
95-R0024264

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

Filed for Record in:
SMITH COUNTY, TEXAS
MARY MORRIS - COUNTY CLERK

On Jul 25 1995
At 3:52pm

DEER RUN

Deputy - Jennette Steveson

THIS DECLARATION made by MASTER PLANNING & DEVELOPMENT, INC., a Texas corporation, hereinafter called the "Developer," as follows;

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described on Exhibit A attached hereto and desires to create thereon a residential community with common areas and facilities for the benefit of said community; and

WHEREAS, Developer desires to (1) provide for the preservation of the values and amenities in said community; (2) provide for the maintenance of the common areas and facilities; and (3) subject the property herein to the covenants, restrictions, easements, charges and liens hereinafter set forth for the benefit of the property and the owners thereof; and

WHEREAS, Developer will cause to be incorporated under the laws of the State of Texas, as a non-profit corporation, WHITE TAIL HOMEOWNERS ASSOCIATION, INC., d/b/a DEER RUN HOMEOWNERS ASSOCIATION, for the purposes hereinafter set forth;

NOW THEREFORE, the Developer declares that the real property described herein shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

SECTION 1. The following words shall have the following meanings when used herein unless the context clearly indicates otherwise:

(a) Architectural Control Committee. The committee appointed by the Board of Directors of the Association.

(b) Association. The WHITE TAIL HOMEOWNERS ASSOCIATION, INC., d/b/a DEER RUN HOMEOWNERS ASSOCIATION, its successors and assigns.

(c) Board of Directors. The Board of Directors of the Association.

(d) Common Area. All property owned by the Association for the common use and enjoyment of the owners.

(e) Lot. Any plot of land shown upon any plat of the subdivision of the property with the exception of the common area.

(f) Member. The person, persons or entity who holds membership in the Association.

(g) Owner. The record owner or owners of the fee simple title to any lot which is a part of the property.

(g) Property. The real property subject to this declaration described on Exhibit A attached hereto or any supplemental declaration under the provisions hereof.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

SECTION 1. Membership. Every person or entity who is a record owner of a lot shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot.

SECTION 2. Voting Rights. The Association shall have two classes of voting membership:

- Class A. Class A members shall be those owners as defined in Section 1 hereof with the exception of the Developer.

Class A members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 1. In no event, however, shall more than one vote be cast with respect to any one lot.

- Class B. The Class B member shall be the Developer.

The Class B member shall be entitled to three votes for each lot in which it holds the interest required for membership by Section 1, Article II, provided that the Class B membership shall cease and become converted to Class A membership at such time as the Developer has conveyed seventy-five percent or more of the lots to other owners.

ARTICLE III

GENERAL DUTIES AND RESPONSIBILITIES OF THE ASSOCIATION

SECTION 1. The Association shall have the following duties and responsibilities in connection with the property:

(a) preservation and maintenance of the common areas; and

★(b) establishing and enforcing rules, procedures and regulations governing use, maintenance and appearance of the property for the benefit of the owners.

ARTICLE IV

ASSESSMENTS

SECTION 1. Creation of Lien; Personal Obligation of Assessments. The owner of each lot, by acceptance of a deed therefor, shall be deemed to covenant and agree to pay to the Association monthly assessments or charges and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, and such amount shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or special assessment is made. Each such

assessment and special assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who was the owner of the property at the time such assessment or special assessment was made.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes set forth in Article III hereof, for the payment of professional management fees, liability insurance premiums, legal and accounting fees incurred by the Association, real property taxes and utility costs assessed against the common areas and for such other purposes as the Association may deem proper and appropriate.

SECTION 3. Monthly Assessments. The initial monthly assessment for each lot, other than lots owned by the Developer, shall be \$25.00. The Developer's lots shall not be liable for monthly assessments. The Board of Directors may provide for discounts of the monthly assessments if paid in advance on such terms and conditions as the Board of Directors may deem appropriate.

SECTION 4. Change in Basis of Assessments. The Association may change the assessment fixed by Section 3 hereof by the assent of a majority of the votes of all members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten nor more than fifty days in advance and setting forth the purposes of the meeting.

SECTION 5. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized above, the Association may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided, that, any such assessment shall have the assent of a majority of the votes of all members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten days nor more than fifty days in advance of the meeting setting forth the purposes of the meeting.

SECTION 6. Quorum for any Action Authorized Under Sections 4 and 5. At any membership meeting the purpose of which is to levy a special assessment for capital improvements as authorized by Section 5 hereof, or the purpose of which is to change the monthly assessment fixed by Section 3 hereof, the presence, whether in person or by proxy, of members entitled to vote not less than fifty percent of all votes shall constitute a quorum for the transaction of business. If the required quorum is not present, another meeting may be called within forty-five days of the preceding

meeting, subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half of the required quorum at the preceding meeting.

SECTION 7. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner. The Lien. Remedies of the Association. If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty days after the delinquent date, the assessment shall bear interest from the date of delinquency at the rate of ten percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

SECTION 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment liens. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. Review by Committee. No structure, whether residence, accessory building, tennis court, swimming pool, pier, boat house, antennae (on a structure or on a lot), flag poles, fences, walls, exterior lighting, mail boxes, or other

improvements, shall be constructed or maintained upon any lot and no alteration or repainting to the exterior of a structure shall be made and no landscaping, including curb cuts, performed unless complete plans, specifications, and lot plans therefor, showing the exterior design, height, building material and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Architectural Control Committee, and a copy of such plans, specifications, and lot plans as finally approved deposited with the Architectural Control Committee. The Architectural Control Committee shall be composed of two or more representatives appointed by the Board of Directors of the Association.

SECTION 2. The Architectural Control Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the property conform to and harmonize with existing surroundings and structures.

SECTION 3. Procedures. The Architectural Control Committee shall approve or disapprove all plans and requests within forty-five days after submission. In the event the Architectural Control Committee fails to take any action within forty-five days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with.

SECTION 4. The Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any owner within the property by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

ARTICLE VI

RESERVATION OF RIGHT TO ANNEX ADDITIONAL PROPERTY

SECTION 1. Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Developer hereby reserves the right to annex, subdivide and plat additional adjacent property in order to develop such property as part of DEER RUN.

ARTICLE VII

COVENANT TO DEVELOP

SECTION 1. By acceptance of a deed for a lot, each owner covenants and agrees to complete the construction on and/or development of such lot, including landscaping, as a single-family residence in accordance with these covenants and all applicable

governmental ordinances and requirements within two years from the date of the deed to the lot from the Developer to the original owner. The Developer reserves the right, title and privilege to repurchase the lot at eighty percent of the original purchase price of the lot paid to the Developer if construction of the improvements has not been initiated within eighteen months after the conveyance of the lot by the Developer. Such repurchase option shall be exercised by the Developer giving thirty days' prior written notice to the current owner of the lot. Such notice shall specify the time, date, and place of repurchase of the lot and shall have attached thereto the form of deed to be used to convey the lot to Developer.

ARTICLE VIII

ADDITIONAL COVENANTS AND RESTRICTIONS

SECTION 1. Limitation to Phase I of Deer Run. The following covenants and restrictions shall apply only to Unit I of DEER RUN Subdivision:

(a) Scope of Restrictions. The covenants, conditions and restrictions hereinafter set forth shall constitute covenants running with the land and persons or entities acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each person or entity, by the acceptance of title to any lot within the subdivision, shall thereby agree and covenant to abide by and perform the covenants, conditions and restrictions as set forth herein.

(b) Residential Lots. All lots in the subdivision shall be used, known and described as residential lots. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than a single-family residential dwelling and, if any, its customary and usual accessory structures, unless prohibited elsewhere herein. No building or structure on any residential lot shall exceed two stories in height. No lot may be subdivided into two or more lots.

(c) Minimum Floor Space. Each one story dwelling constructed on any residential lot in the subdivision shall contain a minimum of one thousand eight hundred square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Each one and one-half story or two story dwelling constructed on any residential lot in the subdivision shall contain a minimum of two thousand square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. For Lots 1, 3, and 4 in Block 3, and Lots 7-24, Block 1, each dwelling constructed thereon shall have a minimum of two thousand square feet of covered floor area,

exclusive of all porches, garages or breezeways attached to the main dwelling.

(d) Garages. Each single-family residential dwelling erected on any lot within the subdivision shall provide conventional residential garage space for a minimum of two automobiles. Each garage shall open to the rear or side of the residential lot so as not to directly face the residential street or adjacent common area, unless otherwise expressly permitted by the Architectural Control Committee. Driveways shall be constructed of concrete or other material expressly approved by the Architectural Control Committee.

(e) Setback Requirements. No building or structure of any type shall be erected on any residential lot in the subdivision nearer to the front property line than thirty feet. No building or structure shall be erected nearer to the side property line than ten feet. No part of any building or structure may be built any closer than sixty feet from the rear property line of any lakefront lot, or twenty feet from the rear property line of such lot. No portion of any structure, such as eaves or steps, shall encroach upon another residential lot.

(f) Fences. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision. No fence, wall or hedge shall exceed six feet in height. All clothes lines or service facilities must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street or adjacent common area. All fences must be of wood construction or other material expressly approved by the Architectural Control Committee, except that fences constructed on lakefront lots will be of brick and wrought iron construction and conform to plans and specifications established by the Architectural Control Committee in order to provide uniformity of construction, preserve the beauty of the lake and protect the view of the lake for adjacent property owners. However, no clothes lines, service facilities, fences, walls or hedges shall be erected, placed or altered on any residential lot which borders the common area without the approval of the Architectural Control Committee.

(g) Signs, Business. No sign or signs shall be displayed to the public view on any residential lot, except that: (i) any builder, during the applicable initial construction and sales period, may utilize one professional sign (of not more than eight square feet in size) per lot for advertising and sales purposes; (ii) thereafter, a dignified "for sale" or "for rent" sign (of not more than nine square feet in size) may be utilized by the owner of the respective residential lot for the applicable sale or rent situation. No business shall be conducted from any residence except as may be approved by the Architectural Control

Committee. The foregoing shall not apply to the Developer during the construction, development, marketing, and sale of lots in the subdivision.

(h) Septic Systems. All septic systems shall be Aerobic Systems or such other systems as may be expressly approved by the Architectural Control Committee in writing.

(i) Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any lot in the subdivision. Temporary structure shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty days prior to the completion of the main portion of the single-family dwelling. However, any person or entity engaged in the sale of lots or in the construction of improvements thereon may maintain temporary sales or construction offices; provided such sales or construction offices are removed within thirty days after completion of sales or construction, as the case may be.

Any boat, bus, camper, campmobile, tractor, trailer, truck, pop-up camper, or any vehicle other than an automobile, pickup or van, if brought within the subdivision, shall be stored, placed or parked within the garage of the respective owner. Further, no mobile home, motorhome, travel trailer, or other vehicle, without limitation, which cannot be stored in a conventional residential garage, as defined in Subsection (d), will be brought into the subdivision. This limitation does not apply to temporary parking of the aforementioned vehicles in the subdivision for a maximum period of one week.

X Motorcycles, three-wheelers, four-wheelers, go-carts, and mini-bikes not licensed for use on public roadways may not be driven in the subdivision.

(j) Garbage; Weeds. No residential lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage shall be kept in sanitary containers. No rubbish, trash, or garbage receptacles may be placed on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision.

If, at any time, an owner of any residential lot shall fail to control weeds, grass, and/or other unsightly growth, or rubbish, the Association shall have the authority and right to go onto said lot for the purpose of mowing and cleaning said lot and shall have the authority and right to assess and collect from the owner of said lot, a reasonable sum for mowing or cleaning said lot on each respective occasion of such mowing and cleaning. The assessment, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made.

Each such assessment, together with such interest thereof and cost of collection thereof, shall also be the continuing personal obligation of the person who was the owner of such lot at the time when the assessment occurred. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot shall thereby covenant and agree to pay such assessments. The lien securing any such assessment shall be subordinate and inferior to the lien or any mortgage and any renewals or extensions thereof existing prior to the assessment date.

(k) Common Area. No vehicle, boat, structure, fence, or sign described herein, nor tree, shrub, flowers, or other article whatsoever, without exception, shall be permanently erected, stored or placed on the common area without approval of the Board of Directors.

(l) Offensive Activities. No noxious or offensive activity shall be conducted on any residential lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the subdivision or any portion thereof. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential lot, excepts dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes. Pets will be confined to the owner's premises at all times, except when on leash and accompanied by the owner. Further, no pit bulldogs or other potentially dangerous pets shall be kept on any lot. The keeping of automobiles or other vehicles which are not in road-worthy condition or which do not have a current inspection sticker or license plate is prohibited. The warehousing of goods or materials for commercial purposes is prohibited within the subdivision, as is the exterior storage of any goods or materials. Boats having in excess of twenty-five horsepower motors are prohibited on Pleasure Acres Lake. No motors shall be allowed on boats on the private lake other than trolling motors.

(m) New Construction. All dwellings and structures erected on any residential lot in the subdivision shall be new construction and consist of at least sixty percent brick or acceptable stone veneer. Old buildings may not be placed on any lot in the subdivision, even if they satisfy all other requirements. All roofs on such dwellings and structures shall be constructed from wooden shingles, composition shingles having a minimum weight of 3900 pounds per square or other material expressly approved by the Architectural Control Committee. All mailboxes must be enclosed with masonry or other material expressly approved by the Architectural Control Committee. At the commencement of construction, lot owner shall provide a portable toilet facility which shall be placed on the lot for use by workers. Lot owner will keep the street and adjacent lots free of building debris and litter at all times.

Upon commencement of construction of a dwelling, the project shall proceed in a timely and orderly manner until completion. However, the dwelling, including landscaping, must be completed within a period of twelve months, or prior to occupancy of the dwelling, whichever occurs first. The Board of Directors reserves the right to assess penalties against the lot owner for delays in completion of a dwelling, including landscaping, in excess of twelve months.

Owners of lakefront lots will prevent erosion of soil into the lake, onto the common area and adjacent property during construction. In the event of unavoidable erosion, lot owner shall restore all areas to their original contour during the landscaping phase of construction. The Architectural Control Committee shall determine adequacy of such restoration. The landscape plans for lakefront lots shall include sodding the rear twenty feet of such lot.

(n) Antennas, Satellite Dishes, etc. No antennas, satellite dishes or other telecommunication antennas (other than the smaller RCA type receivers or other types as may be approved by the Architectural Control Committee) shall be allowed on any lot.

(o) Tree Cutting. No trees having a diameter of four inches or more may be cut on any lot except as may be necessary to construct a residence without the express approval of the Architectural Control Committee.

(p) Gas Service. All gas service supplied to any residence constructed within the subdivision shall be supplied by Lone Star Gas Company.

(q) Enforcement. Enforcement of these covenants and restrictions shall be by a proceeding or proceedings at law or in equity, initiated by a person or persons owning any residential lot in the subdivision or by the President of the Association upon approval by the Board of Directors, or by the City of Tyler, against any person or persons violating or attempting to violate any covenant or restriction herein contained, either to restrain violation or to recover damages for the violation, or both, or to obtain such other relief for such violations as then may be legally available. The Board of Directors shall have an election and right to enforce these covenants and restrictions by a proceeding or proceedings at law or in equity.

(r) Validity. Violation of or failure to comply with these covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any residential lot in the subdivision. Invalidation of any one of these covenants and

restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these covenants and restrictions conflict with mandatory provisions of any ordinance or regulation promulgated by the City of Tyler, then such municipal requirement shall control. Any deed or legal instrument (except deeds of trust, mortgages or other similar security agreements) purporting to convey, transfer or assign any interest in any land within the subdivision shall contain appropriate language to expressly subject the land within such conveyance, transfer of assignment to all the covenants and restrictions set forth herein. Words of any gender used herein shall be held and construed to include any gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The captions used in connection with paragraphs herein are for convenience only and shall not be deemed to construe or limit the meaning of language herein.

(s) Amendment. At any time, the owners of the legal title to seventy percent of the lots within the subdivision (as shown by the records of Smith County, Texas) may amend the covenants, conditions and restrictions set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Smith County, Texas.

(t) Variances. The Architectural Control Committee shall have the sole and complete authority to approve variances of the set-back, building composition and other requirements as set forth herein, provided such variances do not adversely affect the harmony and intent of these covenants.

(u) Duration. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming title in the subdivision for a period of twenty years from date of filing in the Land Records of Smith County, Texas (the "Primary Term"). At the expiration of the Primary term, the covenants, conditions and restrictions herein shall automatically be extended for successive periods of five years unless an instrument providing otherwise is signed by a majority of the owners of the lots in the subdivision in whole or in part.

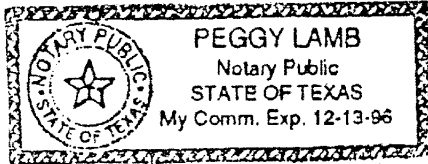
EXECUTED this the 20 day of July, 1995.

MASTER PLANNING & DEVELOPMENT, INC.

By: Mitchell R. Chandler
MITCHELL R. CHANDLER, PRESIDENT

STATE OF TEXAS §
 §
STATE OF TEXAS §

This instrument was acknowledged before me on the 20 day of July, 1995, by MITCHELL R. CHANDLER, President of MASTER PLANNING & DEVELOPMENT, INC., a Texas corporation, on behalf of said corporation.



Peggy Lamb
NOTARY PUBLIC, STATE OF TEXAS