

Mayor
Willard Rodarmel
Mayor Pro Tem
John Flourde
Council Members
John Gordon
John Murray
William Siegel



**Planning
Department**

210 Fox Street
Lemoore ♦ CA 93245
Phone ♦ (559) 924-6740
FAX ♦ (559) 924-6743

STAFF REPORT

Item # 5

To: Lemoore City Council
From: Holly Smyth
Date: July 14, 2011
Subject: Declaration of Covenants, Conditions and Restrictions recorded in 1992 on all Golf Course Subdivisions

Background:

When the City purchased the property to create the back nine of the Lemoore Municipal Golf Course, the City parceled out three subdivision areas and passed Resolution #9224 and recorded Declaration of Covenants, Conditions and Restrictions (CC&R's) on all the properties. These CC&R's, which are attached, contain access restrictions, airspace easements, fencing design restrictions, and a 20' clear strip requirement along the backyards of all properties adjacent to the golf course.

In April 2007, Tract 752-Fairway Homes phase II was being approved for Coker Ellsworth. In order to get better elevations from the golf course, staff worked with the developer to modify language regarding 20' clear strip. The result was City Council passed Resolution #2007-12 amending condition #5 of City Council Resolution #9224 to allow for "architectural features approved by the Community Development Department" within the 20' area. The resolution further stated that "staff is further directed to insure that the CC&R's for the Tract are also amended to include this modification to the subdivision and allow the amending of other CC&R's if requested by other golf course subdivision as well. The developer amended their existing CC&R's in Phase I of Tract 752 and made sure to include the above allowance language in the clear strip in the CC&R's of Phase II of Tract 752.

Back in February 2011, staff received a written request from the Lemoore Country Club Villas #2 in Tract 783 Homeowners Association (HOA) to amend their CC&R's to allow for construction within the 20' clear strip. Staff then submitted a letter back to the HOA giving them the adequate language to include in their CC&R amendment.

Another planning staffer received a verbal request from an owner within Tract 783 to allow for construction in the clear strip. Staff spoke to Assistant City Attorney Bacigalupi who stated that previously recorded CC&R's can only be revoked through new CC&R's. He stated that a title report can help determine if they are still intact. The property owner provided staff with the Title Report which showed that the City's recorded CC&Rs on 11/20/1992 through Instrument No.9222290 and again on 12/1/92 through Instrument No. 9222898 are still intact and include the language about the 20' clear strip. Therefore according to the City Attorney's office, the 20' clear strip can only be changed by amending the CC&R's, which staff shared with the property owner and the HOA.

Budget Impact:

None.

Recommendation:

Information only.