

RESTRICTIVE COVENANT

This grant of restrictive covenant is made this 9th day of October, 1998, by Bryan L. Wolf, hereinafter referred to as "Grantor," in favor of DESCHUTES COUNTY, a political subdivision of the State of Oregon, (hereinafter referred to as "Grantee").

RECITALS

WHEREAS, Grantor(s) are the sole owners in fee simple of certain real property in Deschutes County, Oregon, more particularly described in Exhibit A attached hereto and by this reference incorporated herein (hereinafter referred to as "the Property"); and

WHEREAS, the Board of County Commissioners has determined under the Comprehensive Plan and the Deschutes County Zoning Ordinance that by virtue of the presence of golden eagle nests near the property that the property shall be protected with a Sensitive Bird and Mammal Habitat Area zoning designation; and

WHEREAS, Grantor(s) have applied for and received a land use permit on the Property, and DCC Section 18.090.060(7) and its associated ESEE conditions require as a condition of approval of construction of structures within 100 feet of the rimrock, that a restrictive covenant be granted to protect native vegetation between the structure and the rimrock;

NOW THEREFORE, pursuant to DCC 18.090.060(7), Grantor(s) hereby agree to and do place the restrictions and obligations contained as set forth herein on and over that portion of the Property lying between the residence structure and the rimrock, as that term is defined in DCC 18.04.1045, (hereafter referred to as the "restricted area") under the terms set forth herein and Deschutes County agrees to and does hereby accept Grantor(s)'s grant of such restrictions.

1. Scope and Purpose.

This Conservation Agreement imposes restrictions on the Grantor(s) within the restricted area. The purpose of this conservation agreement is to ensure that the native vegetation between the residence structure and the rimrock (as defined in DCC 18.04.1045) is retained as sensitive golden eagle habitat to act as a screen between human activity associated with the residence and the eagle nests identified in the ESEE document. Nothing in this document shall be construed as granting a right of public access or a public access easement.

2. Restrictions on Grantor's Use of Restricted Area. Grantor(s)'s use of the restricted area shall be restricted as follows in order to protect the natural values identified in Paragraph 1:

A. Grantor(s) shall not use or occupy any portion of the restricted area in a manner that would degrade or diminish the protected values of the restricted area, including, but not limited to:

- (1) Except as allowed under subparagraph A(2), taking any action that would directly or indirectly result in removal or destruction of native vegetation.

- (2) Permission shall be granted for (1) removal of diseased or insect-infested trees or shrubs or of rotten or damaged trees that present safety hazards, (2) normal maintenance and pruning of trees and shrubs. Replacement of any existing vegetation in the restricted area with lawn is not allowed.

B. Notwithstanding any other provision in this agreement, there shall be no restriction of ongoing accepted agricultural practices.

3. Administration and Enforcement

3.1. Nothing herein shall be construed as creating any affirmative obligations on the part of the Grantee.

3.2. Enforcement Generally

A. The restrictions set forth in this agreement are enforceable by Deschutes County.

B. If Deschutes County determines that Grantor(s) or their successors are in violation of the terms of this agreement or that such a violation is threatened, then Deschutes County shall give written notice to Grantor(s) or their successors of such violation and demand corrective action to cure the violation and, where the violation involves injury to the restricted area resulting from any use or activity inconsistent with the purpose of this agreement, to restore the portion of the restricted area so injured.

C. If Grantor(s) or their successors fails to cure the violation within 30 days after receipt of notice thereof or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation, Deschutes County may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this agreement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to abate any condition created in the restricted area in violation of this agreement.

3.3. No delay or omission by Deschutes County in the exercise of any right or remedy upon any breach by Grantor(s) or their successors will impair such right or remedy or be construed as a waiver.

3.4. Enforcement actions under this agreement may be taken only against an Owner having fee title to the restricted area, any person having a possessory right under an Owner, and any agent, operator or contractor acting under the authority of such Owner or holder of such possessory rights. A Mortgagee shall be subject to enforcement actions only at when Mortgagee takes ownership of the property by foreclosure or otherwise.

3.5. In addition to the remedies set forth under Paragraph 3.2 above, Deschutes County may treat any violation of this agreement as a nuisance under current § 18.144.040 of the Deschutes County Code (or any comparable successor provision of the Deschutes County Code) and a violation under current § 18.144.050 (or any comparable successor provision of the Deschutes County Code).

4. Assignment Deschutes County may assign any right or interest it may have in this agreement only upon consent of the Grantor(s) or their successors.

5. Extinguishment This agreement shall be extinguished if Grantor(s) or their successors choose to abandon the land use approval under which this agreement is a condition.

6. Successors The covenants, conditions, and restriction of this agreement shall be binding upon, and inure to the benefit of the parties and their respective personal representatives, heirs, successors, and assigns, and all who take through them, whether voluntarily or involuntarily, and shall continue as a servitude running in perpetuity with the Property.

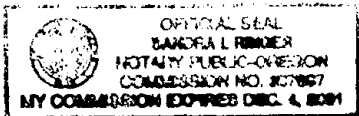
DATED this 9th day of October, 1998.

DESCHUTES COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

George J. Read
GEORGE J. READ, Director

STATE OF OREGON, County of Deschutes: ss

BEFORE ME, as Notary Public, personally appeared **GEORGE J. READ**, the above named Director of Community Development of Deschutes County, and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon, this 9th day of October, 1998)



Sandra L. Ringer
Notary Public for Oregon
My Commission Expires: 12/04/2001

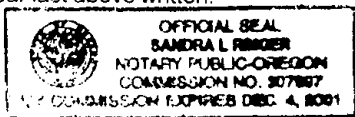
DATED this 9th day of October, 1998.

Bryan L. Wolf
Bryan L. Wolf

STATE OF Oregon, County of Deschutes ss

On this 9th day of October, 1998, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Bryan L. Wolf, who is known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

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



Sandra L. Ringer
Notary Public for Oregon
My Commission Expires: 12/04/2001

516 - 0056

EXHIBIT A

Lot Six (6), Block One (1), FIRST ADDITION TO CHAPARRAL ESTATES, Deschutes County, Oregon.

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

98 OCT 12 AM 8:49

MARY SUE PENHOLLOW
COUNTY CLERK

BY: T Moore DEPUTY

NO. 95-45478 FEE 0.00

DESCHUTES COUNTY OFFICIAL RECORDS