

23206

DEED

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS )

COUNTY OF BRAZORIA )

KNOW ALL MEN BY THESE PRESENTS: That whereas, O. RAY HARWELL, hereinafter called the "Declarant", is the owner of all that certain real property located in Brazoria County, Texas, described as follows:

64.561 acres of land out of the westerly portion of a 258.246 acre tract, known as Tract No. 5, of the partition of the original Black Ranch called 1,502.921 acre tract in the Thomas Alsberry 2 Leagues Grant, Abstract No. 3, Brazoria County, Texas, and being more particularly described by metes and bounds on Property Exhibit attached hereto and incorporated herein for all purposes. hereto and incorporated herein.

WHEREAS, the Declarant will convey the above described property subject to certain protective covenants, conditions, easements and restrictions as hereinafter set forth; NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and shall be binding on all parties having any right, title or interest in or to the above described property or any part thereof, and their heirs, successors and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof.

ARTICLE ONE

ARCHITECTURAL CONTROL

1.01. Declarant shall designate and appoint an Architectural Control Committee consisting of not less than three qualified persons, which Committee shall serve at the pleasure of the Declarant. The initial Committee will consist of O. Ray Harwell, Carolyn Harwell, and Gregory G. Barrs and the address for said Committee will be Rt. 1, Box 214, Damon, Texas, 77430.

1.02. No building, wall, or other structure shall be commenced, erected, or maintained upon any lot nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of same shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures topography and finished grade elevation.

1.03. After the Declarant, its successors or assigns, have conveyed all lots in the subdivision, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the Architectural Control Committee, or to withdraw from it or restore to it any of its powers and duties. In the event the Architectural Control Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to

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it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and full compliance with this Article shall be deemed to have been had.

ARTICLE TWO

EXTERIOR MAINTENANCE

The owner of each lot shall keep all grass, weeds and brush cut so that the property will have a neat and attractive appearance. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, building materials, unused automobiles or any other unsightly waste or material. "Unused automobile" is defined herein as any motor vehicle not displaying current registration tags and current safety inspection sticker. All rubbish, trash, garbage or other waste from any tract shall be kept only in a sanitary container or incinerator or other equipment for the storage or disposal of such rubbish, trash, garbage or other waste. Such sanitary containers shall not exceed 55 gallons in size.

2.02. In the event the owner of any lot shall fail to maintain the premises and improvements situated thereon in a neat and orderly manner, the Declarant or the Architectural Control Committee shall have the right through its agents and employees to enter upon said lot and to repair, maintain and restore the lot and exterior of the buildings and other improvements erected thereon and to cut any grass, weeds and brush, all at the expense of the owner of said lot.

ARTICLE THREE

USE RESTRICTIONS

3.01. No lot shall ever be used for any purpose other than single family residences. This restriction shall be held and construed to exclude hospitals, clinics, duplex houses, apartment houses, multiple family dwellings, boarding houses, and hotels; and to exclude all commercial, business, industrial, and professional uses, whether from homes, residences, or otherwise, and the above described uses are hereby expressly prohibited.

3.02. No building shall be erected, altered, placed, or permitted to remain on any lot other than:

A. One detached single family residence not to exceed two stories in height, together with a private garage or carport.

B. Tool sheds or workshops for the personal use of owner and his immediate family;

3.03. Any single story residence constructed on said lots must have a ground floor area of not less than 1500 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports and garages; and any residence other than a single story residence must have not less than 900 square feet of ground floor living area.

The minimum top slab elevation for any residence shall be 12 inches above the natural ground elevation of the lot, or the minimum slab elevation required for a building permit issued by the Brazoria County Engineer's Office, in compliance with the Federal Flood Insurance regulations, whichever elevation is higher.

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3.04. No building of any kind shall be located on any lot except in accordance with the following building line restrictions:

(1) No building shall be located nearer than 50 feet from the road right-of-way line on which the lot adjoins, and on corner lots this restriction shall apply to all sides of the property that adjoins a road right-of-way.

(2) No building shall be located on any lot nearer than 15 feet to any side lot line or nearer than 20 feet to any rear lot line.

For the purpose of this covenant, eaves, steps and open porches shall not be considered as part of the building, provided, however, that this shall not be construed to permit any portion of the building on any lot to encroach upon another lot. If two or more lots, or fractions thereof, are consolidated into a building site in conformity with the provisions of Paragraph 3.05, these building set-back provisions shall be applied to such resultant building site as if it were one original platted lot.

3.05. None of said lots shall be resubdivided in any fashion that would result in a building site of less than 1.5 acre. Any person owning two or more adjoining lots may subdivide or consolidate such lots into building sites with the privilege of constructing improvements as permitted in Paragraphs 3.03 and 3.04 hereof on each resulting building site, provided that such subdivision or consolidation does not result in any building site having less than 1.5 acre.

3.06. No open or pit-type toilet shall ever be constructed upon the above described property, and all water wells, septic tanks and underground septic sewage systems shall be constructed in accordance with the requirements, standards and recommendations of the Brazoria County Health Department, State Health Department of the State of Texas, and any other governmental authority having jurisdiction over such matters, whether same be City, County, State or other governmental authority. No septic drain field shall be constructed that will allow the discharge or drainage in any manner into adjoining lots, roads, streets, ditches or drainage easements existing now or in the future.

3.07. Easements for the installation and maintenance of road, utilities and drainage facilities are reserved in the deed. Neither the developer, nor any utility company, water district, political subdivision or other authorized entity using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees or servants, to shrubbery, trees, flowers, or to other property of the owner situated within any such easement. The right of use for ingress and egress shall be had at all times over any easement for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement which would constitute interference with the use, maintenance, operation, or installation of such utility.

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

3.09. No spirituous or vinous liquor of any sort capable of producing intoxication shall be sold on any lot.

3.10. No signs of any character shall be allowed on any Lot except one sign of not more than five square feet advertising the property for sale or rent; provided, however, that Declarant and any other person or entity engaged in the construction and sale of residences within the subdivision shall have the right, during the construction and sales period, to construct and maintain such facilities as may be reasonably necessary or convenient for such construction and sale, including, but not limited to, signs, offices, storage areas, and model units.

3.11. Before construction is begun on any lot, a driveway must be constructed from the road to the property in order that trucks or other vehicles will not rut or damage the ditch parallel to the road in front of said lot. No driveway may be constructed across the road ditch along any lot unless a sufficient opening is left under such driveway to permit proper drainage. The drain tile must be installed in such a manner that the inside bottom of the tile conforms with the grade of the bottom of the ditch, and is of the size and type recommended by the particular governmental authority having jurisdiction over such matters.

3.12. No trailer, mobile home, motor home, basement, tent, shack, barn or other outbuilding shall be used as a residence.

3.13. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except as follows:

A. Dogs, cats, or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose and provided the same do not become an annoyance or nuisance to the neighborhood.

B. One (1) horse or one (1) cow for each 1.5 acres may be kept by an owner of 1.5 acres or more, provided the same do not become an annoyance or nuisance to the neighborhood, and other livestock excluding hogs and swine may be kept provided they are being raised pursuant to and as a part of a 4-H or FFA youth project and are not otherwise being kept for commercial purposes, and provided they do not become an annoyance or nuisance to the neighborhood. All such livestock must be stabled to the rear of the residence.

3.14. No dirt, stone, gravel, or other minerals shall be removed from any lot for any purpose except in connection with construction or drainage work or with prior written approval from the Architectural Control Committee.

3.15. After January 1, 1983, no firearms may be carried or discharged on the subject property.

ARTICLE FOUR  
GENERAL PROVISIONS

4.01. The Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.



4.02. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, and all other provisions shall remain in full force and effect.

4.03. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Declarant or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, and, unless amended as provided herein, shall be effective for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. The covenants, conditions, and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument voted on and signed by not less than the owners of ninety per cent (90%) of the lots, such vote to be on the basis of one vote per lot according to the original subdivision of the 66.561 acre tract. During any succeeding ten (10) year period, the covenants, conditions and restrictions of this declaration may be amended by an instrument signed by not less than the owners of seventy-five per cent (75%) of the lots, such vote to be on the basis of one vote per lot according to the original subdivision of the 66.561 acre tract. No amendment shall be effective until recorded in the Deed Records of Brazoria County, Texas, nor until the approval of any governmental regulatory body which is required shall have been obtained.

EXECUTED by the said Declarant, this the 30 day of July, 1981.

  
O. RAY HARWELL

DECLARANT

THE STATE OF TEXAS )  
COUNTY OF BRAZORIA )

BEFORE ME, the undersigned authority, on this day personally appeared O. Ray Harwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 30 day of July, 1981.

  
Notary Public in and for  
Brazoria County, Texas.

CONNIE MUNSON  
My Commission Expires 2-23-85

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Tract #3A

A FIELD NOTE DESCRIPTION of 64.561 Acres of Land out of the S.B.S. Partnership 258.246 Acre Tract (Volume 1571, Page 282; Deed Records) known as Tract #3 of the Partition of the Black Ranch Call 1502.921 Acre Tract in the Thomas Alsberry 2 League Grant, Abstract #3, Brazoria County, Texas.

FOR CONNECTION, begin at an iron pipe in concrete found for the Southwest corner of said call 1502.921 Acre Tract; THENCE; North 84° 02' 52" East - 614.18 feet to a point; THENCE; North 83° 50' 57.5" East - 1448.03 feet to a point; THENCE; North 83° 37' 43.4" East - 3043.72 feet to a point for corner; THENCE; North 23° 51' 19" West - 1792.23 feet to an iron rod found for corner; THENCE; North 62° 01' 49" East - 601.33 feet along the centerline of a 60 foot road easement to an iron pipe set for the Southwest corner of and PLACE OF BEGINNING for this 64.561 Acre Tract; Said corner being the Southwest corner of said 258.246 Acre Tract;

THENCE; North 23° 51' 19" West, at 1379.39 feet pass the centerline of a 60 foot road easement, in all 2738.78 feet to a iron rod found for corner;

THENCE; South 62° 01' 49" West - 601.55 feet to a wood stake found for corner;

THENCE; Northerly and Easterly along the centerline of an existing 60 foot road easement with the following courses and distances:

- North 23° 51' 19" West - 56.91 feet to a stake for corner;
- North 40° 44' 03" East - 303.88 feet to a stake for corner;
- North 81° 05' 02" East - 270.95 feet to a stake for corner;
- North 50° 21' 05" East - 240.24 feet to a stake for corner;
- North 84° 38' 30" East - 332.60 feet to a stake for corner;

THENCE; North 42° 01' 49" East - 88.62 feet along the North line of said 258.246 Acre Tract and the North line of a 30 foot road easement to an iron pipe set for the Northeast corner of this 64.561 Acre Tract;

FILED FOR RECORD

AT 2:15 O'CLOCK P.M.

JUL 31 1981

H. R. STEVENS, JR.

CLERK COUNTY COURT, BRAZORIA CO., TEXAS

BY *[Signature]* DEPUTY

PROPERTY EXHIBIT