limited to the review of the exterior appearance and the elevation and siting of buildings and structures upon a lot. This review will include colors (earth tone and soft tone colors are pre-approved) and types of exterior materials. The exterior lines, elevations, colors and materials will be reviewed for conformity and harmony with the character of a high quality residential development in a rural agricultural setting. Any exterior design, color and/or material selection that is considered by the ACC to be excessively bold and/or obtrusive may be disallowed by the ACC.

The ACC shall have the right to disapprove the proposed exterior elevation, design or finishes of any building or structure which in the opinion of the ACC shall have a negative and detrimental impact to other properties within the subdivision with regard to visual or other related effects. Any enclosure or cover used or constructed, whether temporary, collapsible, seasonal or whatever shall be treated as a permanent structure for the purpose of these covenants and shall be subject to all the conditions, restrictions and requirements as set forth herein for all buildings and structures.

The ACC's approval of any plans or specifications shall not constitute any warranty or representation by the ACC or any of its members that such plans or specifications were examined or approved for engineering or structural integrity or sufficiency or compliance with applicable government laws, codes, ordinances and regulations, and each Lot Owner hereby releases any and all claims or possible claims against the ACC and its members, and WW, based upon engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances, and regulations.

Approval of construction plans and all other matters by the ACC shall be by simple majority of its members.

Section 17. Residential and Agricultural Use. No Lot shall be used for other than agricultural or single family residential use with parking for not more than five (5) vehicles, each of which is each not greater than 1-1/2 ton in capacity. With the exception of agricultural uses, any trade, craft, business, or profession shall take place only on the inside of a building approved by the ACC; provided that any such activity shall comply with Adams County zoning and the other provisions of this covenant.

Section 18. Garbage and Trash. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers properly screened and shielded from adjacent properties. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No trash, refuse pile, vehicles, compost pile, or other unsightly objects shall be allowed to group, accumulate or remain on any Lot so as to be a detriment to the neighborhood or become a fire hazard.

Section 19. Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done or maintained thereon which may become an annoyance or nuisance to the neighborhood or detract from its value.

Section 20. Recreational Access to Weizer River. As further provided in Section 22, there is anticipated to be up to 53 lots for residential use in Cuddy View Addition when all Phases are developed. The 53 residential Lot Owners of Cuddy View Addition shall each own an undivided 1/53rd tenancy in common interest in that parcel of ground located north of the Weizer River and east of Goodrich Road as described and shown as Parcel B on recorded plat of Cuddy View Addition - Phase I. The said 1/53 interest shall be appurtenant to each Lot in Cuddy View Addition (except Lot 14) and may not be conveyed separate from a Lot unless otherwise agreed by a majority vote of the Lot Owners. The said river access parcel shall be for the sole recreational and private use of the said 53 Lot Owners. Rules and regulations regarding the use, improvement and maintenance of the said access parcel shall be determined by a majority vote of the said Lot Owners and if a majority so desire, a homeowners association may be established for the purpose of conducting such affairs. Any decision concurred in by a majority of the said Lot Owners shall be binding upon all such Lot Owners and each Lot shall each be assessed a 1/53rd share of any cost or expense of maintenance or improvement of the said access parcel which is approved by a majority vote of the said Lot Owners. In any such majority vote decision, a Lot Owner shall have one vote for each Lot owned and may vote by proxy. If a Lot Owner does not promptly pay an assessment, an assessment lien may be recorded against the Lot which lien may be foreclosed in the same fashion as a mortgage.

Section 21. Utility Easements. WW reserves easements appurtenant to each Lot in Cuddy View Addition and grants easements appurtenant to each Lot in Cuddy View Addition for installation and maintenance of utilities, storm sewers and electrical, gas, telephone, and water lines as shown on the recorded plat, or recorded elsewhere, over, under and across: (a) a ten (10) foot strip along each side of the Lot line between adjoining Lots; (b) twenty (20) feet along the exterior boundary line of Cuddy View Plat; and (c) a ten-foot (10') strip along each side of any right-of-way limits. Any utility

in the easement area of each Lot shall be maintained continuously by the person benefitting most directly from the utility except for those improvements for which a public authority or utility company is responsible. In the case where a utility is installed in the easements herein defined, the cost to restore the property to its original state prior to this installation shall be borne by the Lot Owner or Owners who require the utility. If any Lot Owner shall desire to place any above ground utility in the easement, then such Lot Owner shall obtain the written approval of the ACC and the ACC in its discretion, may require that the utility be placed underground within the easement.

So long as WW owns any Lot, WW shall have the right to grant to other real property the right to use said easements appurtenant, provided that any such use of the easements shall in all respects conform to the provisions hereof.

22. Phase Development. The Cuddy View Addition may be established and/or developed in two or more phases. Phase I consists of 22 Lots including Lot 14. Phase II consists of 10 Lots. Although Grantor is under no obligation to develop additional phases, the ultimate number of Lots is presently anticipated to be 54 with one Lot (Lot 14) owned by the rural fire district and 53 Lots for residential use. These covenants shall apply to all of the Lots as shall be legally established at any given time and to the extent that any covenant refers to a 1/53rd share or is otherwise based upon there being a total of 53 Lots for residual use, the said term shall be temporarily amended to reflect such lesser number of Lots as legally exist at the time; provided, however, that each Lot Owner expressly accepts their Deed subject to the further amendment of the plat and of these CC&Rs to fully accommodate and reflect equal treatment of all 53 Lots for residual use at such time as all phases are legally created and/or developed.

23. Rural Fire District Parcel. Lot 14 may be deeded to and used by the rural fire district for fire fighting purposes or other public safety purposes which uses and related improvements are expressly allowed notwithstanding any provisions of this Declaration.

24. Rural Fire District. Each Grantee, as a condition of purchasing a Lot from Grantor, agrees to join a rural fire district at such time as one is formed or extended to include Cuddy View Addition in its jurisdiction. Grantee appoints Grantor as Grantee's special attorney-in-fact to consent to such formation or participation in such rural fire district on such terms and conditions as Grantor shall determine. Further, all Grantees waive any and all right of protest and shall not act in any way inconsistent with the decision of Grantor regarding the participation in or extension of a rural fire district to include Cuddy View Addition.

DATED this 6 day of June, 2000.

WILDERNESS WEST, L.L.C.

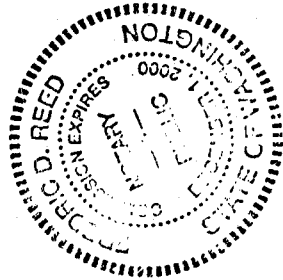
By: Kenneth K. Cederstrand
Kenneth K. Cederstrand, Member/Manager

INSTRUMENT NO. 98662
PAGE 8 OF 8

STATE OF WASHINGTON)
) ss.
County of King)

On this 6th day of June, 2000, before me personally appeared KENNETH K. CEDERSTRAND, to me known to be the Member/Manager of WILDERNESS WEST, L.L.C, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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



Fredric D. Reed
Name (printed): Fredric D. Reed
Notary Public in and for the State
of Washington, residing at Seattle
My commission expires: 12-1-00

After Recording Return to:

Wilderness West, LLC
P.O. Box 18213
Seattle, WA 98118

Instrument # 107991

COUNCIL, ADAMS, IDAHO

2005-01-18 03:07:50 No. of Pages: 2

Recorded for : TIMBERLINE TITLE & ESCROW

MICHAEL FISK

Fee: 6.00

Ex-Officio Recorder Deputy *Reggie Pinkal*

Index to: COVENANTS

**VIEW PRESERVATION COVENANT
SETBACK RESTRICTION ON
LOT 7 CUDDY VIEW II**

WILDERNESS WEST, LLC, a Washington limited liability company ("WW"), does hereby grant and reserve the following restriction:

1. **Property Subject to Restriction.** The real property which is subject to this restriction, is legally described as follows:

Lot 7, Cuddy View Addition, Phase II, according to the official plat on file and of record in Adams County Recorder's Office, Adams County, Idaho, in Book 3 of Plats, page 2.a.

2. **Setback Restriction.** No residence, barn, shed, gazebo, outbuilding, satellite dish, or other structure shall be constructed in the following portion of said Lot 7:

The easterlymost south 200 feet of the easterly 371.69 feet of Lot 7, which is a rectangle 200 feet by 371.69 feet the southeasterly corner of which is located on the westerly lot line of Lot 13.

3. **Exclusive Benefit of Lot 8.** This setback restriction is for the exclusive benefit of the adjoining Lot 8 of Cuddy View Addition, Phase II to preserve and protect its view. This restriction may not be removed or amended without the express written consent of the owner of said Lot 8.

4. **Appurtenant.** This setback restriction shall be appurtenant to the said Lot 7 and the benefit of the said restriction shall be appurtenant to the said Lot 8 and shall pass with the land, and shall bind all persons who may at any time hereafter and from

