

DECLARATION OF COVENANTS AND RESTRICTIONS

1377 THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made as of the day of January, 2005 by BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine and a mailing address of 67 Havertys Way, Portland, Maine 04103 (hereinafter referred to as "Ballpark").

WITNESSETH:

WHEREAS, Ballpark is the owner of Lot 18 shown on a plan entitled "Plan of Division of Land, The Haverty Estate Property, Ballpark Drive Subdivision" by URS Corporation, Portland, Maine, dated November 22, 2004, recorded in the Cumberland County Registry of Deeds in Plan Book 204, Page 855 (hereinafter referred to as the "Plan"), being a portion of the premises described in a deed from Mary Margaret I. Haverty to Ballpark dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73; and

WHEREAS, as a condition of the Portland Planning Board's approval of Ballpark Drive Subdivision, Ballpark was required to impose certain covenants and restrictions limiting development on Lot 18 as more particularly described herein, which covenants and restrictions may be enforced by, among others, the City of Portland and the owners of Lots 1 through 17 shown on the Plan and on a related plan recorded with the Plan entitled "Residential Lot Subdivision Plat Ballpark Drive Subdivision" dated November 22, 2004, and recorded in said Registry of Deeds in Plan Book 204, Page 856 (hereinafter referred to as the "Subdivision Plan") (the Plan and the Subdivision Plan being hereinafter collectively referred to as the "Project Plans").

NOW, THEREFORE, Ballpark hereby declares that Lot 18 shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the covenants and restrictions set forth herein (hereinafter referred to as the "Covenants and Restrictions"). The Covenants and Restrictions shall run with Lot 18 and shall be binding on all parties having any right, title and interest in and to Lot 18, or any portion thereof, and their heirs, personal representatives, successors and assigns. Any present or future owner or occupant of Lot 18 or any portion thereof, by the acceptance of a deed of conveyance of all or part of Lot 18 or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted Lot 18 subject to the Covenants and Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Covenants and Restrictions hereinafter set forth.

1. Covenants and Restrictions.

a. No structures or improvements or any kind, whether temporary or permanent, shall be constructed on Lot 18, except for such structures or improvements as hereinafter provided.

Notwithstanding the foregoing, Ballpark, its successors and assigns, shall have the following rights with respect to Lot 18:

(i) The right to construct stone walls and/or fences along all or any portion of the perimeter of Lot 18;

(ii) The right to construct foot paths and walking trails on Lot 18, together with stone walls and/or fences delineating such foot paths and walking trails, footbridges and directional signs and, in that regard, reference is made to a Trail Easement from Ballpark to Portland Trails of even date and recorded herewith to which this Declaration is made subject;

(iii) The right to maintain, repair and replace the existing pond and associated dam on Lot 18, including the right to construct improvements associated therewith for recreational related purposes;

(iv) The right to extend Ballpark Drive and associated improvements therewith through Lot 18 in a general southeasterly direction to Lot 17 over that portion of Lot 18 described as follows:

Commencing at a monument located at the southeasterly corner of Ballpark Drive and thence running along the following courses and distances:

S 59° 36' 14" E a distance of 88 feet to an iron pipe;

N 30° 23' 46" E a distance of 50 feet to a point;

N 59° 36' 14" W a distance of 88 feet to a monument at the northeasterly corner of Ballpark Drive; and

S 30° 23' 46" W a distance of 50 feet to the point of beginning;

and

(v) The right to maintain, repair, replace, rebuild, relocate or alter the structures and improvements described in Items (i) through (iv) above on Lot 18.

b. The cutting of standing timber shall not generally be permitted within Lot 18 provided, however, that the following activities shall be permitted but not required:

(i) Clearing and restoring of forest cover damaged or disturbed by the forces of nature;

(ii) Gathering, using or removing brush and deadwood;

(iii) Pruning, selective thinning or cutting of trees in accordance with good forestry and landscaping practices;

(iv) Minor landscaping and grounds maintenance relating to the structures and improvements described in Items a(i) through a(iv) above; and

(v) Clearing for construction and maintenance of the structures and improvements described in Items a(i) through a(iv) above.

2. Enforcement. The Covenants and Restrictions imposed upon Lot 18 by this Declaration of Covenants and Restrictions shall be enforceable by the City of Portland and the owners of Lots 1 through 17 shown on the Plans by appropriate action, injunction or other proceeding to prevent, correct or abate any failure to comply therewith and, in addition shall be enforceable as aforesaid by the owners of Lots 3, 4, 5 and 6 shown on a plan entitled "Plan of Division of Land of the Haverty Estate Property" for Margaret Haverty by Sebago Technics, Inc., dated February 8, 2000, most recently revised April 19, 2000, and recorded in said Registry of Deeds in Plan Book 200, Page 187 (the "Haverty Plan"), the owners of Lots 3, 4, 5 and 6 shown on the Haverty Plan as of the date of this Declaration being the following:

a. Lot 3 shown on the Haverty Plan is, as of the date of this Declaration, owned by Todd J. Friberg and Patricia C. Friberg by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 88;

b. Lot 4 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Mary Margaret I. Haverty as developer of said land division;

c. Lot 5 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Matthew J. Flaherty and Karen H. Flaherty by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 94; and

d. Lot 6 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Simon C. Ramsay and Rita H. Ramsay by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 100.

3. Binding Effect. The Covenants and Restrictions shall be binding on any present or future owner of Lot 18. If Lot 18 is at any time owned by more than one owner, each owner shall be bound by the Covenants and Restrictions.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of Lot 18, the City of Portland, the owners of Lots 1 through 17 shown on the Plans, and the owners of Lots 3, 4, 5 and 6 shown on the Haverty Plan.

5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a covenant running with the land as a burden and upon the title to Lot 18.

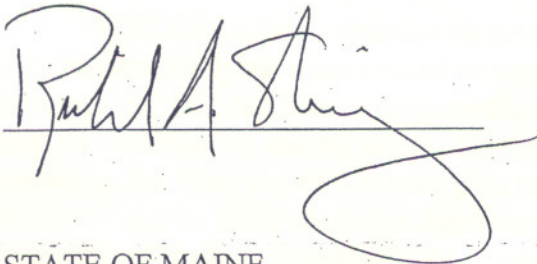
6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity of enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

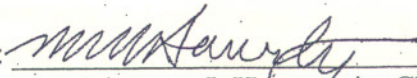
7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, BALLPARK DRIVE DEVELOPMENT, LLC has caused this Declaration to be executed by Mary Margaret I. Haverty, its Chief Executive Officer and Manager, thereunto duly authorized, as of the date first set forth above.

WITNESS:

BALLPARK DRIVE DEVELOPMENT,
LLC



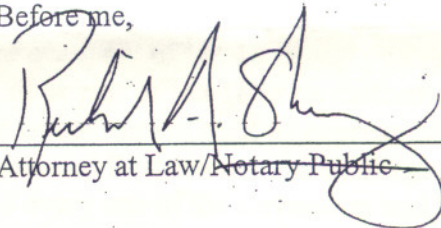
By: 
Mary Margaret I. Haverty, its Chief
Executive Officer and Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

January 13, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,


Attorney at Law/Notary Public

RICHARD A. SHINAY
Print name

Received
Recorded Register of Deeds
Jan 27 2005 12:38:06P
Cumberland County
John B O'Brien