

DECLARATION OF RESTRICTIONS
-FOXBORO ESTATES, PHASE IV, SECTION B-1
(a/k/a OLD DORSEY PLACE)
Plat and Subdivision Book 38, Page 51
Jefferson County, Kentucky

WHEREAS, FAIRWAY DEVELOPERS, an Indiana Partnership, composed of ELLIOTT V. PHILLIPS and JESS G. OAKLEY, JR., Sole Partners, 9114 Leesgate Lane, Louisville, Kentucky, 40222 ("Developer"), is the Owner of all of the following lots in FOXBORO ESTATES, PHASE IV:

BEING LOTS 265 through 274, inclusive, and Lot 290, as shown on the Plat of FOXBORO ESTATES, Phase IV, SECTION B-1, a plat of which is of record in Plat and Subdivision Book 38, Page 51, in the Office of the Clerk of Jefferson County, Kentucky; and,

NOW THEREFORE, for the mutual benefit of present and future owners of Lots in FOXBORO ESTATES SUBDIVISION, including this Section, and the lots in sections of FOXBORO ESTATES SUBDIVISION previously recorded or to be recorded, Developer imposes restrictions upon the above described Lots as follows:

(1) PRIMARY USE RESTRICTIONS:

No lot shall be used except for private, single-family residential purposes, open spaces, or landscape buffer zone as required by the recorded plat. No structure shall be erected, placed or altered or permitted to remain on any lot except one single-family dwelling designated for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half (2 1/2) stories in height and a private garage (attached or detached) for not more than three (3) automobiles for the sole use of occupants of the lot.

(2) APPROVAL OF CONSTRUCTION PLANS:

No building, fence, wall, structure or other improvement (including a detached garage) shall be erected, placed or altered on any lot until the construction plans, specifications and a plan showing the grade elevation and location of the structure, fence, wall or improvement, the type of exterior material and the driveway (which shall be of asphalt or concrete) shall have been approved in writing by Developer or by any person or association to whom it may assign the right. No fence or wall of any nature may be extended toward the front or street side property line beyond the front or side wall of the residence. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

(3) BUILDING MATERIALS

The exterior building material of all structures shall (a) extend to ground level, unless otherwise approved in writing by Developer, or any person or association to whom it may assign the right, and (b) be either brick, stone, brick veneer or stone veneer or a combination of same, unless some other material shall be approved in writing by Developer, or any person or association to whom it may assign the right.

(4) SETBACKS AND LIMITED ACCESS:

No structure shall be located on any lot nearer to the front lot line or the side street line than the minimum building setback lines shown on the recorded Plat, or as imposed by the planning commission, which ever is greater, except steps and open porches may project into said areas not more than six (6) feet, and bay windows not more than eighteen inches. All lots which

have road frontage on Hurstbourne Parkway and Tamarisk Parkway shall be deemed to front on Tamarisk Parkway and no lots shall have any right of ingress or egress to Hurstbourne Parkway directly from such lots.

(5) MINIMUM FLOOR AREA:

Unless otherwise approved in writing by Developer, or any person or association to whom it may assign the right:

a. The ground floor area of a one-story house exclusive of the garage shall be a minimum of 1,250 square feet.

b. The ground floor area of a one and one-half (1 1/2) story house shall be a minimum of 1,000 square feet, exclusive of the garage.

c. The total floor area of a tri-level house shall be a minimum of 1,350 square feet, exclusive of the garage.

d. The ground floor area of a two-story house shall be a minimum of 850 square feet, exclusive of the garage.

e. Finished or unfinished basement areas and open porches are not to be included in computing applicable floor area under the provisions of these restrictions.

(6) NUISANCES:

No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

(7) USE OF OTHER STRUCTURES AND VEHICLES:

a. No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed.

b. No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a lot shall at any time be used as a residence, temporary or permanent.

c. No trailer, truck, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time unless housed in a garage or basement. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street. No trailer, boat, truck or other vehicle, except an automobile, shall be parked on any street in the subdivision for a period in excess of twenty-four (24) hours.

(8) ANIMALS:

No animals, including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, provided that they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all time be confined to the lot occupied by the owner of such pet.

(9) LANDSCAPING: SIDEWALKS:

After the construction of a residence, the lot owner shall grade and sod that portion of the lot between the walls of the residence and the pavement of any abutting streets. Each lot owner shall cause a sidewalk to be constructed on each lot where required by applicable subdivision regulations.

(10) PLANTING AND REMOVAL OF TREES:

No tree with a trunk larger than two (2) inches in diameter at the base shall be removed from any lot without the written permission of the Developer, or any person or association to whom it may assign the right. If any tree with a trunk larger than two (2) inches in diameter at the base is injured from whatever cause, the owner shall immediately have it treated by a qualified nurseryman. UPON THE CONSTRUCTION OF A RESIDENCE, THE OWNER SHALL CAUSE TO BE PLANTED A THREE-INCH DIAMETER TREE IN THE FRONT YARD. Upon an owner's failure to comply with this paragraph, or Paragraph (9) above, Developer, or any person or association to whom it may assign the right, may take such action as necessary to comply therewith, and the owner on demand shall reimburse Developer or other performing party for the expense incurred in so doing.

(11) MAIL AND PAPER BOXES: HEDGES:

No mail box, paper holder or hedge shall be placed or planted on any lot unless its design and placement or planting are approved in writing by Developer or by any person or association to whom it may assign the right.

(12) CLOTHES LINES:

No outside clothes lines shall be erected or placed on any lot.

(13) DUTY TO MAINTAIN PROPERTY:

It shall be the duty of each owner to keep the grass on the lot properly cut, to keep the lot free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Should any owner fail to do so, then Developer, or any person or

association to whom it may assign the right, may take such action as it deems appropriate, including mowing, in order to make the lot neat and attractive, and the owner shall upon demand reimburse Developer or other performing party for the expense incurred in so doing.

During any construction on any lot it shall be the duty of the person, persons, partnership, corporation or other legal entity responsible for construction to comply with all applicable regulations, including, without limitations, regulations of the Jefferson County Air Pollution Control District and to take all necessary precautions to avoid construction vehicles from tracking dirt, mud and debris from the lot onto the public streets. At time of construction of any residence, a provision shall be made by the responsible party for water supply to wash construction vehicles prior to the entering the public streets from the lot.

(14) BUSINESS: HOME OCCUPATIONS:

No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy and like endeavors) shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Paragraph (1), above, a new house may be used by the builder thereof as a model home for the builder's own office, provided said use terminated within two (2) years from completion of the house.

(15) SIGNS:

No sign for advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any

lot, except on sign for advertising the sale or rent thereof, which sign shall not be greater in area than nine (9) square feet; except Developer shall have the right to erect larger signs when advertising the subdivision. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

(16) DRAINAGE:

Drainage of each lot shall conform to the general drainage plan filed by the Developer for the subdivision.

(17) DISPOSAL OF TRASH:

No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash or garbage or other was shall not be kept except in sanitary containers.

(18) UNDERGROUND UTILITY SERVICE:

Electric service lines serving each lot shall be under ground throughout the length of service lines from the Louisville Gas and Electric Company pedestal to the building erected on each lot, and title to the service lines shall remain in, and the cost of installation and maintenance thereof shall be borne individually by, the respective lot owner upon which said service lines are located. The electric and telephone easements shown on the Plat shall be maintained and preserved in their present condition, no encroachment shall be permitted thereon, and no change in the grade or elevation thereof shall be made by any person or owner without the express consent in writing of the Louisville Gas & Electric Company and South Central Bell Telephone Company or their successors.

(19) DRAINS:

No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

(20) RESTRICTIONS RUN WITH LAND:

Unless cancelled, altered or amended under the provisions of this paragraph, these covenants and restrictions are to run with the land and shall be binding upon all parties claiming under them for a period of thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the front footage of all lots in FOXBORO ESTATES, PHASE IV, SECTION B-1, has been recorded, agreeing to change these Restrictions and Covenants in whole or in part. These Restrictions may be cancelled, altered or amended at any time by the affirmative action of the owners of Seventy-Five Percent (75%) of the lots subject to these Restrictions, at any time after the Developer has turned control of the subdivision over to the Home Owner's Association as provided in paragraph 23 below. The Developer reserves the right to modify, alter, change or amend these Restrictions so long as it owns Twenty Percent (20%) or more of the lots in FOXBORO ESTATES, PHASE IV, SECTION B-1, provided that the Developer shall have first obtained the approval of the Louisville and Jefferson County Planning Commission for any amendment to be made by the Developer. Failure of the Developer or any owner to demand or insist upon observance of any of these Restrictions, or

to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these Restrictions.

(21) ENFORCEMENT:

Enforcement of these Restrictions shall be by proceedings at law or in equity, brought by any owner of real property in FOXBORO ESTATES, PHASE IV, SECTION B-1, by the Association designated in Paragraph (23), below, or by Developer, against any party violating or attempting to violate any covenant or restrictions, either to restrain violation, to direct restoration or to recover damages.

(22) INVALIDATION:

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

(23) RESIDENTS MAINTENANCE ASSOCIATION:

ASSESSMENTS; and VOTING:

a. There is hereby created the FOXBORO ESTATES, PHASE IV, SECTION B-1, RESIDENTS ASSOCIATION (the "Association"). Every owner of a lot in this Section of FOXBORO ESTATES SUBDIVISION shall be a member of the Association, and by acceptance of a Deed for any lot agrees to accept membership in, and does thereby become a member of, the Association is subject to the Association's By-Laws, Rules and Regulations, shall comply with the decisions of a majority vote of the Association's members.

b. The objects and purposes of the Association shall be to promote the social welfare and serve the common good and

general welfare of its members, and may include maintenance and repair of the streets, common areas, cross-walks, storm drains, basins and entrances as shown on the aforesaid Plat, and acceptance of common areas for purposes of operation, maintenance and repair. The objects and purposes shall include the mandatory responsibility to maintain the areas on said Plat designated as Open Space or Landscape Buffer Zone. Failure of any governmental authority concerned with maintenance of such areas to enforce the required maintenance shall not alter or diminish the obligation of the Association to perform the same. In the event any properly authorized governmental authority shall, by reason of the failure of the Association to maintain the same, expend any funds to perform such required maintenance, such governmental authority shall and have a claim against the Association for the reasonable expenses thereof, together with the right of such authority to enforce the Restrictions herein relating to Open Space or Landscape Buffer Zones obligations. Developer hereby does release and quit claim to the Association its title to the areas marked as Open Space or Landscape Buffer Zone, on the aforesaid Plat of FOXBORO ESTATES, PHASE IV, SECTION B-1.

c. Any assessment levied by the Association shall be used only for purposes generally benefiting the Association, but shall not constitute a lien unless the Association records Notice of Lien or Lis Pendens in the Office of the County Clerk of Jefferson County, Kentucky, as notice of nonpayment of an assessment. Assessments may be levied only upon lots containing complete dwellings, provided that the Developer shall not be required to pay an assessment on any such lot owned by it.

d. The first assessment hereunder shall be no higher than \$10.00 per month per lot beginning January 1, 1991. Beginning January 1, 1992, and at anytime thereafter, the Association, by a majority vote of its members entitled to vote under the provisions hereof, may increase or decrease the amount of and fix the due date of each assessment.

e. The membership of the Association shall be classified as follows:

- (i) Class A Membership shall consist of all Members other than the Developer; and,
- (ii) Class B Membership shall consist of Developer.

Each member shall have one (1) vote in respect of each lot owned by such member, but Class A Members shall not be entitled to exercise their right to vote until after January 1, 1995, or such time as in Developer's sole determination Developer owns less than Ten Percent (10%) of all lots in FOXBORO ESTATES, PHASE IV, SECTION B-1, whichever shall first occur.

f. Nothing herein contained shall be construed as imposing on the Developer the obligation to assess or collect any maintenance charges herein provided.

g. The Association, by a majority vote of its members, may (i) merge with any other maintenance association which has been organized by the owners of lots in other sections of FOXBORO ESTATES SUBDIVISION; or, (ii) assign its duties hereunder to any governmental authority which has assumed or assumes the maintenance and repair of streets, common areas, crosswalks, storm drains, basins, entrances, the Open Space or Landscape Buffer Zone, in this Section of FOXBORO ESTATES SUBDIVISION.

h. The Association may remain unincorporated or, may at the option of a majority of its members, incorporate as a not-for-profit corporation, in which event the provisions of this Paragraph (23) shall become a portion of the by-laws of the corporation, not subject to amendment except as provided in these Restrictions.

WITNESS, the signature of FAIRWAY DEVELOPERS, an Indiana Partnership, by ELLIOTT V. PHILLIPS AND JESS G. OAKLEY, JR., Sole Partners, this 19th day of November, 1990.

FAIRWAY DEVELOPERS
BY: [Signature]
ELLIOTT V. PHILLIPS
General Partner
BY: [Signature]
JESS G. OAKLEY, JR.
General Partner

COMMONWEALTH OF KENTUCKY)
COUNTY OF JEFFERSON) SS:

The foregoing instrument was acknowledged, subscribed and sworn to before me this 19th day of November, 1990, by Elliott V. Phillips and Jess G. Oakley, Jr., as the Sole Partners of Fairway Developers, an Indiana Partnership, for and on behalf of the partnership.

[Signature]
Notary Public
Kentucky State at Large

My Commission Expires: 12/18/92

THIS INSTRUMENT WAS PREPARED BY:

[Signature]
MICHAEL L. MAPLE
440 S. Seventh Street
Suite 100
Louisville, Kentucky 40203
(502) 585-3979
C:\forms\res.fox

109531
RECORDED BY [Signature]
INDEXED BY [Signature]
NOV 19 AM 11:26
245
RECORD DEPARTMENT
Bellevue

END OF DOCUMENT