

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2003-47465



\$86.00

00182726200300474650120120

07/15/2003 03:24:28 PM

D-COTV Cnt=2 Stn=4 BECKEY

\$55.00 \$5.00 \$11.00 \$10.00 \$5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE



This page must be included
if document is re-recorded.
Do Not remove from original document.

81 ↓

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
TASMAN RISE SUBDIVISION**

11/27 William P. Hilliard Jr. Living Trust, acting by and through William P. Hilliard, Jr., Trustee, and Kanehill Corporation, acting by and through Patricia Johnson, President, the undersigned ("Declarant"), being the owners of the real property in Deschutes County, Oregon, more particularly described in Exhibit "A" (attached hereto and by this reference incorporated herein), adopts this Declaration of Covenants, Conditions and Restrictions for the property described in Exhibit "A" and any subsequently added Lot, which is hereby subject to these Covenants, Conditions, and Restrictions and will be known as "Tasman Rise".

Except where this Declaration for Tasman Rise conflicts with any applicable government municipal regulations, this Declaration shall be binding upon all parties subject to this Declaration and their successors in interest set forth herein. In the event any of the development standards or use restrictions of the Declaration should conflict with a more restrictive standard or requirement set by an applicable zoning ordinance of the City of Bend or Deschutes County, the more restrictive standard or requirement of the applicable City of Bend or Deschutes County ordinances shall apply.

SECTION 1. DEFINITIONS:

1.1 DECLARANT: The term "Declarant" shall mean both the William P. Hilliard Jr. Living Trust and its successors in interest and Kanehill Corporation and its successors in interest.

1.2 DECLARATION: The term "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions for Tasman Rise.

1.3 TRARC: "TRARC" shall mean the Tasman Rise Architectural Review Committee. The mailing address for TRARC shall be in care of Kanehill Corporation, 2660 NE Highway 20, Suite 610, PMB# 224, Bend, Oregon 97701.

1.4 TASMAN RISE: The term "Tasman Rise" shall mean all the real property now or hereafter made subject to this Declaration.

1.5 IMPROVEMENTS: The term "Improvements" shall include, but not be limited to, any buildings, outbuildings, driveways, parking areas, fences, barriers, retaining walls, stairs, decks, hedges, windbreaks, signs, plantings, planted trees and shrubs, storage areas, landscaping, and all other structures of every type and every kind above the land surface. Also included are any exterior alterations, additions, and destruction of and to any of the above.

1.6 LOT: The term "Lot" shall mean each lot described on a Tasman Rise subdivision plat or partition map or any alteration thereof as may be made by a valid lot line adjustment.

1.7 HOMESITE: The term "Homesite" shall mean a lot as defined herein.

1.8 OWNER: The term "Owner" shall mean and refer to either all holders of fee title to any lot in Tasman Rise, or any other person or persons entitled to possession of a lot in Tasman Rise pursuant to a contract or lease.

1.9 STREETS: The term "Streets" shall mean any street, highway, or other thoroughfare within or adjacent to the Tasman Rise Subdivision and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, loop, drive, road, terrace, way, lane, circle or otherwise.

SECTION 2. PROPERTY SUBJECT TO THE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TASMAN RISE:

2.1 GENERAL DECLARATION CREATING TASMAN RISE: Declarant hereby declares that all of the real property located in Deschutes County, Oregon and described in Exhibit "A," is and shall be hypothecated, encumbered, leased, occupied, built upon, or otherwise used, improved, or transferred in whole or part subject to this Declaration. All of the Covenants, Conditions, and Restrictions created herein are declared and agreed to be established with the purpose of protecting the desirability and attractiveness of said real property and every part thereof. All of the Covenants, Conditions, and Restrictions of Tasman Rise, and amendments thereto, run with all of said real property for all purposes and shall be binding upon and inure to the benefit of Declarant and all Owners and their successors in interest as set forth in this Declaration.

2.2 ADDITION OF OTHER REAL PROPERTY BY GRANTOR OR DECLARANT:

a) Declarant may, at any time during the term of this Declaration, add all or a portion of any land now or hereafter owned by Declarant to the property which is covered by this Declaration, and upon recording of a notice of addition of real property, as set forth below, the provisions of the Declaration specified in said notice shall apply to such added land in the same manner as if it were originally covered by this Declaration. Thereafter, to the extent this Declaration is made applicable thereto, the rights, powers and responsibilities of Declarant and owners of parcels within such added land shall be the same as in the case of the land described in Exhibit "A".

b) The notice of addition of real property referred to above shall contain at least the following provisions:

- 1) A reference to this Declaration stating the date of recording and the recording information

where the Declaration is recorded.

2) A statement that the provisions of this Declaration or some specified part thereof shall apply to such added real property.

3) A legal description of such added real property.

4) Such other or different covenants, conditions, restrictions as Declarant shall, in his discretion specify to regulate and control the use, occupancy, and improvement of such added real property.

SECTION 3. ARCHITECTURAL REVIEW AND CONTROLS:

3.1 CREATION: The Tasman Rise Architectural Review Committee (TRARC) is hereby established.

3.2 MEMBERSHIP: The TRARC is composed of William P. Hilliard Jr. and Kanehill Corporations' corporate officers. By unanimous decision, the TRARC may designate a representative to act for it. In the event of death or resignation of any member of the TRARC, the remaining members shall have full authority to designate a successor.

3.3 APPROVAL REQUIRED, TRARC: No improvement, as defined in Section 1.5 above, shall be erected, placed, altered, maintained, or permitted to remain on any land subject to this declaration until final plans and specifications have been submitted to and approved in writing by the TRARC, which is hereby established. The TRARC shall be composed of William P. Hilliard Jr. and Kanehill Corporation's corporate officers as described in 3.2 herein.

3.4 PROCEDURE: Any owner proposing to construct any improvements within Tasman Rise (including any exterior alterations, additions, destructions, or modification to any such improvements) shall follow the procedures and shall be subject to the approvals required by paragraphs 3.3 through 3.9 herein. Failure to follow such procedures or obtain such approvals as required by paragraphs 3.3 through 3.9 herein shall be deemed a breach of this Declaration.

3.5 REQUIRED DOCUMENTS: Any Owner proposing to utilize, improve, or develop real property within Tasman Rise shall submit the following items for review along with application fee, to the TRARC.

a) A site plan showing the location, size, configuration and layout of any building structure, or improvement (or, where applicable, any alteration, addition, modification, or destruction thereto) including appurtenant facilities for parking, storage, fences, and vehicular and pedestrian traffic and circulation.

b) Architectural plans and drawings showing the nature, style, and dimensions of any building, structure, fence, wall, barrier or deck (or, where applicable, any alteration, addition, modification or destruction thereof), including the exterior material types, colors,

and appearance. The scale of plans shall be 1 inch = 20 feet or larger.

- c) A landscape plan showing the nature, type, size, location, and layout of all landscaping and site lighting, walks, major existing vegetation and irrigation systems proposed to be planted or installed (or, where applicable, removed or destroyed).

3.6 REVIEW: All plans and drawings identified in paragraph 3.5 above, shall be submitted to the TRARC for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied with a check payable to the TRARC in an amount to be determined by the TRARC from time to time. No plans shall be reviewed until the architectural review fee is paid in full and all items specified in this section are submitted. Within 30 days following receipt of such plans and drawings, and the full amount of the architectural review fee, the TRARC shall review the plans and shall inform the owner in writing whether the plans conform to the development concept for Tasman Rise. In the event the owner is not notified as to the conformity of the plans within the 30 day review period, the plans are conclusively presumed to be approved as submitted. In the event any of the plans do not conform to the development concept, the owner shall resubmit those non-conforming portions of the plans for review in accordance with the procedures outlined in paragraph 3.5 above, and this paragraph. No work may be performed relating to any improvement unless and until all aspects of all plans required under paragraph 3.5 above have been approved by the TRARC. Any site plans, construction plans or similar plans and drawings submitted to the City of Bend in connection with the construction of any improvement in Tasman Rise prior to written approval of the TRARC is at the sole risk of the applicant.

3.7 ARCHITECTURAL GUIDELINES: The development concept for Tasman Rise shall be determined by Declarant in accordance with applicable statutes, ordinances, regulations, zoning and other governmental land use controls. Architectural guidelines setting forth various aspects of the development concept, in addition to this Declaration, are essentially contained in the Tasman Rise Architectural Review Committee Rules and Design Guidelines and may be published from time to time by Declarant, but Declarant shall not be required to do so. Declarant shall have the right to alter, rescind or amend any published guidelines without prior notice to any party; provided however, that once approval has been given pursuant to paragraph 3.6 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such guidelines shall be in general conformity with this Declaration.

3.8 INSPECTION: All work related to any building, structure or improvement or any landscaping, vegetation, ground cover or other improvements within Tasman Rise shall be performed in strict conformity with the plans and drawings approved under paragraph 3.6 above. Declarant and the TRARC shall have the right to inspect any such work to determine its conformity with a stop to all work if, in good faith, it believes that any such work is non-conforming. In the event that it is determined, in good faith by Declarant or the TRARC that certain work is non-conforming, a stop

work notice may be issued, without necessity of court order, which shall require the owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non conforming items shall be deemed breach of this Declaration. The Declarant or officer, director, employee, agent or servant of Declarant or TRARC member shall not be responsible for any damages, or loss, delay, cost or legal expense occasioned through a stop work notice given in good faith even if it is ultimately determined that such work was in conformity with the approved plans and drawings.

3.9 WAIVER: Any condition or provision of paragraph 3.3 through 3.8 above, may be waived by Declarant in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the TRARC. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under paragraphs 3.3 through 3.8. The granting of a waiver as to one owner shall not automatically entitle any other owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of the TRARC, and delivered by certified mail to the party claiming the benefit of such a waiver.

3.10 LIABILITY: Neither the TRARC or any of its members shall be liable to any owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the TRARC or any member, provided that the TRARC or member has acted in good faith in accordance with the actual knowledge possessed by him.

SECTIONS 4: RESTRICTIONS ON USE OF PROPERTY

4.1 OCCUPANCY: No owner shall occupy, use, or permit his lot or any part thereof to be used for any purpose other than those specifically allowed by the City of Bend and/or Deschutes County ordinances and such additional restrictions as contained in this Declaration. Occupancy use is as a private residence for the owner, his family, or his guests, except that each owner shall be permitted to rent or lease the unit when he is not in occupancy.

4.2 APPEARANCE: All garbage, trash, refuse, garbage and refuse containers, clothes-drying apparatus, other services, facilities, and unsightly material of any kind located on the lot shall be screened from view of any public roads, the North Unit Canal Easement, and other residences. Each lot and/or structure within Tasman Rise subdivision shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard.

4.3 LANDSCAPE MAINTENANCE: All landscaping visible from the streets shall be maintained to meet a high standard. The TRARC shall be the judge of what qualifies as meeting the standard. Any and all complaints concerning an Owner's compliance with this covenant shall be submitted to the TRARC for their review before any legal remedy may be pursued.

4.4 CONSTRUCTION AND ALTERATIONS: No improvement shall be altered, constructed, removed from or placed on a lot, except with the prior consent of the TRARC. Notwithstanding the foregoing, this provision shall not apply to the alteration of a structure previously approved by the TRARC. No mining of any type shall be allowed.

4.5 OFFENSIVE OR COMMERCIAL ACTIVITY: No offensive or commercial activity shall be carried on nor shall anything be done which may be, or become, an annoyance or nuisance to the other lot owners.

4.6 SIGNS: No signs of any kind shall be displayed to public view on or from any lot without the TRARC's prior written consent, provided, however, that any owner may display not more than one (1) "For Sale" sign per lot which has a maximum area not to exceed 300 square inches, the longest dimension being not greater than 20 inches. Declarant may erect signs in addition to those allowed herein.

4.7 EXTERIOR LIGHTING OR NOISE MAKING DEVICE: No excessive or unnecessary noise shall be generated by any individual or device within Tasman Rise including, but not limited to, vehicles, appliances, tools, pets, musical instruments, or "stereos". No exterior lighting shall be placed within Tasman Rise in a manner which might impact on another residence or its view.

4.8 ANTENNAS: No television antenna, radio antenna, satellite dish or other receiving device shall be placed on any lot without the prior written consent of the TRARC.

4.9 MOBILE HOMES: No mobile or manufactured home, house trailer, tent, shack, barn, or other similar outbuilding or structure whether permanent or temporary, shall be erected or placed on any lot without the prior written consent of the TRARC.

4.10 LIMITATION ON TRANSFER: No owner shall transfer either by conveyance, contract of sale or lease any interest in his lot which would result in ownership of such lot being held by more than eight persons.

4.11 SINGLE FAMILY RESIDENCE: No more than one single-family residence shall be erected or placed on any lot.

4.12 OTHER LIVING ACCOMMODATIONS: No motor homes, campers, trailers of any type or camping equipment used for overnight living accommodations (except occasioned by a visitor for no more than fourteen (14) days in a calendar year) shall be allowed on any lot or street in Tasman Rise.

4.13 UTILITIES: No above-ground utilities, pipes or wires, shall be used to connect improvements with supplying facilities, unless such temporary use is for the purpose of construction of the improvement and approved by Declarant.

4.14 VIEW: The height of improvements or vegetation and trees on a lot shall not materially restrict the view of other lot owners. The TRARC shall be the judge of the suitability of such heights. If the TRARC determines that there is such restriction in the view of the other lot owners, written notice shall be delivered to the offending lot owner. If after thirty (30) days the improvement, vegetation, or trees are not removed or reduced in height as directed by the TRARC, a member of the TRARC shall enter the offending lot, complete the removal or reduction charging the owner of the lot reasonable costs for the work done. This section is not to be read as justification to create views not present when the lot was originally purchased, or to prevent the construction of a home on another lot provided such home is in conformance with the TRARC approval.

4.15 PARKING: No extended parking (more than 14 days per calendar year) on any street, by any house trailer, travel trailer, boat trailer, camper, incapacitated vehicle, commercial vehicle, trucks over a maximum of 1 ton, or similar equipment, shall be permitted, except as permitted by paragraph 4.11. Extended parking by any house trailer, travel trailer, boat trailer, camper, incapacitated vehicle, commercial vehicle, trucks over a maximum of 1 ton, or similar equipment, on any part of any lot is not permitted unless screened from sight from any street in Tasman Rise.

4.16 FIREARMS: No firearms, air pistols or rifles, archery, sling shots, or any other weapons or projectiles shall be used or discharged anywhere within Tasman Rise.

4.17 FUEL STORAGE: No gasoline, fuel oil, or chemicals may be stored in bulk tanks upon any lot, either above or below ground.

4.18 LIVESTOCK AND POULTRY: No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, with the exception of dogs, cats, household pets or pets necessary for current residents' documented medical conditions, which may be kept provided that they are not kept, bred, or maintained in any commercial purposes. Not more than two (2) adult dogs and two (2) adult cats shall be kept on any lot.

4.19 PAINTING OF EXTERIOR: The exterior colors of the structures in Tasman Rise shall remain the original colors and schemes unless otherwise approved by the TRARC.

SECTION 5: CANAL FRONT LOTS

5.1 All canal front lots owners are hereby notified of the easement which Central Oregon Irrigation District (COID)/ North Unit Canal may hold over a portion of their lots. All surveyors "pins" must remain to permanently note the legal location of the easement.

5.2 Because of the foregoing, these Covenants, Conditions, and Restrictions hereby impose or notify owners of the following restrictions on uses in the canal easement area: No building, deck or other structure may be placed in any part of the easement area. Lawns, bark, ground cover, and other

landscaping may be done. Fences are permitted per Canal Supervisor for safety reasons along this canal, however, COID may pass through, take down or alter fences in order to pass through at anytime at no expense to the Declarant or COID. At any given time COID may disallow any fencing. COID's access to the easement area is limited to functions which are associated with the operation and maintenance of the canal.

5.3 By a separate "Agreement Notice" dated September 27, 1996 and recorded in Volume 424, page 2426, of Deschutes County Records, COID has notified Declarant and all future property owners of certain hazards associated with the canal and limitation on use of the easement area. By accepting these Covenants, Conditions, and Restrictions all canal lot owners acknowledge they are aware of those hazards and restrictions, and hold Declarant harmless for any future problems associated with the canal.

SECTION 6: DURATION AND AMENDMENT OF THIS DECLARATION

6.1 DURATION: These Covenants, Conditions, and Restrictions of Tasman Rise shall continue to remain in full force and effect at all times with respect to all property, and each part thereof, now and hereafter made subject thereto (subject, however, to the right to amend as provided herein) for a period of 20 years from the date this Declaration is recorded. However, unless, within one (1) year from the date of said termination there shall be recorded an instrument directing the termination of the Declaration, signed by the owners of not less than two-thirds (2/3) of the lots then subject to the Declaration (as set forth in paragraph 2.1 & 2.2 above), this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without further notice for an additional period of ten (10) years, and there after for successive periods of ten (10) years, unless, within one (1) year prior to the expiration of each period, the Covenants, Conditions, and Restrictions for Tasman Rise are terminated as set forth in this paragraph.

6.2 AMENDMENT AND APPEAL: Any provisions of this Declaration, or any Covenant, Condition, and Restriction contained herein, may at any time be amended or repealed, or provisions added, provided at least two-thirds (2/3) of owners approve. Each lot shall have one (1) vote. Any amendment or repeal of a provision of this Declaration, or any additional provision shall become effective only upon the filing in the Official Records of Deschutes County, Oregon, of a Certificate signed by at least two-thirds (2/3) of the owners as of the time of recordation. Such Certificate shall set forth in full the amendment, amendments, additional provision, or repeal approved as provided in this paragraph.

SECTION 7: ENFORCEMENT

7.1 STANDING TO ENFORCE: Only Declarant or the TRARC, or a lot owner in Tasman Rise shall have standing to enforce this Declaration. Any breach of this Declaration shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal, or enjoining of any

offending improvement or condition.

7.2 EXPENSES AND ATTORNEY FEES: In the event that suit or legal action is instituted for the enforcement of this Declaration, or for any remedy for the breach of this Declaration, the prevailing party shall recover that party's reasonable attorney's fees incurred in such action (or any appeal therefrom) as adjudged by the trial or appellate court.

7.3 NONEXCLUSIVENESS AND ACCUMULATION OF REMEDIES: Election by the Declarant, the TRARC, or other Tasman Rise owners to pursue any remedy for the violation of any provision of the agreement shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder or which is permitted by law. The remedies provided in this agreement are not intended to be exclusive, but shall be in addition to all other remedies, including actions for damages or suits for injunctions or for specific performance available under applicable law.

7.4 SEVERABILITY: 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.

SECTION 8: EFFECT OF DECLARATION

8.1 THE COVENANTS, CONDITIONS, AND RESTRICTIONS: of this Declaration shall run with the land included in Tasman Rise and shall bind, benefit, and burden each lot in Tasman Rise. The terms of this Declaration shall inure to the benefit and shall bind Declarant, all successors and assigns of Declarant, and all owners of any lot in Tasman Rise, their successors, assigns, heirs, administrators, executors, mortgagees, lessees, invitees or any other party claiming or deriving any right, title, or interest in use of or to any real property in Tasman Rise. The use restrictions and regulations set forth in this Declaration shall be binding upon all owners, lessees, licensee, occupants, and users of the property known as Tasman Rise and their successors in interest, as set forth in this Declaration, including any person who holds such interest as security holder in actual possession of any lot by foreclosure or otherwise, and any person taking title from such security holder.

IN WITNESS WHEREOF, the owner and developer of "Tasman Rise" a subdivision in Deschutes County, Oregon, have caused this instrument to be executed for recording as the Covenants, Conditions, and Restrictions for "Tasman Rise".

DATED this 15th day of July, 2003

William P. Hilliard Jr. Living Trust

By: William P. Hilliard Jr. Trustee
William P. Hilliard Jr., Trustee

STATE OF OREGON)

) ss.

COUNTY OF DESCHUTES)

Personally appeared the above-named WILLIAM P. HILLIARD JR. and acknowledged the foregoing instrument to be his voluntary act and deed.

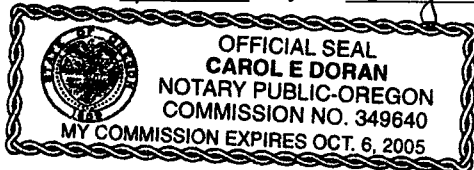
**HILLIARD Jr. LIVING TRUST

as TRUSTEE OF THE WILLIAM P. **

Carol E. Doran
Notary Public for Oregon

My Commission expires: 10-6-2005, 2003

DATED this 15th day of July, 2003



Kanehill Corporation

By: Patricia K. Johnson Pres.
Patricia Johnson, President

STATE OF OREGON)

) ss.

COUNTY OF DESCHUTES)

Personally appeared the above-named PATRICIA JOHNSON and acknowledged the foregoing instrument to be his voluntary act and deed.

as PRESIDENT OF KANEHILL CORPORATION

Carol E. Doran
Notary Public for Oregon

My Commission expires: 10-6-2005

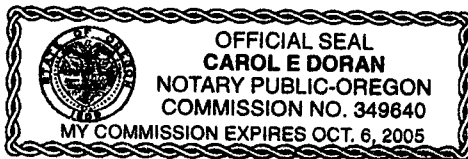


EXHIBIT "A"

Lots One (1) through Lot Twenty (26) of Tasman Rise, Phases I and II, Deschutes County,
Oregon.