

JUNE 9, 1980 8:00 A
Recorder No. 286815

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DECLARATION OF COVENANTS, RESTRICTIONS
EASEMENTS, CHARGES AND LIENS FOR
FOXTAIL PINES

Declaration made as of this 2nd day of June, 1980 by
HAROLD J. NERLIN, hereinafter referred to as "Developer".

Developer is the owner of the real property described
in Exhibit 1 of this Declaration, which the Developer intends
to develop under the name and style of Foxtail Pines.

Developer desires to protect and enhance the value,
desirability, and attractiveness of the said property and
to disturb the natural environment as little as possible.

1. BUILDING TYPE AND USE: All tracts in the develop-
ment are zoned by the applicable Park County regulation.
Property owners shall consult said zoning regulation for specific
zoning use and restrictions prior to any construction on or
use of a tract.

2. DWELLING: The ground floor area of the main
structure of any dwelling constructed on a tract, exclusive
of open porches, garages, and basements, shall be not less than
600 square feet and shall not be more than two stories above
ground and shall be placed on, or constructed on, fully enclosed
block or concrete foundation walls; open, exposed crawl spaces
being prohibited. No building shall be more than two stories
in height above ground.

3. BUILDING LOCATION: No building shall be erected
nearer than twenty-five (25) feet to any boundary, along a
road, or so that any part of said building is closer than
twenty-five (25) feet to any of the other boundary lines of
the tract. In case of single ownership of more than one tract,
this restriction shall apply to the parcel as a whole; for
purposes of this covenant, eaves, steps, and open porches
shall be considered as a part of the building.

4. BUILDING APPEARANCE: In order not to impair the
appearance of the development, the exterior of each dwelling

or other structure located on any tract shall be maintained in acceptable repair and condition, as the Board of Directors of the Foxtail Pines Homeowners Association may, from time to time, determine. Structural color schemes shall be compatible with the natural environment. Natural or earth colors are encouraged.

5. EASEMENTS: Easements for installation and maintenance of utilities, roadways, and such other purposes incident to development of the property are granted as shown on the recorded plats recorded in Park County, Colorado, and rights-of-way shall be kept open and readily accessible for use, service and maintenance.

6. NUISANCES: Nothing shall be done or permitted on any tract which may be or become a nuisance. No noxious or offensive activities shall be carried on upon any tract. No unlicensed road vehicle shall remain on a tract for more than ninety (90) days.

7. WATER: Water shall be supplied by each owner drilling an individual well. The owner's water supply is subject to the terms and conditions of the Decree in Case No. W-8480-77 in the District Court in and for Water Division No. 1, Greeley, Colorado, and of record in the office of the Clerk and Recorder, Park County, Colorado. This Decree provides in part that no curtailment of diversions through facilities required to serve the single-family residential units shall be made unless there is insufficient water available for replacement of the consumptive use depletions of the development pursuant to the plan for augmentation contained within said Decree. However, if there is insufficient water available to satisfy the requirements of the plan for augmentation, individual wells are subject to curtailment by the Division Engineer, Water Division No. 1, State of Colorado, or by the Foxtail Pines Homeowners Association. Before an owner can construct a well, a well permit must be obtained from the Colorado State Engineer's Office in Denver, Colorado. No well permit may be obtained

until the Foxtail Pines Reservoirs No. 1 and 2, or another suitable facility, has been constructed and sufficient water either has been stored or is available for storage therein to meet the requirements of the plan for augmentation as described in the Decree described above. The foregoing Decree provides for household-use-only well permits. These will be the only types of permits granted for construction of wells on the property. Those lot owners obtaining household-use-only well permits are not allowed any external use of water, such as irrigation of lawns or gardens, nor are they allowed outside hydrants for watering of domestic animals.

8. SEWAGE: Due to the climatic condition of Park County, and the requirements of the water augmentation plan, evapotranspiration sewage effluent disposal systems will not be allowed in this development. Only disposal systems which preclude evaporation at the surface shall be permitted in the development. Each lot owner must obtain State and, if applicable, County Health Department approval for the installation and use of an on-site sewage disposal system. Sewage disposal systems which are found by the court to support luxuriant surface growth shall be in violation of the Decree in W-8480-77.

9. HUNTING: No hunting or discharge of firearms shall be allowed within the development.

10. GARBAGE AND REFUSE DISPOSAL: No tract shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be visible from public roads.

11. FENCES: Fencing along BLM land or National Forest land must be in accordance with lawful regulations. Existing boundary fences will not be removed, but may be reset to conform to staked property lines and/or be rebuilt as necessary. Tract owners purchasing tracts on the outside periphery of the subdivision agree to jointly maintain fences with adjacent

owners of private property as and if necessary.

12. SIGNS: No sign of any kind shall be displayed to the public view on any tract except one sign of not more than six (6) square feet advertising the property for sale or rent.

13. CULVERTS: Buyers shall furnish where necessary, at their own expense, one county approved culvert of a minimum size of fifteen (15) inches, required for private access road to their property.

14. CLEARING OF TREES: There shall be no removal of living trees from any tract except that which must be removed in connection with construction on the property, landscaping, or that which is consistent with generally recognized conservation practices.

15. DAMS AND RESERVOIRS: Owners of tracts along flood plain easements may not construct ponds and dams or in any way obstruct the natural flow of water into common area ponds. All dams and reservoirs shall be under the control and direction of the Foxtail Pines Homeowners Association.

16. TITLE TO COMMON AREAS: Title to all park sites, pasture lands, fire stations and other common areas will be conveyed to the Foxtail Pines Homeowners Association.

17. COMMON AREAS: The common areas are for the enjoyment of all property owners. Individual users shall cooperate to police trash and maintain the common areas in a clean, neat, and natural condition. There shall be no overnight camping in any common area.

18. FOXTAIL PINES HOMEOWNERS ASSOCIATION: The purchaser of a tract in the development, upon taking title, automatically becomes a member of the Foxtail Pines Homeowners Association (hereinafter referred to as the "Association"). Purchasers understand and agree, by taking title, that membership in and full support of the Association is an absolute requisite for every owner. The purposes of the Association are to assume ownership and control of, and responsibility for the common areas within the development, to provide surveillance over the

property, to include, but not be limited to maintenance of signs and enforcement of protective covenants, to enforce and administer the Plan for Augmentation decreed in Case No. W-8480-77, and to attend to such other matters as may be determined necessary by the Association's Board of Directors. Purchasers understand and agree that payment of dues or assessments to the Association and full cooperation with Association decisions and policies are requirements concomitant with purchase and ownership, that periodic assessments, dues and fees will be required which must be promptly paid, and that nonpayment of such assessments, dues and fees will cause a recorded lien for the arrearages of such dues and fees to be placed against the defaulting member's tract or tracts.

The Association will operate as a non-profit organization, its books may be examined at any reasonable time by property owners, and copies of rules and by-laws separate from these protective covenants will be provided to each purchaser upon request. The Association will not create an unreasonable burden, requirement or cost for property owners in the development, except as required by the Decree in Case No. W-8480-77. Examples of Association responsibilities for purposes of illustration, but not in limitation of Association rights and duties, include the following: the regulation and enforcement of the terms and conditions of the water augmentation plan and court decree concerning the water rights obtained by the Developer to provide well permits for the development; payment of taxes on community areas; maintenance of community areas and community area equipment such as picnic tables; maintenance of lakes and dams; stocking of lakes with fish, establishment and enforcement of fishing rules and regulations; maintenance of common drinking water sources; enforcement of protective covenants; surveillance over property to prevent theft or vandalism; repainting or replacing of signs; surveillance over adjacent development and new county or state laws in order to maintain property owners' rights and uphold values.

Developer may retain control of and responsibility for all or some of the above functions for a period of three (3) years from the date of the first sale, or until thirty percent (30%) of the lots in the entire subdivision are sold, whichever occurs first.

19. ARCHITECTURAL CONTROL: Each person wishing to erect a structure on his property shall submit his plans and specifications to the Board of Directors of the Foxtail Pines Homeowners Association for approval before commencing construction. The Board shall approve or disapprove the plans and specifications within thirty (30) days of receipt of those plans and specifications by the Board. If the Board does not act within thirty (30) days, the plans and specifications shall be deemed to have been approved by the Board.

20. RECREATIONAL VEHICLES AND CAMPERS: No recreational vehicle campers or camping trailers shall be allowed on any lot in the subdivision.

21. BUILDING PERMITS: Park County requires a building permit before a property owner can construct on his property. Building permits may be obtained from the Park County Building Inspector in Fairplay, Colorado.

22. ANIMALS, PET CONTROL: Domestic animals may be kept, but should not be left unattended. Pets shall not be permitted to run at large within the development or on adjacent lands and shall be required to be within the "positive control" of the owner thereof at all times. Positive control shall mean that the pet, when on the property of the owner thereof, is within the sight and earshot of an adult person on the property who is capable of summoning and controlling the pet, and, when off the property (within the development or on adjacent lands) is tethered with a leash no longer than ten (10) feet in length, one end of which shall be held by a person capable of controlling the pet. No tethered pet shall be left unattended off the property of the above.

23. TERMS OF COVENANTS: Each of the covenants, restric-

tions, and reservations set forth herein shall run with the land and shall be binding for a period of ten (10) years from the date of the recording hereof in the Office of the Clerk and Recorder of Park County, Colorado, and shall automatically be continued thereafter for successive periods of ten (10) years each, provided, however, that the owners of sixty-five percent (65%) of the tracts which are subject to these covenants may change or modify any one or more of said restrictions, except those which deal with the use of water or sewage treatment systems, which are controlled by court decree, by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and recording the same in the office of the County Clerk and Recorder of Park County, Colorado.

24. ANNEXATION: The Developer may in the future acquire additional real property in Park County, Colorado. The Developer may, from time to time, within ten (10) years after the date of the recording of this Declaration of Covenants annex any or all of said after-acquired real property to the development known as Foxtail Pines by recording one or more Annexation Statements. Upon the recording of such an Annexation Statement in the public records of Park County, Colorado, all of the real property described in such Annexation Statement shall be deemed to be part of the development and subject to all of the terms and provisions of these Covenants.

25. ENFORCEMENT: Enforcement shall be by proceedings in law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages, and, in the case of covenants concerning water or sewer services, may be enforced according to the terms of the Decree in Case No. W-8480-77.

26. SEVERABILITY: Invalidation of any one of these covenants by judgment or court order shall in nowise affect any of the other provisions which shall remain in full force and effect.

27. DEVELOPER MAY ASSIGN: Harold J. Nerlin may assign

Case 877

EXHIBIT I

DECLARATION OF COVENANTS, RESTRICTIONS
EASEMENTS, CHARGES AND LIENS FOR
FOXTAIL PINES

LEGAL DESCRIPTION:

Lots 1 through 119
Outlots No. A, B, C and D
FOXTAIL PINES SUBDIVISION.
Park County, Colorado.

12130

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Harold B. Anderson, Recorder Park County

ANNEXATION STATEMENT

BOOK 327 PAGE 83

Pursuant to Section 24 of the Declaration of Covenants, Restrictions, Easements, Charges and Liens for FOXTAIL PINES, dated June 2, 1980 and recorded June 9, 1980 in Book 311 at Page 669 as Reception No. 286815 of the real property records of Park County, Colorado (said Declaration hereinafter being referred to as "Declaration"), HAROLD J. MERLIN, as Developer under the Declaration, does hereby annex the real property which is described as follows:

Lots No. 120 through 326, inclusive, Cutlots E, F, G and H, all in Filing No. 2, FOXTAIL PINES, Park County, Colorado,

thereby making said real property subject to the Declaration, and all of the terms and provisions thereof.

Dated this _____ day of _____, 1981.

Harold J. Merlin
HAROLD J. MERLIN

COUNTY OF Park }
STATE OF COLORADO } ss.

The foregoing instrument was acknowledged before me this _____ day of June, 1981 by Harold J. Merlin.

WITNESS my hand and official seal.

My Commission Expires: 4-1-84



Harold B. Anderson
Notary Public

