



2081800

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Shelley Vance-Gallatin Co MT MISC 24.00

**BAXTER MEADOWS DEVELOPMENT, L.P.
DECLARATION OF PROTECTIVE COVENANTS
AS TO WETLAND AREAS**

BAXTER MEADOWS DEVELOPMENT L.P., Montana limited partnership which acquired title as W.B.C., L.P., a Montana limited partnership, of P.O. Box 11060, Bozeman, Montana, 59771 hereafter the Declarant, does hereby make and declare the following Declaration of Protective Covenants to be placed upon portions of the real property owned by the Declarant more particularly described as **Tract 2A, Tract 3A and Tract 4A of Certificate of Survey No. 2202A, located in Section 34, Township 1 South, Range 5 East, and Section 3 of Township 2 South, Range 5 East, Gallatin County, Montana** hereafter referred to as the "property".

These covenants shall apply to the protected areas on the property being those areas within 35 feet from the edge of the ordinary highwater mark for streams (or edge of wetland vegetation adjacent to the stream) and the edge of wetland vegetation for wetland buffers. (Refer to City of Bozeman Ordinance 18.50 for further details.) In the case of stream buffers, the total protected area will be a corridor of 70 feet plus the width of the surface water (adjust outward as determined by slope modifications and edge of wetland vegetation). All other protected areas will have a 35-foot buffer adjusted outward for slope considerations. These protected areas include wetlands, mitigation wetlands, created lakes, and all waterways/streams as shown on Figure 1 attached hereto, as follows: 1) willow/emergent wetland and mitigated portion of that wetland in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, Township 1 South, Range 5 East (W-8); 2) spring head and channel (W-3), a tributary of the Baxter-Border ditch and mitigated portion of that wetland in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, Township 1 South, Range 5 East; 3) Baxter-Border and Spring ditches, NE $\frac{1}{4}$ Section 3 and S $\frac{1}{2}$ 34, Township 1 and 2 South, Range 5 East; and 4) the lakes and connecting stream in the S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 3, Township 2 South, Range 5 East.

These Covenants shall attach to and run with the property and shall constitute an equitable servitude upon the property including all titles, interest and estates as may be held, conveyed, owned, claimed, devised, encumbered, used, occupied and improved, and shall be for the benefit of each owner. They shall constitute benefits and burdens to Declarant and to all persons or entities hereafter acquiring any interest in the property.



1. The following restrictions shall apply to any protected areas within the property:
 - A. There shall be no construction or placement of buildings or mobile homes, fences, signs, billboards or other advertising material, or other structures, whether temporary or permanent, in the protected areas, (with the exception of signage and/or benchmarks identifying the boundaries of the wetland areas described in Figure 1).
 - B. There shall be no filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand gravel, rock, minerals or other materials.
 - C. There shall be no building of roads or paths nor any change in the topography of the protected areas.
 - D. There shall be no removal, destruction, or cutting of trees or plants, spraying with biocides, insecticides, pesticides or herbicides (except to control noxious weeds), grazing of animals, farming, tilling of soil, or other agricultural activity within the protected area.
 - E. There shall be no operation of snowmobiles, motorcycles, all-terrain vehicles or any other type of motorized vehicles on the protected areas.
2. The City of Bozeman has identified specific zones within the setbacks for native plantings (City of Bozeman Ordinance 18.50 D(2)(g)(i) & (ii). Trails constructed with a non-impermeable surface (e.g. pea-gravel), benches, directional and natural science information are allowed within the 35-foot setbacks (plus adjustments) with permission from the Bozeman City Planning Department.
3. These Covenants may be changed, modified or revoked only upon written approval of the District Engineer of the Omaha District of the US Army Corps of Engineers. To be effective, such approval must be witnessed, authenticated, and recorded pursuant to the law of the State of Montana.
4. These Covenants are made in perpetuity such that the present owner and its heirs, successors and assigns forever shall be bound by the terms and conditions set forth herein.
5. Determination of invalidity of any portion of these Covenants shall not in any manner affect the other portions or provisions.

IN WITNESS WHEREOF, this instrument has been executed this 14 day of Sept., 2002.

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BAXTER MEADOWS DEVELOPMENT, L.P.

By: *Gerald R. Williams*
Gerald R. Williams, General Partner

STATE OF MONTANA)
 : ss.
COUNTY OF GALLATIN)

This instrument was acknowledged before me on Sept. 19,
2002, by Gerald R. Williams, as General Partner of Baxter Meadows Development, L.P.

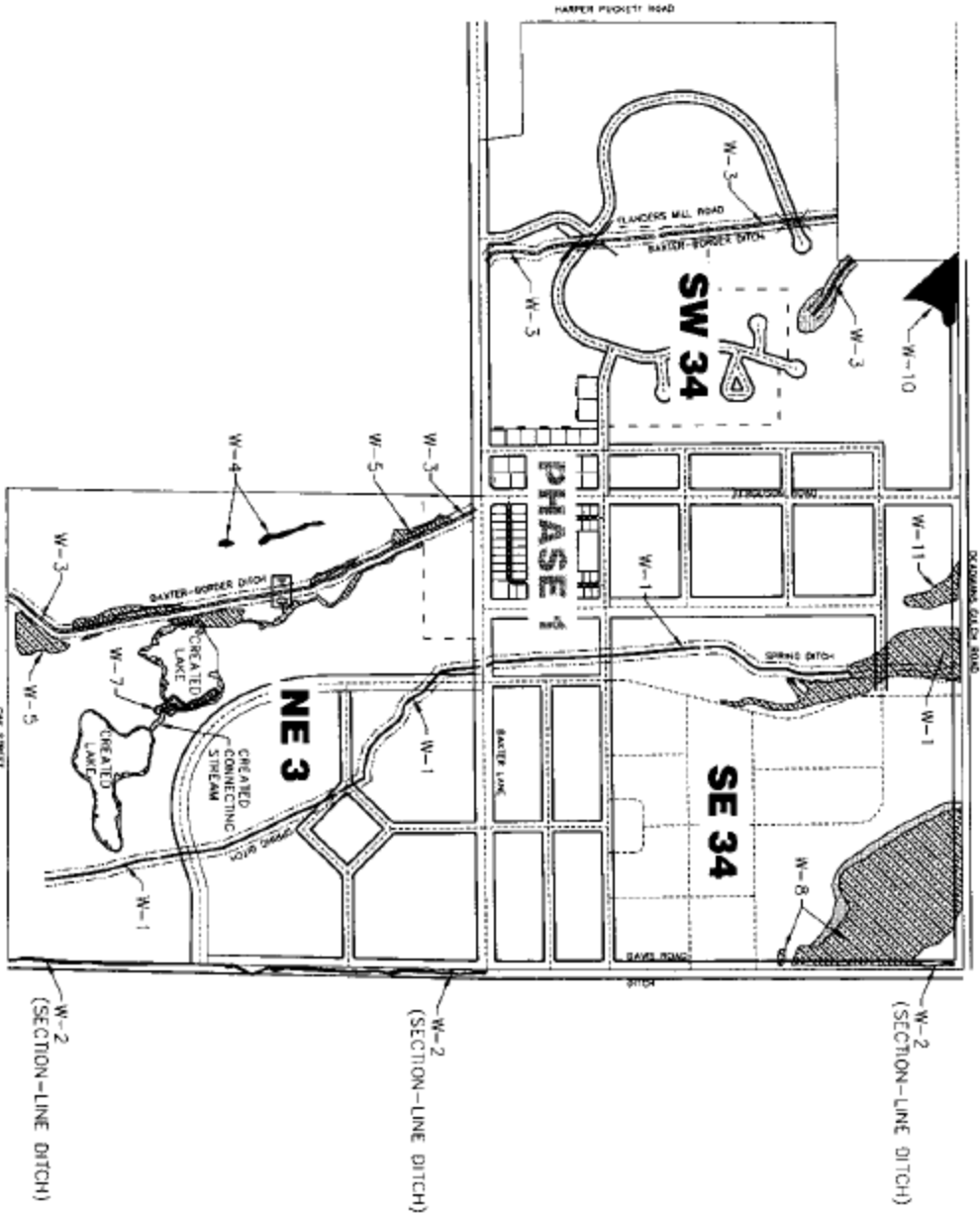
Peggy A. Russell

Print Name:
Notary Public for the State of Montana
Residing at:
My Commission Expires:
Peggy A. Russell
Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires March 16, 2006



PROTECTED USE AREAS

WETLANDS, MITIGATION WETLANDS, STREAMS, DITCHES, AND CREATED LAKES



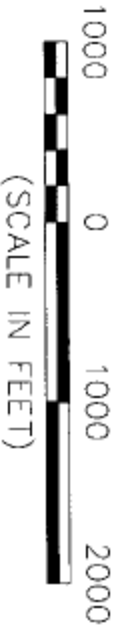
LEGEND

- WETLAND
- WETLAND TYPE NON-JURISDICTIONAL (NOT REGULATED BY COVENANTS)
- MITIGATION WETLANDS
- BRIDGE (PROPOSED)
- IRRIGATION RIGHT PIPE
- OUTFLOW FROM LAKES
- PHASE 1 BOUNDARY
- HEAD GATE

IN ASSOCIATION WITH



**BAXTER MEADOWS DEV.
PROTECTED USE AREAS
FIGURE 1**



**SHEET 1
SEPT. 2002**