

DECLARATION OF COVENANTS FOR  
SMU COMMERCIAL COMPLEX

853/1157122

WYAZ, LLC, a Wyoming limited liability company (herein "Declarant"), hereby declares that all of Lots 1, 2, 3 and 4 of SMU Commercial Complex, a subdivision located in the NE1/4 Section 20, T15N, R73W of the 6<sup>th</sup> P.M., Albany County, Wyoming, as laid out and more particularly described in that Plat prepared by Gertsch/Baker & Associates and approved by Albany County, on November 15, 2005, and recorded in the Office of the County Clerk Albany County, Wyoming as Plat number 2005-9376, (herein "Plat") shall be subject to the express covenants, conditions, restrictions and easements as set forth hereinafter (herein "Covenants"):

1. **SUBDIVISION / LOTS DEFINED.** These Covenants shall apply to all that land located in said SMU Commercial Complex as shown on the Plat consisting of approximately 4.99 acres, described herein as "SMU Commercial Complex" or the "Subdivision." Each and all of the lots described as Lots 1 through 4 in SMU Commercial Complex shall be expressly subject to these Covenants, and shall be referred to herein as "Lot" or "Lots". The record owner of each Lot, whether one or more individuals or entities, shall be referred to herein as the "Owner".
2. **DECLARANT'S INTENT/GENERAL PURPOSE OF COVENANTS.** Declarant makes these Covenants for the purposes of: creating and keeping the Subdivision desirable, attractive, beneficial, valuable and suitable in design, materials, appearance for, and use as, a quality business/commercial park; guarding against fires and other hazards and the unnecessary interference with the surrounding area; and for the mutual benefit and general protection of each Lot, the Owners, the Declarant and for other lands owned by Declarant in the area of the Subdivision.
3. **USES OF LOTS.** Each Lot in SMU Commercial Complex may be used for residential and/or business/commercial enterprises, but shall conform to all Covenants expressed herein and on the Plat and to all applicable Albany County ordinances, laws and regulations. The following uses shall be strictly prohibited on Lots 1 and 2: car, truck and/or equipment sales lot; gas station or convenience store; retail sales (except those related to home building or remodeling, so long as the business is related to the building, remodeling and installation, not strictly a retail outlet); and in no event shall the manufacturing, sales or fabrication of marble, granite, natural stone or synthetic stone products occur on Lot 1 or Lot 4.
4. **EASEMENTS.** Easements and rights-of-way are hereby expressly granted and reserved by Declarant along *Stone Drive* for the purposes and in the locations as described and shown on the Plat. Each Lot shall have the benefit and burden of an easement across those areas described and shown on the Plat for: utility easements for the construction, maintenance, operation, replacement, enlargement and repair of electrical, gas, telephone, cable, water, irrigation, storm, drainage, sewer, and similar utility lines, pipes, wire ditches and conduits. These easements are granted and reserved for the benefit of each Lot within the Subdivision and for the further benefit of Declarant and for said future developments by Declarant and for Declarant's successors and assigns.

5. **CONTINUITY OF CONSTRUCTION.** All structures and improvements commenced on a Lot shall be prosecuted diligently to completion and shall be completed within eighteen (18) months from commencement unless an exception is granted in writing by the Declarant or its successor.
6. **TEMPORARY STRUCTURES/OUTBUILDINGS.** No structure of temporary character, recreation vehicle, camper trailer, basement, mobile home, tent, shack, garage, barn or any other outbuilding shall be used on a Lot at any time as a residence; provided however, nothing herein shall prohibit the temporary use of a recreational vehicle on a Lot for the temporary use by guests and invitees of an owner.
7. **DRIVEWAYS.** All driveways to, and parking pads on, each Lot shall be either graveled or paved with concrete or asphalt. It is intended that driveways be kept to a minimum and be so located and constructed as to minimize dangerous intersections and to maximize the retention of the natural character of the area. Proper drainage facilities (including culverts) may be required as a condition of approval of any plans for improvement and will be provided by the Owner at his expense.
8. **FENCES.** No fencing shall be of a kind as which might cause snow to drift on the entrance road on the boundary of Lot 1 and Stone Drive.
9. **SIGNS.** No signs, billboards or other advertising structures of any kind shall be erected, constructed or maintained on any Lot for any purpose unless such signage are approved by the Declarant.
10. **EXTERIOR LIGHTING.** On all construction commenced after the date of these covenants, only standard lighting shall be used to illuminate a Lot. All outside lighting shall be arranged, directed and/or shielded so as to prevent such lighting from shining directly at the public roads and/or at other Lots and must be no greater of a light than permitted under the existing Albany County lighting standards.
11. **WATER AND SEWER.** Each structure designed for the occupancy or use by human beings shall connect to a water source and sewage disposal system approved by Albany County.
12. **TRASH.** No trash, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be secured to keep such refuse from disturbing neighboring Lot Owners.
13. **ANIMALS.** No livestock, poultry or other animals other than ordinary household pets shall be kept, raised or bred in the Subdivision except and unless specifically permitted in writing by Declarant. Commercial boarding and/or kenneling of any pets or animals is specifically prohibited on any Lot. All pets on any Lot shall be kept within a fenced area.

14. **NUISANCE.** No noxious, dangerous or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a public nuisance thereon.

15. **DRAINAGE.** No Owner shall alter, or allow to be altered, the topographic conditions of any Lot in any way which would permit unusual additional quantities of water drainage, from any source, to flow from the Lot onto any other Lot, easement or public right-of-way other than what would have ordinarily so flowed had the Lot been left in its original unaltered state prior to the development of the Lot.

16. **LANDSCAPING.** All surface areas disturbed by construction shall be promptly returned to their natural condition and replanted in native grasses or other material approved by the Declarant. Each Owner shall be required to mow and maintain his Lot in a clean, orderly and well-manicured condition up to the edge of street. Well-manicured condition shall mean, at a minimum, that the grass shall not exceed four inches (4") in height in the yards (excluding any non-lawn green belt areas, if any) and shall be kept in a healthy, weed-free condition.

In the event any Lot not be kept free from weeds, underbrush and other than in a clean, well-manicured condition, then Declarant (or its assigns) may enter upon the Lot and clean and/or manicure the same and any expenses thereof shall be charged and paid by the Owner of the Lot. Such entry shall not be a trespass. In the event of such entry, Declarant (or its assigns) shall have a lien in its favor upon the Lot and against the Owner for the full amount chargeable to the Lot for such removal and manicure, and such amount shall be due and payable in full by the Owner within thirty (30) days after the invoice for such services is mailed to the Owner at his last known address.

17. **LOT/IMPROVEMENT MAINTENANCE.** Each Lot, and all improvements thereon, shall be kept by the Owner in a sanitary, healthful, safe and attractive well-kept condition at all times. No material or equipment (except for normal commercial requirements and that equipment incidental to the construction of the initial improvements on a Lot) shall be kept on any portion of a Lot. The accumulation of garbage, trash, rubbish or debris of any kind shall not be permitted. Each Lot shall keep the improvements constructed thereon in good condition and repair, free from unsightly defects or otherwise in a state of disrepair.

If an Owner defaults on its obligations under this paragraph, and fails to remedy the default after ten (10) days notice of the same, then Declarant (or its assigns), may enter upon the Lot to cure the default any expenses thereof shall be charged and paid by the Owner of the Lot. Such entry shall not be a trespass. In the event of such entry, Declarant (or its assigns) shall have a lien in favor of the paying party upon the Lot and against the Owner for the full amount chargeable to the Lot for such removal and manicure, and such amount shall be due and payable in full by the Owner within thirty (30) days after the invoice for such services is mailed to the Owner at his last known address. If not so paid, it shall be deemed a lien on the Lot and may be foreclosed, as set forth in paragraph 25 below.

18. **STORAGE OF AUTOMOBILES, BOATS, TRAILERS, OTHER VEHICLES/EQUIPMENT.** No inoperative automobiles, boats, trailers, campers, motorcycles, buses, trucks, tractors,

recreational vehicles, equipment or machinery of any kind, camp rigs off trucks, boat rigging, or any other item deemed offensive by the Declarant, shall be stored permanently or semi-permanently on any public street in the Subdivision, or in any right-of-way or driveway on a Lot. All permanent or semi-permanent storage of any such vehicles, equipment, machinery or other such item on a Lot must be screened from view either: within the garage on a Lot, behind an existing building or behind a fence approved by the Declarant. Semi-permanent storage is defined as the storage without movement for a period of more than fourteen (14) days.

**19. STONE DRIVE ASSOCIATION.**

a. Creation. The Stone Drive Association (herein referred to as the "Association") is hereby created as an unincorporated, nonprofit Association under the Wyoming Unincorporated Nonprofit Association Act, Wyoming Statutes, to exercise the powers granted, and to perform the functions imposed, by these Covenants with regard to the Tracts. Articles of Incorporation shall be filed with the Wyoming Secretary of State hereafter.

- b. Purposes and Powers. The general purposes of the Association are to:
- (i) enforce these Covenants, as set forth herein and as may be amended,
  - (ii) to govern, administer and pay for the private maintenance and repair of the access road known as Stone Drive,
  - (iii) to generally promote the health, safety, and welfare of the residents of the Tracts. The Association shall also have the power to provide such additional services for the Tracts as the owners may from time to time approve.

For these purposes, the Association is hereby empowered to:

- (1) exercise all of the authority, powers, and privileges delegated to or vested in the Association by these Covenants, by Wyoming Statutes, or as may be reasonably implied as being necessary and proper hereunder, and to perform all of the duties and obligations established by these Covenants;
- (2) elect officers to carry out the administrative duties authorized by the Association's members from time to time. Officers MAY include a President, Vice President and Secretary/Treasurer unless otherwise provided by the Association;
- (3) enforce these covenants and all terms hereof; and govern the use of any common element of the Subdivision such as the common roadway easement;
- (4) fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to these Covenants, and to pay all expenses in connection therewith and all expenses incident to the conduct of the business of the Association, specifically including the costs associated with repairing, maintaining and operating the private roads within the subdivision; and
- (5) employ such firms or persons to perform any or all of the duties and obligations of the Association.

c. Membership. Every person who is an owner of a Lot shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from the ownership of the Lot. An owner shall become a member upon conveyance of record to him of his Lot and shall cease being a member upon his conveyance of record of such Tract. No certificate or document, save and except a recorded conveyance to a Tract, shall be required to evidence such membership.

d. Voting Rights. The owner of each Lot shall be entitled to one vote for each Lot owned, save and except that the voting rights of any owner who is more than 30 days past due on the payment of any assessment to the Association shall be automatically suspended until such assessment, together with interest, costs, and reasonable attorney's fees, is paid in full. The voting rights of any owner against an enforcement issue is being voted upon by the Association shall be suspended for the vote on that enforcement issue only. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast on behalf of one Tract.

e. Action. An action of the Association, or any approval required of the owners under these Covenants, shall require the affirmative vote of *at least* Fifty Percent (50%) of all eligible votes (i.e., two of the four Lots), excluding the vote of any owner whose voting rights are suspended under Subparagraph d., cast in person or by proxy, at a duly constituted meeting of the Association, or, without a meeting by written approval of such action.

f. Meetings. The Association will have an annual meeting. The first annual meeting shall be held at some date during the months of May, June or July, beginning in the year 2009, as called to order by Declarant unless earlier called by Declarant. At such initial annual meeting, the members of the Association shall determine the preferred time, date and location for the annual meetings thereafter. Other special meetings of the Association may be called at any time by the written request of the owners of any two (2) Lots. Written notice of any and all meetings of the Association shall be given by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each owner, addressed to the owner's address last appearing on the books of the Association, or supplied by such owner to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and the purpose of the meeting. Each owner may vote in person or by proxy at all meetings of the Association. All proxies shall be in writing. Every proxy shall be revocable and shall automatically cease upon conveyance by the owner of his Lot.

g. Books and Records. Upon prior written request, the books, records, and papers of the Association shall be subject to inspection at a reasonable time and place by any owner and by a mortgagee holding a duly recorded mortgage against a Lot.

h. Principal Office. The Association shall designate a principal office from time to time.

i. Dissolution. The Association may be dissolved upon the written approval of all of the owners of all the Tracts. Upon dissolution of the Association, the assets of the Association shall be distributed to the owners of the Lots within the Subdivision in equal shares, or, dedicated to an appropriate public agency or nonprofit organization to be used for purposes broadly similar to those for which this Association was created.

j. Limitations. No part of the net earnings of the Association shall inure to the benefit of, or be distributed to, the owners, except that the Association shall be authorized to pay reasonable compensation for services rendered.

20. ASSESSMENTS/PAYMENT/LIENS.

a. Annual/Special Assessment. The Stone Drive Association, by and through the affirmative vote of its Shareholders, shall have the power to declare the need for annual assessments and/or special assessments to be paid by the Owners. Declarant anticipates no need for such assessments at the time of this declaration, and therefore does not declare any assessments at this time. However, should the need for such assessments arise in the future, the Corporation by and through an affirmative vote of its shareholders shall have the power to declare and require such assessments. If such assessments are declared by the Corporation, all such assessments shall be fixed at a uniform and equal rate for each Lot.

b. Creation of Lien & Personal Obligation. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay all assessments that may be declared and levied by vote of the Corporation, as well as any charges, costs and fees that may become an obligation of an Owner for Owner's failure to comply with the terms of these Covenants, as set forth above. It is agreed that any nonpayment of such amounts shall result in a lien against the nonpaying Owner and a lien against the Lot owned by him in the Subdivision.

Any (i) such assessment not paid within thirty days after the due date thereof, and (ii) any charge, costs and fees which become an obligation of an Owner for the Owner's failure to comply with the terms of these Covenants, as set forth above, shall thereafter bear interest from the due date at the rate of twelve percent (12%) per annum. Upon the failure of a Lot owner to pay the amount due under (i) or (ii), the Corporation will provide written notice to the violating Lot Owner by certified mail and such delivery will be effective on the date such notice is mailed. The violating Lot Owner shall have thirty days from the date of notice to pay, in full, the amount owed, together with the accrued interest thereon. If payment is not received by the Corporation within said thirty days, the Corporation may bring action at law or equity against the Owner obligated to pay the same, and/or may foreclose the lien against the Lot which is created herein by such nonpayment. The lien created herein may be foreclosed in the manner provided for foreclosure or real estate mortgages in the State of Wyoming and may be, at the Corporation's discretion, accomplished by advertisement and sale. In the event of such collection and/or foreclosure, the nonpaying Lot Owner shall be liable for all reasonable attorney's fees and costs incurred by the enforcing party in such collection. No Owner may waive or otherwise escape liability for the amount due herein by non-use of the Lot.

c. Subordination of Lien to Mortgage. The lien in the amount of the unpaid assessment, charge, costs and fees due and created herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect or release the lien created herein for such nonpayment against the Owner or Lot. However, the sale or transfer of any Lot pursuant to the foreclosure of a first mortgage shall extinguish the lien created herein against the Lot as to

payments which became due prior to such sale or transfer; except, such foreclosure shall not relieve the Owner from personal liability for payment of the lien amount.

21. **VARIANCE.** The Declarant shall have the sole power and authority, to grant a variance to a Lot from these Covenants for good cause shown in order to prevent undue hardship on an Owner. The variance, if granted, shall not violate the overall theme, intent and appearance of these Covenants and the Subdivision. Any such variance granted must be specific and be in writing, and any variance shall be granted, if at all, on a case by case basis. The grant of any variance by the Declarant shall not act as a waiver for the ability to otherwise enforce any provision of these Covenants. Should Declarant no longer have an interest in any Lot in the Subdivision, then the power and authority to grant such a variance shall thereafter vest in the Association.

22. **ENFORCEABILITY.** If any person/entity shall violate or threaten to violate any of these Covenants, then these Covenants may be enforced by the Declarant, by the Association or by the Owner of any Lot in the Subdivision, or by a duly-authorized official of the City of Laramie or County of Albany; provided however, these covenants shall not run to the benefit of any other third party. If the Declarant is required to take action to enforce these Covenants, it shall be entitled to the recovery of all reasonable attorney's fees and costs incurred with their enforcement hereof, whether such enforcement require litigation or not, and such damages (actual and punitive) as may be determined for such violation.

23. **SEVERABILITY.** Invalidation of any one of the provisions set forth in these Covenants, by judgment or court order, shall in no wise affect any other provisions herein which shall remain in full force and effect.


24. **NON WAIVER.** Any failure or delay to promptly enforce a violation of these Covenants shall not be deemed a waiver of the right to so enforce whatsoever.

25. **AMENDMENT TO COVENANTS.** The covenants, conditions, restrictions and other agreements made herein shall not be waived, abandoned, terminated, amended, altered or revoked except by the written approval of at least Seventy Five Percent (75%) of the Lots (i.e., 3 of the 4 Lots) in the Subdivision properly voting for such.

26. **EFFECT AND DURATION OF COVENANTS.** These Covenants shall be for the benefit of and binding upon each Lot in the Subdivision and upon each Owner of each Lot, his successors, heirs and assigns and shall run with the land. These Covenants shall remain in full force and effect for twenty (20) years from the date this instrument is executed, at which time these Covenants shall be automatically extended for five successive terms of ten years each thereafter, unless otherwise properly amended, altered or revoked as provided herein.

Executed and made effective this 4 day of ~~February~~ <sup>March</sup>, 2008

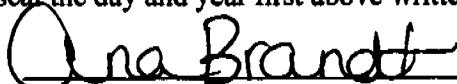
WYAZ LLC, a Wyoming limited liability company

  
James H. Rinehart, Manager/Member

STATE OF WYOMING     )  
  ) ss.  
COUNTY OF ALBANY    )

On the 4th day of ~~February~~ <sup>March</sup>, 2008 the foregoing Declaration was acknowledged before me by James H. Rinehart, who appeared before me and was personally known to me, and who, being by me duly sworn, did say that he is the sole Manager of WYAZ LLC, a Wyoming limited liability company, and that said Declaration was signed on behalf of said Company by proper authority and acknowledged said Declaration to be the free act and deed of said Company.

GIVEN under my hand and notary seal the day and year first above written.

  
Notary Public

My Commission Expires: 11-23-11

