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 Wharton, TX
 Barbara Svatek County Clerk
 File# 2020-00002390

**Declaration of Restrictive Covenants of the
 Orsak
 Subdivision**

BK **1170** PG **661-666**

Basic Information

Date: May 1, 2020, to be effective May 1, 2020

Declarants: Bernard E. Orsak, Jr. and Sharon M. Orsak

Declarant's Address:

Bernard E. Orsak, Jr.
 4825 CR. 155
 Wharton, Texas 77488

Sharon M. Orsak
 4825 CR. 155
 Wharton, Texas 77488

Property: A 26.96 acre tract of land, situated in the Barlett Sims League, Abstract No. 57, Wharton County, Texas, being comprised of a portion of two parcels: 1) that certain called 31.94 acre tract of land conveyed from John E. Bentley, et ux, to Delbert E. Brod in Deed dated July 12, 1978, recorded in Volume 500, Page 853, of the Wharton County Deed Records; and 2) that certain called 7.629 acre tract of land conveyed from C.E. Muegge Real Estate Corp., to Delbert E. Brod in deed dated June 25, 1999, recorded in Volume 327, Page 403, of the Official Records of Wharton County, Texas; said 26.96 acre tract being more particularly described by metes and bounds on the attached Exhibit "A" (hereinafter referred to as the "Property").

Definitions

"Covenants" means the covenants, conditions, and restrictions contained in this Declaration.

"Declarant" means Bernard E. Orsak, Jr. and Sharon M. Orsak, individuals, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Easements" means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

"Lot" means each tract of land designated as a lot on the Plat.

"Owner" means every record Owner of a fee interest in a Lot.

"Plat" means the Plat of the Property recorded in Volume 1169, Page 398 of the Official

Records of Wharton County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

"Residence" means a detached building designed for and used as a dwelling by a Single Family and constructed on one or more Lots.

"Single Family" means a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in a Residence.

"Structure" means any improvement on a Lot (other than a Residence), including a fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

"Subdivision" means the Property covered by the Plat and any additional property made subject to this Declaration.

"Vehicle" means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants

1. Declarant imposes the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

3. Each Owner and occupant of a Lot agrees to comply with this Declaration and agrees that failure to comply may subject him to a fine, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

2. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

3. Neither Declarant nor any Easement holder is liable for damage to landscaping or a Structure in an Easement.

4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

C. Use and Activities

1. The Property shall be used for residential purposes only and nothing shall be done which may be or become an annoyance or nuisance to adjoining property or Lot Owners. No part of said Property shall be used for commercial purposes except the raising of livestock or hay.

2. The Property shall not be subdivided and only one residential dwelling is allowed to be constructed on the Property. At no time may a duplex or any other multi-family Residence be constructed on the Property.

3. Under no circumstances will house trailers, mobile homes, or manufactured homes be permitted on the Property at anytime. No junk or abandoned Vehicles or boats will be allowed to accumulate on the Property.

4. Only equine and bovine animals will be allowed to openly graze on the Property. Rabbits, poultry, quail, dove or other birds must be kept in caged areas. No hogs, pigs, sheep or goats will be allowed except for 4-H and County Fair Projects. No poisonous animals will be allowed on the Property for any reason. Any animal that creates a health problem or nuisance to adjoining Lots shall be removed from the Property. Grantee will practice good grazing methods and will not allow the Property to be over grazed.

5. The Property shall not be used or maintained as dumping grounds for trash. Dumpsters shall not be placed anywhere except during construction of a Residence. All garbage shall be kept in sanitary containers and such containers shall be kept in a clean and sanitary condition. Other than on the day of trash pick-up, no trash cans or garbage cans shall, at any time, be permitted to remain on the streets, road Easement (if applicable to the Property) or in the front of the Property.

6. The living area of the main residential Structure on the Property (exclusive of porches, garages and servants' quarters) shall not be less than One Thousand Six Hundred (1,600) square feet, new construction. The construction of any Residence shall involve the use of a concrete or pier and beam foundation. All Structures shall be constructed in a good workman like manner.

7. The Residence and all Structures shall be completed within 18 months following the date on which foundation forms are set.

8. Fences facing any road Easement (if applicable to the property), County Road 115, County Road 155, or F.M. Highway No. 1301 shall be constructed of wood, pipe, brick, stucco, plastic, barbed wire, or net wire, and shall be no higher than 54" in height. Fences made of sheet metal, of any kind or character, are not permitted on the property under any circumstances.

9. The principal Residence, barns and/or outbuildings shall not be closer than One Hundred Twenty feet (120') from the property line adjoining any road easement (if applicable to the property) and/or County Road 115, County Road 155, or F.M. Highway No. 1301, and shall not be closer than Fifty feet (50') from all other property lines.

10. All water wells and septic systems shall meet all Wharton County code ordinances and other governing rules and regulations.

11. Any Residence or Structure that is damaged must be repaired and the Property restored to a clean, orderly, and attractive condition as soon as reasonably practicable and in no event longer than One Hundred Eighty (180) days. Any Residence or Structure that is damaged to the extent that repairs are not practical, must be demolished and removed within One Hundred Eighty (180) days and the Property restored to a clean and attractive condition.

12. No activity shall be carried out on the Property which is not related to Single family residential purpose. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on the Property which may be, or may become, an annoyance or a nuisance to neighbors.

13. No quarrying, strip mining, or similar surface destruction operations of any land shall be permitted upon the Property, nor shall any tunnels or shafts be permitted upon the Property. No excavation of sand, gravel or dirt, shall be permitted on the Property, however, an Owner may excavate for the purpose of creating a lake or pond for Owner's individual use. Any lake or pond shall be located no closer than fifty feet (50') from the Property lines. Nothing herein shall prohibit the development of oil, gas and other minerals by conventional methods that does not destroy the surface of the Property.

E. General Provisions

1. *Term.* This Declaration runs with the land and is binding in perpetuity.
2. *No Waiver.* Failure by an Owner to enforce this Declaration is not a waiver.
3. *Corrections.* Declarant may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.
4. *Amendment.* This Declaration may be amended at any time by the affirmative vote of 67 percent of the Owners.
5. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.

6. *Notices.* Any notice required or permitted by this Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.

7. *Presuit Mediation.* As a condition precedent to the commencement of a legal proceeding to enforce this Declaration, the Owners will mediate the dispute in good faith.



Bernard E. Orsak, Jr.



Sharon M. Orsak



STATE OF TEXAS)

COUNTY OF WHARTON)

This instrument was acknowledged before me on May 1, 2020, by Bernard E. Orsak, Jr.



Carol Lynch
Notary Public, State of Texas
My commission expires: 11-26-2020

STATE OF TEXAS)

COUNTY OF WHARTON)

This instrument was acknowledged before me on May 1, 2020, by Sharon M. Orsak.



Carol Lynch
Notary Public, State of Texas
My commission expires: 11-26-2020

pd #16

After recording, please return to:

Wadler Perches Hundl & Kerlick
✓ 101 West Burleson Street
Wharton, Texas 77488
Tel: (979) 532-3871
Fax: (979) 532-3508

STATE OF TEXAS COUNTY OF WHARTON
I, hereby certify that this document was filed on the date
and time stamped and was recorded
on 05/05/2020 7:58 AM

2020-00002390

Barbara Swatek



COUNTY CLERK Wharton County, Texas
By: MP Deputy

SCANNED