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Cheri Brunvand - Summit County Recorder 4/16/2008 9:36 DF:0.00



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Hamilton Creek
Planned Unit Development

THIS AGREEMENT was made and entered on the 7th day of June 1984, revised February 9, 1987, December 12, 1988, July 22, 1991 and this 11th day March 2008 by and between the Board of County Commissioners of Summit County, Colorado, hereinafter referred to as the "County," and Larry L. Blackmun and Sharon A. Blackmun, hereinafter jointly referred to as the "Applicant."

WHEREAS, the Applicant is the owner of certain property located in Summit County, Colorado, particularly described in attached Exhibit "A" hereto and hereinafter referred to as the "Property;"

WHEREAS, the Applicant has requested approval of a rezoning of the Property from R-2 Residential to PUD Planned Unit Development for a development known as Hamilton Creek; and

WHEREAS, the County desires to insure that certain conditions are fulfilled by the Applicant in the development of the Property in order to protect the public health, safety and welfare;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration hereby receipted for, the parties hereto agree as follows:

A. PERMITTED USES AND DEVELOPMENT PLAN

Use and development of the property shall be in accordance with the Development Plan attached as Exhibit "B" hereto and the following specific requirement:

1. Permitted Uses

Permitted uses for the Property shall be 141 single-family dwelling units, and 21 accessory apartments. The permitted uses are divided among four development phases as follows:

- a. Phase 1: 28 single-family dwellings
- b. Phase 2: 57 single-family dwellings
- c. Phase 3: 37 single-family dwellings
- d. Phase 4: 19 single-family dwellings
- e. Phases 3 & 4: 21 accessory apartments

The uses are further allocated to proposed lots and blocks on the attached Exhibit "C" hereto. Dwelling units in Filing #1 not built as primary single-family residences may be allocated as accessory apartment within Filing #1. Accessory apartments will be required to comply with requirements as stated in Section 3801 of the Development Code as may be revised and obtain approval if a conditional use permit prior to issuance of building permits. Accessory apartments will be allocated on a "first come first serve basis" (amended by Resolution 91-51).

2. Building Heights

The maximum height of building in Filing 1 and Filing 2 shall be 35 feet in accordance with the Summit County Community Development Code. (amended by Resolution 91-51).

3. Setbacks

Building setbacks for designated single family building envelopes in Filing 1 and 2 shall be 50 feet from the South Forty Subdivision, 10 feet from the United States Forest Service property, 10 feet front yard, 5 feet side yard and 5 feet rear yard; provided, that no setback shall be required from adjacent open space within the Hamilton Creek Project. Building setbacks for Blocks 1 through 11 may be varied when necessary, due to topography or other severe physical hardship, as determined on individual site plans approved by the Planning Department prior to granting of any building permit for construction within each block. (Resolution 87-73)

4. Parking

The Applicant shall provide off street parking as follows:

- a. Lots 1-33 Filing #1: 3 spaces per unit
 - b. Blocks 1-11 Filing #1: 2 spaces per unit
 - c. Blocks 1-13 Filing #2: 2 spaces per unit
- (Amended by Resolution 91-51.)

5. Public Use Areas

The Applicant shall pay to the County a public use areas fee in lieu of land dedication in accordance with the County's subdivision regulations, prior to the recording of any plat for the Property or the issuance of a building permit for the proposed improvements (amended by Resolutions 91-51).

6. Development Schedule

The Applicant intends to develop the Property over a 10-year period as follows:

| | | |
|-----------|--|-------------|
| Phase I | Continuance of County Road 1900 | Spring 1985 |
| | Primitive Road | Spring 1985 |
| | Filing of Plat for Filing No. 1 | Fall 1985 |
| | Build-Out Begins and Utilities | Spring 1986 |
| Phase II | Build-Out Begins | Spring 1986 |
| | Filing of Block Plats for Filing No. 2 | Spring 1992 |
| Phase III | Water, Fire Protection | Spring 1992 |
| | Complete Power, Telephone, Cable | Fall 1991 |
| | Build-Out Begins | Fall 1991 |
| Phase IV | Build-Out Begins | Spring 1993 |

(Included in original PUD document as Exhibit D; Incorporated into document by Resolution 88-73 and amended by Resolution 91-51)

7. Signs

All signs shall comply with the Summit County Outdoor Advertising Regulations as now in effect or hereafter amended.

8. Platting

A final plat or plats shall be submitted to and approved by the County prior to issuance of building permits.

9. Animal Keeping

A maximum of two (2) dogs per dwelling unit will be permitted. Dogs must be either kept in an enclosed dog run or on a leash outside. Other domestic animal keeping shall be in accordance with the regulations for the R-1 zone district as stated in the Summit County Land Use and Development Code (added by Resolution 91-51).

10. Site Plan Review

All building proposed on sites which contain slopes of 30% or greater must obtain site plan approval from the County Planning Department prior to issuance of grading permits. Mitigation measures as stated in Figure 3-1 of the Summit County Development Code may be required depending upon each individual site. A site plan improvement agreement may be required in order to assure compliance with County regulations and assure proper revegetation and erosion control measures. The Declaration of Covenants, Conditions and Restrictions for Hamilton Creek requires approval by the Architectural Control Committee (ACC) in addition to compliance with the building code, the Hamilton Creek PUD, and all other applicable laws and regulations. Applicants are required by the Hamilton Creek Design Guidelines to obtain final design approval from the ACC prior to application for any building permit.

B. UTILITIES AND IMPROVEMENTS

Public utilities, improvements and services are to be provided in the development of the Property as set forth in this section. Detailed specifications and time schedules for their construction shall be set forth in the Improvements Agreement required as a condition of final plat approval.

1. Water System

Water is to be provided by a private system of either community wells or surface diversion from Hamilton Creek. The Hamilton Creek Metropolitan District is responsible for provision and maintenance of the water system. (Added by Resolution 88-73.)

2. Sewer System

Sewer service is to be provided by individual or joint septic systems. The Hamilton Creek Metropolitan District is responsible for periodic sludge removal from individual and shared septic tanks. Prior to approval of preliminary plat the developer shall provide detailed site plans for proposed leach fields, as well as percolations test and other information as may be required by the County Engineer and the Environmental Health Division. (Added by Resolution 88-73, amended by Resolution 91-51.)

3. Access

Access within Phase 1 shall be provided by a private road as shown on the Development Plan. The width and distance between turnouts are to be varied from the requirements of the County road regulations in consideration of concrete or asphalt construction of this road. Access for

Phases 2, 3 and 4 shall be provided by an extension of County Road 1900. All roads within the property shall be maintained by the Hamilton Creek Metropolitan District unless or until roads are accepted by Summit County for maintenance. (Added by Resolution 88-73.)

4. Fire Protection

Fire Protection is to be provided by the Silverthorne Fire Protection District, and the Applicant shall meet all fire protection requirements of the District.

5. Maintenance Responsibilities

Prior to approval of any final plat, the Applicant must submit covenants for the homeowners association and/ or bylaws for the Hamilton Creek Metropolitan District for review by the County. The covenants and/ or bylaws shall delineate the responsibilities for the maintenance for roads, sewer systems, water systems, and landscaping in common areas as an obligation of the homeowners association and/ or Hamilton Creek Metropolitan District. They shall include a provision that if the homeowners association and/ or Hamilton Creek Metropolitan District fails to perform so that public health and safety are affected, then the County has the authority to enforce maintenance responsibilities, either through obtaining compliance from the homeowners association and / or Hamilton Creek Metropolitan District or by taking corrective action and billing the association and/ or district for the cost. The County shall approve the provisions of the covenants and/ or bylaws concerning maintenance responsibilities prior to recordation with the plat. (Added by Resolution 88-73)

C. GENERAL PROVISIONS

1. Breach of Agreement

If at any time any provision of this Agreement has been breached by the Applicant, the County may withhold approval of any or all site plans or plats, or the issuance of any or all building permits or certificates of occupancy applied for the Property, until such breach has been remedied; provided, however, that the County shall not take any affirmative action on account of such breach until it shall have first notified the Applicant in writing and afforded the Applicant a reasonable opportunity to remedy the same.

2. Binding Effect

The Agreement shall run with the land and be binding upon the Applicant and the County, their respective successors, representatives and assigns, and all persons who may hereafter acquire an interest in the Property or any part thereof. This Agreement shall be recorded in order to put prospective purchasers or other interested persons on notice as to the terms contained herein. A release executed by the County shall be binding and shall release the Applicant and the Property from any claim by the County under the terms hereof.

3. Notices

All notices required under this Agreement 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

Notice to Applicant:
Larry Blackmun

PO Box 68
Breckenridge, CO 80424

Box 23, Blue River Route
Dillon, CO 80435

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

4. Entire Agreement

This Agreement constitutes the entire agreement between the parties. Nothing contained herein shall be construed as waiving any requirement of the County's zoning and subdivision regulations, common review procedures or other regulations otherwise applicable to the development of the property.

5. Relationship to Original PUD Designation and Previous Amendments

To the extent the provisions of this revised PUD Designation are the same in substance to the provisions of earlier approved versions of this PUD designation, they shall be considered as continuations thereof and not new enactments. Where provisions of this revised PUD Designation conflict with earlier approved versions of the PUD Designation the provisions of this revised PUD Designation shall supersede and replace such provisions.

6. PUD Review Requirements

The Summit County Land Use and Development Code, Chapter 12, includes procedures and requirements for review of all Planned Unit Developments. The Owner/Developer shall be on notice of these requirements and shall insure that information necessary for the periodic review is made available to the County within the time frames as may be established in Chapter 12. The Owner/Developer further understands that failure to provide the necessary information or to proceed with the review process may result in development approvals within the PUD being withheld.

IN WITNESS WHEREOF, the County and the Applicant has executed this agreement as the date first above written.

BOARD OF COUNTY COMMISSIONERS
OF SUMMIT COUNTY, COLORADO

BY: / Don Peterson

Don Peterson, Chairman

ATTEST:

Colleen Richmond (by Connie Patrick, / Deputy
Council Clerk)

Colleen Richmond, Clerk and Recorder

/Larry L. Blackmun

Larry L. Blackmun

STATE OF COLORADO)
)
COUNTY OF SUMMIT) ss.

The foregoing was acknowledged before me this 18th day of June, 1984, by Larry L. Blackmun.

My Commission expires: June 9, 1985

/Kathy Kellogg
Notary Public

APPROVAL OF AMENDMENTS

The foregoing document is the Hamilton Creek Planned Unit Development as approved and signed by the Summit County Board of County Commissioners and Larry L. Blackmun and Sharon A. Blackmun on June 7, 1984 and as amended by the Summit County Board of County Commissioners as follows:

1. Resolution 87-3: Approving a minor amendment of the planned unit development agreement for the Hamilton Creek PUD

Adopted: February 9, 1987

Recorded At: Reception No. 338551

2. Resolution 88-73: Continuing approval and approving minor amendments to the Hamilton Creek PUD

Adopted December 12, 1998

Recorded At: Reception No. 364631

3. Resolution 91-51: Continuing approval and approving amendments to the Hamilton Creek PUD

Adopted July 12, 1991

Recorded At: Reception No. 407962

4. Resolution 2008-12: Approving a minor amendment of the planned unit development agreement for the Hamilton Creek PUD

Adopted March 25, 2008

Recorded At: Reception No. 885518

The Planned Unit Development document dated June 7, 1984 and revised to incorporate the amendment approved as noted above shall remain in force as revised. The foregoing document is issued as a continuance of the original document with the amendments shown in boldface type. Copies of the original Hamilton Creek Planned Unit Development and the amendments noted above are available from the Summit County Clerk and Recorder.

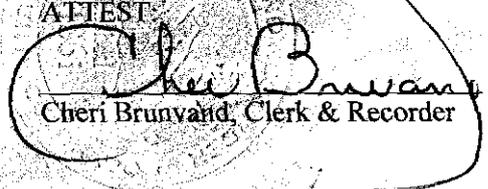
ADOPTED this 25th day of March 2008

BOARD OF COUNTY COMMISSIONERS
OF SUMMIT COUNTY, COLORADO

BY: 

Thomas C. Davidson, Chairman

ATTEST:


Cheri Brunvand, Clerk & Recorder