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Commercial Enterprises Rule

Pursuant to the Nine Mile Ranch Declaration of Covenants, Conditions and Restrictions (CCRs) Article IX, Section 22 and subject to the Definitions at CCRs Article 1:

I. Background

The Board recognizes that the CCRs express and collectively imply a very discriminative and narrow range of acceptable commercial enterprises, yet the CCRs do not provide much specificity by which Board and HOA members can expect approvals to be made by. The Board also recognizes that the power to approve/allow commercial enterprises exclusively by the Board is broad, general and unilateral, therefore potentially impactful on Owner's well-being and liability for the HOA. These challenges altogether create high risk and importance that approvals are dealt with correctly.

THEREFORE, the purpose of this Rule is to provide greater identification and clarity regarding existing CCR requirements for commercial enterprise approvals, and to allow Boards to reasonably follow judgmental requirements that will ensure that approvals are consistent with the purpose of the Declaration.

II. Responsibility For Enforcement and Compliance

It is the responsibility of the Board to use the criteria below when considering approval of commercial enterprises on Nine Mile Ranch or when enforcing alleged violations of the CCRs related to commercial activity. It is the responsibility of Lot Owners to comply with approvals and CCRs, and all rights of enforcement stated in the CCRs are applicable as well as the Enforcement Rules and Fine Schedule.

III. Criteria for Approvals

The criteria below should be used like a filter; if a proposed commercial enterprise makes it through the 'filter' then it is suitable to be approved by the Board, at their discretion.

1. Pursuant to applicable Washington state statutes, Washington courts, and HOA governing documents it is the duty of the Board to make decisions and Approvals that are reasonable and in good faith, do not impose standards inconsistent with specific covenants, are not arbitrary or made without adequate investigation, and do not impose onerous restrictions on the use of anyone's own Lot.
2. There are no business types specifically expressly allowed in the CCRs; only implied suggestions. As per Article IX, Section 11, no commercial enterprises are allowed except as approved by the Board and only according to the parameters in that section and any other sections that otherwise limit commercial activity.
3. The general guideline for approval, per Article IX, Section 11, is businesses that are "...commensurate with the development of Nine-Mile Ranch under the terms of this Declaration." The common definition of "commensurate" is 'corresponding in size, extent, amount, or degree : proportionate'. The single goal collectively expressed and implied in the CCRs is that Nine Mile Ranch is to be orderly developed as a residential recreational wildlife refuge and that this shall be done while upholding property values,

citations as follows:

- (BACKGROUND, B) “Declarant desires to develop a residential/recreational development which shall also be a private, wildlife refuge and conservancy.”
- (BACKGROUND, C) “Declarant desires to impose on the Property these protective covenants for the purpose of enhancing, protecting, preserving, and augmenting the natural environmental features of the Property, as well as protecting and preserving the Wildlife on the Property in a manner that will benefit the public's interest in the Wildlife and yet allow for the orderly development of the Property.”
- (BACKGROUND, final paragraph) “...all of the Property described above shall be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property, as well as the protection and preservation of Wildlife now or hereafter located on the Property, or associated with it in any manner, as well as enhancing, protecting, pursuing and augmenting the natural environmental features of the Property. The Property shall be developed and maintained as a private, wildlife refuge and conservancy which will allow for the enjoyment by private individuals, Lot Owners, and their guests and invitees of the beauty of the natural environment, the recreational activities offered in such a natural environment, and yet protect and promote the Property as a wildlife refuge and natural conservancy.”
- (Article IX, Section 1) “Lots shall be used solely for residential and recreational use, except as provided for in this article [the only exceptional “use” in the article is at Article IX, Section 11, which is for limited commercial use approved by the Board].”
- (Article IX, Section 15) “As set forth in Declarant's Declaration [the CCRs in their entirety], the purpose of the development is to provide for recreational residences on 20-acre Lots, while at the same time protecting and enhancing the preservation of Wildlife and the environmental features of the Property... no noxious or poisonous chemicals, sprays, or noise shall be permitted which would interfere with the protection and enhancement of Wildlife, as well as the peace and quiet of the Lot Owners.”

So in general the judgment is, does the proposed business affect the wildlife refuge and easements any differently than how peaceful residential/recreational use would affect it, does it alter or disrupt the residential/recreational character of the Ranch, and does it negatively affect property values. According to Article IX, Section 11, the 'rule' is that people who buy land here can expect an environment not generally characterized by commercial activity (see also Article IX, Section 21), and as the 'exception' they can expect commercial activity that essentially manifests like a personal single family existing in a private wildlife refuge for residential recreational purposes. More specific 'filtering' of this judgment for acceptable commercial activity would be as follows:

- a) A business proposed that manufactures a product inside a residential-sized structure.
 - b) The noise level generated is the same as or less than any typical residential or recreational activity commensurate with the provisions of the uses in the CCRs.
 - c) The business activity does not impact the wildlife any more than typical residential/recreational activity allowed under the CCRs.
 - d) The auto traffic level generated by the business activity is the same or less than typical residential/recreational activity allowed or expected under the CCRs.
4. The proposed commercial enterprise must not violate direct expressed commercial activity limitations and prohibitions included at Article IX – Section 7, Article IX – Section 11, Article IX – Section 12, Article IX – Section 9, and Article IX – Section 8.
 5. The overall impact and activity level of the business would be maximally similar in scope and size to the CCRs Article IX, Section 11 regarding limiting bed and breakfasts to no more than (5) rooms. This

example of activity level is commensurate with what a large single family with guests would be like, all of which are consistent expressions and implications throughout the CCRs.

6. The proposed commercial enterprise must comply with county zoning and use requirements, and must comply with all terms of the CCRs.

IV. General

1. Wherever the word "approval" appears throughout this Rule, whether capitalized or not, shall have the meaning stated at CCRs Article 1, Section 1.
2. Commercial activity is strictly limited to the scope expressed in approvals only. If commercial activity increases beyond the scope expressed in any approval then that activity is in violation of the CCRs and requires additional BOD approval.
3. The burden to provide adequate and accurate information to the Board in order to carry forward the process of a qualified approval is upon the Lot Owner. Any approval issued based on inaccurate information provided to the Board from the Lot Owner may invalidate the approval if the Board deems it material.

Adopted at the 7/11/2020 Board Meeting