

VOL: 2001 PAGE: 10841
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



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DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received
and duly recorded in Deschutes County records:

DATE AND TIME: Mar. 9, 2001; 3:18 p.m.

RECEIPT NO: 32937

DOCUMENT TYPE: Planned Community
 Subdivision Declaration

FEE PAID: \$106.00

NUMBER OF PAGES: 16

A handwritten signature in cursive script, reading "Mary Sue Penhollow".

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

138376SK

2001-10841-1

**DECLARATION OF
PLANNED COMMUNITY DEVELOPMENT FOR
FAWN RUN**

These Covenants and Restrictions are made this 9th day of March 2001, by Stephen W. Moody, individual, as hereinafter referred to as "Declarant", as Owner of the real property in the City of Bend, Deschutes County, State of Oregon, described in Exhibit "A" attached hereto.

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Fawn Run is a residential community currently being developed. Except where this Declaration conflicts with applicable law, this Declaration shall be binding upon all real property and Owners subject to this Declaration and their successors in interest as set forth herein. In the event any of the development standards or use restrictions contained within this Declaration or adopted pursuant to it should conflict with a more restrictive standard or requirement of an applicable zoning or building ordinance, the more restrictive standard or requirement shall apply.

Section 1. DEFINITIONS

- 1.1 Fawn Run: This term "Fawn Run" shall mean all of the real property now or hereafter made subject to this Declaration.
- 1.2 Declarant: The term "Declarant" shall be Stephen W. Moody, or his successors in interest.
- 1.3 Lot: The term "Lot" shall mean each lot described on (1) any Fawn Run subdivision plat (2) any other subdivision or partition map on adjacent land which Declarant adds to the Fawn Run project (3) or as adjusted by any valid lot line adjustment. The Term Lot includes all Improvements located upon each such Lot.
- 1.4 Declaration: The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions.
- 1.5 Owner: "Owner" shall mean all holders of the fee title to any Lot.
- 1.6 Improvements: The term "Improvements" shall include, but not be limited to, any structures, buildings, driveways, retaining walls and stairs, decks, railings, deck privacy screens, landscaping and every kind above the land surface and any modifications to the land surface.

Section 2. PROPERTY SUBJECT TO THE COVENANTS, CONDITIONS AND RESTRICTIONS FOR FAWN RUN.

2.1 General Declaration Creating Fawn Run:

All of the real property located in Deschutes County, Oregon, described in Exhibit "A" together with any other real property made subject to this Declaration, is and shall be subject to this Declaration. The provisions herein are established for the purpose of protecting the desirability and attractiveness of Fawn Run. These Covenants, Conditions and Restrictions run with all of the real property and each such Lot for all purposes. They shall be binding upon and inure to the benefit of Declarant and all Owners and their successors in interest as set forth in this Declaration.

2.2 Annexation of Other Real Property by Declarant:

a. During the term of this Declaration, Declarant may from time to time subject adjacent real property to this Declaration. Additional real property need not be denoted "Fawn Run" on its subdivision or partition map. The addition shall be effective upon the recording of a notice of addition of real property as set forth below. The provisions of this Declaration shall fully apply to such added land with the same effect as if it were originally covered by this Declaration, unless the notice of addition specifically states otherwise. Thereafter, to the extent this Declaration is made applicable thereto, the rights, powers and responsibilities of Declarant, Owners of parcels within such added land, and all other Owners shall be the same as in the case of the land described in Exhibit "A". The annexing of such adjacent real property shall be accomplished as follows:

b. Supplemental Declaration. Declarant shall record a Supplemental Declaration which shall be executed by or bear the approval of Declarant and shall, among other things, describe the real property to be annexed, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to this Declaration.

(1) A legal description of the additional real property.

2.3 Withdrawal of Property. Declarant may withdraw property from Fawn Run, including Common Area property, only by duly adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of any property annexed pursuant to a declaration described in Section 2.2 above at any time prior to the sale of the first unit in the property annexed

by such declaration. Such withdrawal shall be by a declaration executed by Declarant and recorded in the official records of Deschutes County. If a portion of the Property is so withdrawn, all voting rights otherwise allocated to unit being withdrawn shall be eliminated, and the common expenses shall be reallocated. The right of Declarant to withdraw property hereunder shall not expire until the first unit in the last phase of Fawn Run has been sold.

Section 3. ARCHITECTURAL CONTROLS

3.1 Approval Required:

No improvement including any exterior alteration, a change in exterior color, or any addition, destruction, or modification to any improvement shall be constructed, erected, placed, altered, maintained, or permitted to remain on any Lot until final plans and specifications have been submitted and approved in writing by Declarant. In addition, after initial construction, any and all changes to improvements must be approved in writing by Declarant prior to work beginning.

3.2 Required Documents

To obtain the consent of Declarant, the Owner shall submit the following items for review:

- a. A site plan showing its location, size, configuration and layout including parking.
- b. Architectural plans and drawings showing its nature, style and dimensions, including the exterior material types, colors and appearance.
- c. A landscape plan showing the nature, type, size, location and layout of all landscaping, vegetation ground cover, landscape and site lighting, walks, major existing vegetation and irrigation systems proposed to be planted or installed (or, where applicable, removed or destroyed).

3.3 Review

All plans and drawings identified in paragraph 3.2 above, shall be submitted to Declarant for review prior to the performance of any proposed work. Within 30 days following receipt of such plans and drawings, Declarant shall review the plans and shall inform the Owner, in writing, whether the plans conform to Declarant's development concept for Fawn Run, this Declaration and the rules and architectural guidelines developed under this Declaration. In the event any of the plans do not conform, the Owner may make appropriate changes and then

resubmit those nonconforming portions of the plans for re-review. No work shall be performed unless and until all aspects of all plans required under Paragraph 3.2 above have been approved by Declarant. Any site plans, construction plans or similar plans and drawings submitted to the City of Bend in connection with construction of any Improvement in Fawn Run must bear the prior written approval of Declarant. It shall be the responsibility of the Owner to obtain any necessary building permits from public agencies; consent by Declarant pursuant to this Section 3 does not substitute for or obviate the need for building permits where required.

- (a.) Liability. The scope of Declarant's or the Architectural Review Committee's review is not intended to include any review or analysis of structural, geophysical, engineering, building or zoning code compliance, or other similar considerations. Neither Declarant nor the Architectural Review Committee nor any member thereof shall be liable to any Owner, occupant, builder, or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Architectural Review Committee or a member thereof, provided only that Declarant or the Architectural Review Committee has, or the member has, in accordance with the actual knowledge possessed by Declarant or the Architectural Review Committee or by such member, acted in good faith.

3.4 House Colors.

No Owner may repaint his or her house in another color without the approval in writing from the Declarant.

3.5 Roof.

Any change to roof including color must have prior written approval from Declarant.

Section 4. RESTRICTIONS ON USE OF PROPERTY

- 4.1 Clothes lines, wood piles and outside storage is not allowed. Patio Screening and fencing cannot be installed without written consent of Declarant.
- 4.2 Garbage cans may be unscreened during the period they are made available for collection, provided they are then promptly removed from view and kept within the garage.
- 4.3 Animals and Pets.
Dogs, cats and other domestic household pets may be kept on any Lot,

provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health of, or unreasonably disturb or become a nuisance to the occupants of any other Lot. If Declarant determines that such pets are a nuisance, they shall be promptly and permanently removed. No other animals, livestock or poultry of any kind shall be raised, bred or kept on any part of a Lot.

4.4 Offensive or Commercial Activity

No rubbish, debris, dead trees or heavy brush of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot which will or may render the same or any portion thereof unsanitary, unsightly, offensive, a nuisance to or detrimental to any other Lot or to the occupants of any such Lot. No activity shall be conducted or maintained which is or may be offensive, a nuisance to or detrimental to any other Lot or to the occupants of any such Lot.

No commercial activity (including public display of any goods, wares or merchandise of any kind) shall be carried on on any Lot nor shall anything be done thereon which may be or become an annoyance to the other Owners.

4.5 Signs

No sign of any kinds shall be displayed to public view on or from any Lot provided, not more than one sign per lot per street exposure advertising the house for sale or rent. No sign to be greater than 30" x 24". signs must be professionally made and shall harmonize with the surrounding landscape. All signs shall be removed promptly upon sale, rent, construction or upon direction of the Declarant. No signs to be permanently displayed.

4.6 Exterior Lighting and Noise Making Devices

No noise making device shall be placed, maintained or utilized on a Lot in a manner, with a frequency or of an intensity which becomes a nuisance to the occupants of any other Lot. All exterior lighting shall be selected and oriented in such a manner that the bulbs are (1) less than 40 watts each and concealed behind frosted, opaque or opalescent material, or (2) concealed from the view of the occupants of any other Lot or any street, or the fixture has been installed by, or is the same type or size as installed by Declarant.

4.7 Antennas

No exterior satellite receivers or transmitters, television antennas, radio antennas or other receiving device shall be placed on any homesite or home without the prior written consent of the Declarant.

4.8 Mobile Homes

No manufactured dwelling as defined by ORS 446.002 (26) (a), as amended from time-to-time, or manufactured structure as defined by ORS 446.003 (28) (a), as amended from time-to-time, house trailer, mobile home, tent, shack, barn or other similar outbuilding or structure, whether permanent or temporary, shall be erected, placed or allowed to remain on any Lot.

4.9 Utilities

No above ground utilities, pipes or wire shall be used to connect Improvements with supplying facilities.

4.10 Open Burning

Open burning of any type is prohibited.

4.11 Maintenance

Each Owner is required to keep his land, landscaping, and all improvements in good repair and in an orderly, attractive condition. This includes keeping the unlandscaped areas of the property free of weeds and other debris.

4.12 Tree Cutting and Landscape Maintenance

All trees, hedges, and flowers growing on a Lot shall be maintained reasonably free of diseases and pests so that they will not be a menace to, or detrimental to the values and aesthetics of surrounding Lots. No tree shall be destroyed without prior written consent of Declarant.

4.13 Parking

A minimum, of two parking places must be provided for each living unit and one must be enclosed. No extended parking on any street shall be allowed by any house trailer, travel trailer, boat trailer, camper or incapacitated motor vehicle.

4.14 Patios/Balconies/Porches

No interior furniture, towels, clothing etc., is to be displayed on patios, balconies or porches.

4.15 Disturbing the Peace

Disturbing the peace and tranquillity of Fawn Run is not permitted. The generation of excessive and unnecessary noise by vehicles, appliances, tools, pets and raucous behavior by individuals or other sources attributable to a resident, or guest, shall be deemed to constitute a disturbance of the peace under this regulation.

4.16 Rental Units

All rental leases must include a copy of Section 4. Restrictions on Use of Property (Exhibit "B"). Tenants must sign as to their acknowledgment and understanding. Lease term to be a minimum of 30 days, no nightly rentals.

4.17 Waiving of Restriction

Declarant shall have the right, in his absolute discretion, to waive any of the foregoing conditions or restrictions upon being shown that the same is unreasonable, unfeasible, unnecessary or unfair, as applied to any particular Lot or Lots, or that good reason exists for its waiver with materially and adversely affecting Fawn Run generally. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the enforceability of these restrictions. The granting of a waiver to one Owner, shall not entitle any other Owner to a waiver of the same of similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by the Declarant or his authorized representative.

Section 5. DETERMINATION OF DECLARANT'S ROLE

5.1 Declarant's Control

At such time as Declarant shall no longer desire to exercise the architectural, landscaping, signing and lighting controls over the Lots, or other discretionary authority granted herein to Declarant, Declarant shall cause to be recorded in the official records of Deschutes County, Oregon, a declaration stating in substance that Declarant no longer desires to exercise any further discretionary controls over development in Fawn Run. Recordation of such a declaration shall formally terminate Declarant's discretionary authority in respect to architectural landscaping, signing and lighting control, as well as all other discretionary authority of Declarant under this Declaration. If at such time Declarant still owns one or more Lots, such declaration shall not in any way affect Declarant's rights as a Lot Owner in respect to such remaining Lots.

5.2 Formation of a Homeowners' Association

Upon formal termination of Declarant's control, the Owners of lots totaling 75% of all of the Lots subject to this Declaration may then or at

any later time form an Oregon non-profit organization or any other appropriate entity to be called the Fawn Run Homeowner's Association (the "HOA"), or such other name as may be selected.

Any ten (10) Owners shall be entitled to call a meeting of all Owners on twenty (20) days prior written notice at which time there shall then be conducted a vote to determine whether the HOA shall be formed. If formed, then at such or at any later meeting, a five (5) person Board of Directors shall be voted on and elected. Only Owners shall be eligible for the initial Board of Directors. For each director position, each Owner (or group of Owners owning a Lot) shall have the right to cast one vote for each Unit owned. Cumulative voting shall apply. The five highest vote totals shall constitute the initial Board of Directors.

The initial Board of Directors shall meet within ten (10) days after their election and may at that time or at any later time determine whether the HOA shall be incorporated or unincorporated and may adopt any governing documents including but not limited to bylaws, architectural guidelines, procedures, rules and regulations (including those for the amendment of any of such documents), relating to architecture, landscaping, signing and lighting controls within Fawn Run, the maintenance of Lots, or relating to any other matter of common concern to a majority of Lot Owners. In no event, however, shall the Board of Directors constitute less than three (3) persons. All of such governing documents as well as any other action taken by the Board of Directors shall be in full force and effect and valid for all purposes when adopted, unless and until overridden, modified or amended by the affirmative vote of 51% of the Owners.

The Board of Directors of the HOA shall succeed to all of the powers, responsibilities and rights of Declarant under this Declaration (except those rights possessed by Declarant as a Lot Owner).

5.3 Right to Assess

The Board shall possess the right to assess Owners from time to time on a nondiscriminatory basis, equally as to all Lot Owners on the basis of the number of Lots owned, for all costs associated with the repair, upkeep, maintenance and as to all other matters of common interest to all or substantially all of the Owners. In no event, however, may an Owner be assessed more than One Hundred Dollars (\$100.00) per year, unless an increase in this annual maximum or any individual assessment in excess of it has first been approved by the affirmative vote or written agreement of the Owners of 51% of the Lots. The Board has the right to

assess any Owner for maintenance of the building and the landscaping if deemed necessary through non-compliance.

5.4 Lien for Assessment

All sums assessed against any Lot pursuant to this Declaration, together with late fees, interest costs, and reasonable attorney's fees actually incurred, shall be secured by a lien on such lot in favor of the HOA. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for real property taxes, (b) liens for all sums unpaid on first mortgage, or (c) liens for any mortgage to Declarant duly recorded in the land records of Deschutes County, Oregon, and all amounts advanced pursuant to such mortgages and secured thereby in accordance with the terms of such instrument.

5.5 Effect of Nonpayment of Assessments

Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Board shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate, on the principal amount due, and all other collection costs. In the event that the assessment remains unpaid after sixty (60) days, the HOA may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The lien provided for in this section shall be in favor of the HOA and shall be for the benefit of all other Owners. The HOA, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage, or convey the Lot. No Owner may waive or otherwise avoid liability by way of illustration, but not limitation, abandonment of the Lot

All payments shall be applied first to attorneys' fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming due.

Section 6. DURATION AND AMENDMENT OF THIS DECLARATION

6.1 Duration

The Covenants, Conditions and Restrictions of Fawn Run shall continue to remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject, however, to the right to amend and repeal as provided for herein) for a period of thirty (30) years from the date this Declaration is recorded. However, unless within one (1) year prior to the date of said termination of this Declaration signed by Owners of not less than 75% of the Lots then subject to this Declaration, this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without further notice for an additional period of ten (10) years and thereafter for successive periods of ten (10) years, unless within one (1) year prior to the expiration of such period the Covenants, conditions and Restrictions for Fawn Run are terminated as set forth in this section.

6.2 Amendment

The Declaration or any provision thereof, or any Covenants, Condition or Restriction contained herein, may be terminated, extended, modified or amended, as to the whole of said property or any part thereof with the written consent of the Owners of seventy-five percent (75%) of the Lots subject to these Restrictions, provided that no amendment which enlarges or diminishes the powers and responsibilities of Declarant shall be effective without the written consent of Declarant.

6.3 Effective Date

Any amendment, deletion or repeal of this Declaration shall not become effective until recorded in the Official Records of Deschutes County, Oregon.

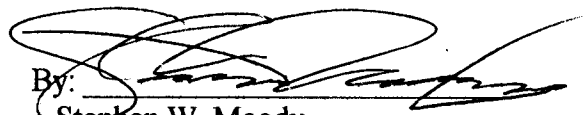
Section 7. ENFORCEMENT

- 7.1 This Declaration shall be specifically enforceable by Declarant or by any Owner of any Lot in Fawn Run. Any breach of this Declaration shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal or the enjoining of any offending improvement or condition.

- 7.2 In the event that legal suit or legal action is instituted for the enforcement of this Declaration or for any remedy for the breach of this Declaration, the prevailing party shall recover that party's reasonable attorney's fees incurred in such suit or action (or any appeal therefrom) as adjudged by the trial or appellate court.
- 7.3 Declarant may at his sole option assign any and all rights of enforcement, or any portion thereof, to one or more Owners on such terms as shall be satisfactory to Declarant, in which event, the assignee (s) shall then have, subject to the terms of the assignment, all of the rights of enforcement which shall have been assigned, whether at law or in equity, and whether for money damages or any other relief, to the same extent as those rights which were possessed by Declarant.

Section 8. EFFECT OF DECLARATION

The Covenants, Conditions and Restrictions of this Declaration shall run with the land made subject to this Declaration and shall bind, benefit and burden each Lot in Fawn Run, including any real property added thereto. The terms of this Declaration shall inure to the benefit of and shall bind Declarant, all successors and assigns of Declarant and all Owners of any Lot, their successors, assigns, heirs, administrators, executors, mortgages, lessees, invitees, occupants, users, or any other party claiming or deriving any right, title, or interest of use in or to any Lot, including any person who holds such interests as security for the payment of an obligation including any mortgagee or other security holder in actual possession of any Lot by foreclosure or otherwise and any other person taking title from such security holder.

By: 
Stephen W. Moody
Individual

2001-10841-12


STATE OF OREGON)

) ss.

COUNTY OF DESCHUTES)

On this 9th day of March 2001., before me, the undersigned Notary Public, personally appeared Stephen W. Moody, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument that he executed the instrument.

WITNESS my hand and official seal.



Notary Public



2001-10841-13

EXHIBIT "A"

Lots 1 through 13, FAWN RUN, Deschutes County, Oregon.

EXHIBIT "B"

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Tenant Signature _____ Date _____

Tenant Signature _____ Date _____