

DECLARATION OF RESTRICTIONS OFFICIAL RECORDS
FOR
WHISPERING OAKS VOL 0240 PAGE 895

THE STATE OF TEXAS §
§
COUNTY OF VICTORIA §

Whereas, Lee Swearingen Properties, Inc., hereinafter "Declarant", joined by Citizens National Bank, is the owner of all the tracts of **WHISPERING OAKS**, a Subdivision in the County of Victoria, Texas, according to the established map and plat of said Subdivision duly recorded in Volume 7, Page 189A & 189B of the Map and Plat Records of Victoria County, Texas, to which reference is here made for all purposes, said lands being hereinafter sometimes called "the Subdivision" or "the property" or the "tract" or "tracts"; and,

Whereas, Declarant desires to place of record certain restrictive covenants, conditions and restrictions affecting all the tracts in said **WHISPERING OAKS**,

NOW, THEREFORE, the Declarant declares that the real property described above as the Subdivision is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, reservations and dedications, (sometimes referred to herein collectively as "covenants and restrictions") hereinafter set forth.

1. All tracts in the Subdivision shall be restricted in use to single-family private residential purposes. Appurtenant to any residence structure in the Subdivision, a garden house, servants' quarters, barn, shed, stall or other building of permanent construction may be erected upon the property if architecturally in harmony with the residence. The use of such property shall be for residential purposes only. The term "residential purposes" as used herein shall be held to exclude hospitals, duplex houses and apartment houses, and to exclude commercial and professional uses; and

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to exclude any development operations or drilling or excavation or mining for oil, gas or other minerals or any coring, or placing or maintaining on the premises of any tanks, wells, shafts, mineral excavations, derricks or structures of any kind instant to any such oil, gas or other mineral operations or activities; and any such use of the property is hereby expressly prohibited, except that drilling for oil or gas or constituent hydrocarbons and production facilities for the production thereof may be situated on any tract in the subdivision owned by Declarant until such tract is sold by Declarant.

2. No residence shall be used as a boarding house or a rooming house. A residence shall be considered a boarding or rooming house when more than one person is provided board or lodging therein for hire.

3. No residence structure containing less than 1500 square feet of enclosed space (exclusive of porches and garages) shall be erected or constructed in the Subdivision. Each such residence shall have constructed therewith a two-car garage or covered carport attached or detached from such residence, but in any event, constructed in a fashion which is architecturally in harmony with such residence and such garage or carport shall not be closer to the front property line than the front of the residence. Any residence containing more than one story shall contain a living area (exclusive of porches and garages) of at least 1,850 square feet or more for both stories. Any single story residence shall be constructed with an exterior finish of at least 50% brick, and houses containing more than one story shall be constructed with an exterior finish of at least 30% brick. Any slab for use as a foundation for a residence shall be poured, erected and constructed so that the top of the slab is at least 18 inches above the grade of the finished roadway abutting such tract. Access to tracts abutting Whispering Oaks Drive and J-2 Ranch Road shall be from driveways with culverts, constructed at the expense of the owner of the tract in accordance with the specifications of Victoria

County, Texas. Driveways with culverts must be constructed prior to the commencement of construction of improvements on any tract in the subdivision.

4. No building materials or temporary building of any kind or character, including, but not limited to, tents, shacks, garages or barns shall be placed or stored upon the property until the owner is ready to commence improvements, and then such materials or temporary buildings shall be placed within the boundary lines of the property, and shall not be placed within any roadway. Any such temporary building or structure of any kind shall not be used for other than construction purposes and shall be maintained in a neat, attractive and clean condition. Construction of any residence shall be substantially completed within one (1) year of the commencement thereof.

5. No building or structure upon the property shall be permitted to fall into disrepair. Buildings must at all times be kept in good condition, adequately painted or otherwise finished.

6. No tent, mobile home, motor home, trailer of any kind, manufactured home, or similar structure shall be used as a dwelling or residence on the property. No trucks, campers, boats or other motor vehicles shall be constructed, reconstructed or repaired on the property other than in a garage. Boats, campers and motor homes may be kept on the property as long as they are stored behind the main residence and out of view from the public road. The provisions of this paragraph shall not, however, apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during and used exclusively in connection with the reconstruction or repair of any work or improvements.

7. Horses, cattle and poultry may be kept on the property if an adequate stable and/or pens have been built, provided that such stables or pens are maintained in a clean and sanitary condition, and provided further that no odor from such stable or pens shall be permitted which may be noxious to any adjoining landowner. None of the permitted animals shall be allowed to roam at

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large. No pigs, hogs, swine, sheep, rhea, emus, ostriches, or other farm animals other than those specifically permitted in this paragraph shall be permitted on the property at any time, except that such animals may be temporarily kept on the property in connection with a 4-H, FFA or similar school related project.

8. No tract in the Subdivision shall be divided into smaller tracts.

9. No signs or advertisements of any kind shall be displayed to the public view on any tract in the Subdivision except one sign of not more than five square feet in size advertising the property for sale or rent, or a sign of no greater size used by a builder to advertise the property during the construction and sales period. Signs for property or ranch identification are allowed, but should be appropriate, attractive and in harmony with the construction on the property.

10. No junk of any kind or character, nor any accessories, parts or objects used with cars, boats, buses, trucks, trailers, house trailers or similar property, shall be kept on the Subdivision other than in a covered, enclosed building such as a garage.

11. Any building or other improvement on a tract in the Subdivision that is destroyed partially or totally by fire, storm or other means shall be repaired or demolished within a reasonable period of time and the property restored to an orderly and attractive condition.

12. The established drainage pattern over the Subdivision shall not be interfered with in any form or fashion. For the purposes hereof, "established drainage" is defined as the drainage which occurred at the time that the overall grading of a tract, including landscaping of the tract, was completed.

13. No professional, business or commercial activity to which the general public is invited shall be conducted on any part of the Subdivision, including commercial warehouses, dog or other animal boarding or breeding, or any manufacturing facilities.

14. All weeds, grass and shrubs in the Subdivision shall be kept in a neat and attractive manner and the owner of each tract shall be responsible for mowing cleared areas and ditches on the owned tract.

15. No noxious or offensive activity shall be conducted or permitted in the Subdivision nor shall anything be done in the Subdivision or neglected thereon which may become an annoyance or nuisance to the adjacent property.

16. Discharge of firearms in the Subdivision shall be limited to shot shells only.

17. No dogs shall be allowed to roam at large in the Subdivision. All dogs shall be kept on the respective owner's tract.

18. All tracts in the Subdivision shall have septic systems for wastewater sewage for any residential improvement constructed to the specifications then in effect for Victoria County, Texas, for septic systems. Easements, building lines and rights-of-way are shown on the plat. Declarant has made a prior dedication of certain utility easements and rights-of-way for roadway purposes on the plat. Additionally, certain other prior conveyances or easements are shown on the plat.

19. In authenticating the Subdivision plat for record, and in dedicating the road for the use of the present and future owners of the tracts in the Subdivision and to the public, there shall be and are hereby reserved in Declarant the following right, title and easements, which reservations shall be considered a part of the land and construed as being adopted in each and every contract, deed or other conveyance regarding the property or any part thereof.

a. The road 60 feet in width, and containing 4.16 acres of land, more or less, as shown on the plat as Whispering Oaks Drive, is hereby dedicated to the use of the public.

b. Declarant reserves the necessary utility easements and rights of way as shown on the plat of Whispering Oaks Subdivision as recorded in the map and plat records, which easements are reserved for the use and benefit of any public utility operating in Victoria County, Texas, as well as for the benefit of Declarant and property owners

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in the Subdivision to allow for the construction, maintenance and operation of a system or systems of electric light and power, telephone, gas, water, sewer, cable television or any other utility which Declarant may find necessary for the proper service of tracts in the Subdivision.

20. In the event Declarant constructs a fence along J-2 Ranch Road, the owner of each tract abutting such road shall maintain such fence as it crosses such tract. There shall be no barbed wire fences in the subdivision.

21. No building, fence, wall or other permitted structure or reconstruction shall be commenced, erected or maintained, placed, altered or reconstructed on any tract in this Subdivision until the building specifications and the plot plan showing the location of such buildings or improvements have been approved in writing as to conformity with these covenants and restrictions and the plat of the Subdivision by an Architectural Control Committee, initially composed of Lee Swearingen, his heirs, successors, assigns or appointees. In the event of death or resignation of such designee, then his heirs, successors and legal representatives have full authority to approve or disapprove such design and location or to designate a representative with like authority. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. The committee shall be authorized to approve variances or deviations from these restrictions when, in the opinion of the committee, such variance or deviation will not detract from the attractiveness and the market value of any tract covered hereby. Such designee shall remain a member of the Architectural Control Committee until his death, dissolution, or resignation and in the event of his death, dissolution or resignation without appointment of a successor or successor members, the owners of the tracts within the Subdivision at a meeting of such owners of the tracts called for that purpose, after reasonable notice to all owners of tracts within the Subdivision, may, by majority vote, with each tract having one vote regardless of the number of owners of such tract, appoint an Architectural Control Committee. At no time shall

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the Architectural Control Committee consist of more than three (3) persons. Such designee may resign as the Architectural Control Committee at any time by recording an affidavit to that effect in the Official Records of Victoria County, Texas, at which time the Architectural Control Committee shall be comprised of no more than three persons as elected by a majority of the tracts as above-described in the Subdivision. Prior to or subsequent to the resignation of said designee as the Architectural Control Committee, the owners in the Subdivision may associate themselves as a homeowner's association as an unincorporated association, or as a profit or non-profit corporation for the purpose of the administration of Subdivision matters, as well as architectural control matters. A majority vote of the tracts in the Subdivision with each tract having one vote, with notice and under the provisions aforesaid, shall be sufficient to establish such association. The submitted plans and specifications shall specify in such form as the Architectural Control Committee may reasonably require, structural, mechanical, electrical, and plumbing detail, and the nature, kind, shape, height, exterior color scheme, materials to be incorporated into and the location of the proposed improvements or alterations thereto. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and the provisions of this section will be deemed to have been fully complied with; provided, however, that failure of the Architectural Control Committee to approve or disapprove such plans and specifications within such thirty (30) day period shall not operate to permit any structure to be commenced, erected, placed, constructed, maintained or reconstructed, on any tract in the Subdivision, in a manner inconsistent with any provisions of these covenants and restrictions. The Architectural Control Committee shall have full power and authority to reject any plans and specifications that do not comply with any restriction herein imposed or meet the minimum construction requirements or architectural design

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requirements or that might not be compatible, in the sole discretion of the Architectural Control Committee with the design or overall character of the improvements in the Subdivision.

22. The digging of dirt or the removal of dirt from any tract is prohibited, except as is necessary in conjunction with landscaping or construction of the improvements thereon. All tracts shall at all times be kept in a healthful, sanitary and attractive condition. Stock ponds are permitted so long as they are fenced. No tract shall be used or maintained as a dumping ground for garbage, trash, rubbish or other waste matter. All trash, garbage or waste matter shall be kept in adequate containers with tightly fitting lids which shall be maintained in a clean and sanitary condition.

23. The covenants and restrictions of this Declaration shall run with and bind all of the lands within the Subdivision, and inure to the benefit of and be enforced by the owner of any tract subject to this Declaration, or their respective legal representatives, heirs, successors and assigns for a period of twenty (20) years from the date of this instrument. During such initial term, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the owners of seventy-five percent of all the tracts in the Subdivision and properly recorded in the appropriate records of Victoria County, Texas. Upon the expiration of such initial term, said covenants and restrictions (as changed, if changed) and the enforcement rights relative thereto shall be automatically extended for successive periods of ten (10) years. During such ten year extension periods, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then owners of not less than a majority of all of the tracts in the Subdivision and properly recorded in the appropriate records of Victoria County, Texas.

24. Invalidity of any one or more of the covenants, restrictions, conditions, or provisions contained in this Declaration, or any part thereof, shall in no manner affect any of the other covenants, restrictions, conditions or provisions hereof which shall remain in full force and effect.

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25. Citizens National Bank, the owner and holder of a lien covering the Subdivision, has executed this Declaration to evidence its joinder and, consent to, and ratification of the imposition of the foregoing covenants, conditions and restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, and the lienholder and the option holder have executed this declaration to be effective this 25th day of September, 1996.

Lee Swearingen Properties, Inc.

By Lee Swearingen
Its President

Citizens National Bank

By [Signature]
Its Executive Vice President

STATE OF TEXAS §
§
COUNTY OF VICTORIA §

BEFORE ME, the undersigned authority, on this day personally appeared Lee Swearingen, in his capacity as President of LEE SWEARINGEN PROPERTIES, INC. 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 and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 24th day of September,



Joy C. Schramm
Notary Public, State of Texas

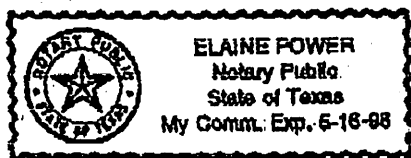
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BEFORE ME, the undersigned authority, on this day personally appeared DAVID BARNHART, EX-VICE PRESIDENT of CITIZENS NATIONAL BANK, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 25th day of September, 1996.



Elaine Power
Notary Public, State of Texas

FILED

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Val W. Finner
COUNTY CLERK
VICTORIA COUNTY, TEXAS

By: Cynthia Alvarez
Deputy

STATE OF TEXAS COUNTY OF VICTORIA
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the official records of Victoria County, Texas as stamped hereon by me.

SEP 25 1996



Val W. Finner
COUNTY CLERK, Victoria County, Texas