

Summit Estates Filing #3  
Planned Unit Development Designation

This Planned Unit Development Designation, to be known as the Summit Estates Filing #3 Planned Unit Development Designation, is approved this 12th day of March, 1993 by the Board of County Commissioners of Summit County, Colorado, hereinafter referred to as the "County," for certain real property located in Summit County and described in attached Exhibit A, hereinafter referred to as the "property." This designation establishes uses permitted on the property, its development plan and phasing, and specific development regulations which must be adhered to by The Party Joint Venture, Sam McCleneghan III, General Partner, who is the owner and developer of the property, and is hereinafter referred to as the "owner/developer". This designation also specifies improvements which must be fulfilled in conjunction with this designation by the owner/developer. This planned unit development designation applies to certain real property located in Summit County and described in attached Exhibit A, hereinafter referred to as the "property."

A. PERMITTED USES AND DEVELOPMENT PLAN

The goal of the Summit Estates Filing #3 PUD is to provide for rural estate type single family development in a manner which minimizes site disturbance and maintains existing vegetation and natural systems to the fullest extent possible.

1. Permitted Uses.

Uses and development of the property shall be in general accordance with the Development Plan attached as Exhibit B hereto. The development plan is conceptual. Actual location of lots, building sites, roads, and other necessary improvements shall be determined through the detailed submittal and final plat approvals for subdivision of each phase of the development. A total of 15 single family units, one per site, and an equestrian center is permitted.

Building heights shall not exceed 35 feet with height as defined in the Summit County Land Use and Development Code. All buildings shall be located within building envelopes on lots as conceptually shown on Exhibit B. Final building envelope locations shall be shown on the final plat(s) of the property. When necessary due to topography or other physical hardship, up to five (5) percent of a building footprint may be located outside the designated building envelope with prior permission from the Summit County Community Development Department. All proposed building on the property must receive site plan approval from the Summit County Community Development Department.

Caretaker units shall be permitted in single family dwellings subject to the provisions in Section 3801 of the Summit County Land Use and Development Code provided that the size of the caretaker unit shall not exceed 45% of the square footage in the primary residence, excluding garage space, or 800 square feet, whichever is less.

2. Platting.

The preliminary and final plat for each phase of the property shall be submitted to and approved by the County prior to any development. Preliminary and final plat applications for each phase may be combined.

3. Parking.

No parking shall be allowed in any County road, private road, common driveway, cul-de-sac or hammerhead turnaround. Off-street parking which meets County standards shall be provided for each single family unit.

4. Open Space Areas.

As conceptually shown on Exhibit B, Parcel A and all trail easements shall be retained as private open space for the exclusive use of the residents of the property and their guests. Final delineation of open space areas will occur at the preliminary/final plat approval stage of each applicable phase of the development unless otherwise specified in this designation. No buildings, roads, or grading shall be allowed within the private open space parcels except for recreational facilities as approved by the Upper Blue Planning Commission. Vegetation management may be carried out in accordance with an approved vegetation management program.

5. Vegetation Management Program.

A vegetation management program to reduce wildfire hazard and susceptibility to mountain pine beetle infestation, and to enhance wildlife habitat and tree vigor on the property shall be prepared. The plan shall focus on removal of dead wood and brush with minimal tree cutting. The plan shall be reviewed and approved by the Colorado State Forest Service and submitted concurrent with the preliminary plat application.

6. Development Schedule.

It is anticipated that development of the PUD will occur in phases over a three year period beginning in 1990. Preliminary and final plats for each phase will be submitted to and approved by the County prior to development.

7. Covenants.

Concurrent with submittal of the first final plat for the property the owner/developer shall submit covenants for the entire property. The covenants shall provide for formation of a homeowners association with responsibility for architectural control and maintenance of all private roads, common driveways and private open space within the property. The owner/developer shall obtain county approval for those portions of the covenants concerning maintenance of private roads, common driveways and open space prior to approval of any final plat, and the covenants shall be recorded concurrent with recording the first final plat of building sites on the property.

B. UTILITIES AND IMPROVEMENTS

Utilities and improvements shall be provided in the development of the property as set forth in this section. Detailed specifications shall be set forth in the final plat submittal. Time schedules for construction of improvements shall be set forth in the subdivision improvements agreement which must accompany the final plat approval.

1. Water System.

Water supply will be provided by on site wells subject to approval by the State Engineer, Division of Water Resources. The water supply system shall provide adequate fire flows as determined by the Red, White and Blue Fire District.

2. Sewer Systems.

Sewage disposal shall be provided by on site septic systems subject to the approval of the County Environmental Health Department.

3. Access.

Access to the property and all building sites shall be provided by roads and common driveways built to County specifications. Final road designs shall be approved by the County Engineer prior to approval of a final plat. The County reserves the right to accept or reject responsibility for year round maintenance, including snow removal, on all dedicated public roads. Maintenance of all private roads and driveways and all roads not accepted by the County shall be the responsibility of the developer unless delegated to the Summit Estates Homeowners Association in the covenants for the subdivision. Access to all dwelling units shall be maintained at all times.

The Galena Gulch jeep trail currently crosses the property. Any final plat for this property shall include 15 foot wide easements for the existing Galena Gulch road in order to recognize existing historical access and to provide for a coordinated access system in the area.

4. Tiger Road Improvements.

The developer acknowledges that improvements to Tiger Road will be necessary in the future. It is understood that the developer and other adjacent landowners will benefit from any improvement of Tiger Road. At this time it is unknown at what point Tiger Road will require improvement, including paving. Prior to approval of any final plat for development of building sites, the owner/developer shall join in any common financing arrangement with other parties established by the County for improving Tiger Road. If no such financing arrangement has been established by the County upon approval of any final plat, the County can require the developer to satisfy the obligation to improve Tiger Road by one of the following methods.

- 1) A covenant be recorded for each property ownership in the subdivision requiring that each lot join a future improvement district formed by the County to improve Tiger Road; or
- 2) A fee be established by the County to be paid by the property owners in the subdivision to fully satisfy this requirement.

5. Fire Protection.

Fire protection is to be provided by the Red, White and Blue Fire District. All development on the property shall meet all fire protection requirements of the District.

6. Utilities and Easements.

All new utility lines shall be installed within the PUD in accordance with the standards of each utility provider and County Subdivision Regulations. Easements for all utilities shall be shown on the final plat.

C. GENERAL PROVISIONS

1. Enforcement

The provisions of the planned unit development designation and the development plan relating to the use of land and the location of common open space shall run in favor of Summit County and shall be enforceable at law or in equity by the County without limitation on any power or regulation otherwise granted by law. Other provisions of the planned unit development designation and the development plan shall run in favor of the residents, occupants, and owners of the planned unit development but only to the extent expressly provided in, and in accordance with the terms of, the planned unit development designation and the development plan. Provisions not expressly stated as running in favor of the residents, occupants, or owners of the planned unit development shall run in favor of the County.

2. Breach of Provisions: If at any time any provision or requirement stated in the planned unit development designation has been breached by the owner/developer, the County may withhold approval of any or all site plans or plat maps, or the issuance of any or all grading or building permits applied for on the property, until such breach has been remedied, provided, however that the County shall not take affirmative action on account of such breach until it shall have first notified the owner/developer in writing and afforded the owner/developer a reasonable opportunity to remedy the same.
3. Binding Effect: The PUD designation shall run with the land and be binding upon the Owner/Developer, their respective successors, representatives and assigns, and all persons who may hereafter acquire an interest in the Property or any part thereof, with the exception that provisions of this designation may be modified through an amendment in accordance with the procedure stated in the County Development Review Procedures. This designation shall be recorded in order to put prospective purchasers or other interested persons on notice as to the terms contained herein.
4. Amendments: Amendments to the provisions of a planned unit development designation shall be reviewed and acted upon as a rezoning application, subject to the County's procedures for zoning amendments and to the requirement for findings under the Planned Unit Development Act of 1972 at CRS 24-67-106(3)(b).

SUMMIT ESTATES FILING #3 PUD DESIGNATION

Page 5

5. Notices: All notices required by this designation shall be in writing and shall be either hand delivered or sent by certified mail, return receipt requested, postage prepaid, as follows:

Notice to County:

Board of County Commissioners  
P.O. Box 68  
Breckenridge, CO 80424

Notice to Owner/Developer

The Forty Joint Venture  
c/o Sam McCleneghan III  
P.O. Box 1012  
Breckenridge, CO 80424

All notices so given shall be considered delivered three days after the mailing thereof, excluding weekends and official holidays. Either party, by notice so given, may change the address to which future notices shall be sent.

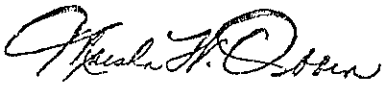
6. Entire Designation: This designation contains all provisions and requirements incumbent upon the owner/developer relative to the (name of planned unit development) Planned Unit Development, except as modified by subsequent action of the Board of County Commissioners in accordance with procedures set forth in the Summit County Land Use and Development Code and the Colorado Planned Unit Development Act (CRS 24-67-106) for amending planned unit developments, and except that nothing contained herein shall be construed as waiving any requirements of the County's Land Use and Development Code or other regulations otherwise applicable to the development of the property.
7. Effective Date: This designation must be signed by both the Summit County Board of County Commissioners and the Owner/Developer and must be recorded by the Summit County Clerk and Recorder in order to become effective. The effective date shall be the date of recordation.

SUMMIT ESTATES FILING #3 PUD DESIGNATION


Page 6


IN WITNESS WHEREOF, the County and the owner/developer have executed this Designation as of the date first above written.

BOARD OF COUNTY COMMISSIONERS  
OF SUMMIT COUNTY, COLORADO

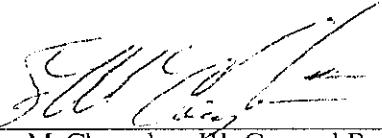
By:   
Marsha W. Osborn, Chairman

ATTEST:

  
Colleen Richmond, Clerk and Recorder



THE FORTY JOINT VENTURE

  
Sam McCreagh III, General Partner

pud/sum.est#3