

4480

DECLARATION OF RESTRICTIONS
WALNUT CROSSING, SECTION FOUR

2-10-6530

THE STATE OF TEXAS X
 KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS X

This Declaration of Restrictions made ~~this~~ 30th day of August, 1979, by Bill Milburn, Inc., a Texas corporation, acting herein by and through its duly authorized officer, hereinafter called "Developer":

WITNESSETH:

WHEREAS, Developer is the sole owner of all lots in Walnut Crossing, Section Four, a subdivision in Travis County, Texas, according to the plat thereof of record in Book 78, Pages 212-213, Plat Records of Travis County, Texas, to which plat and its record reference is here made for all purposes, (hereinafter called the "Subdivision"), and desires to encumber the lots in the Subdivision with the covenants, conditions, restrictions, reservations, and charges hereinafter set forth, which shall inure to the benefit and pass with the property, each and every parcel or resubdivision thereof, and shall apply to and bind the successors in interest and any other owner thereof:

NOW, THEREFORE, Bill Milburn, Inc., the sole owner in fee simple of the Subdivision, hereby declares that all lots in the Subdivision shall be held, transferred, sold, and conveyed, subject to the following covenants, conditions, restrictions, reservations, and charges, hereby specifying and agreeing that this Declaration and the provisions hereof shall be and do constitute covenants to run with the land and shall be binding on Developer, its successors and assigns, and all subsequent owners of each lot, and the owners by acceptance of their deeds for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to abide by the terms and conditions of this Declaration:

I.

PROPERTY SUBJECT TO THE DECLARATION

The property which is and shall be held, transferred, sold, and conveyed, subject to the covenants, conditions, restrictions, reservations, and charges hereinafter set forth is described as follows:

All of the lots in Walnut Crossing, Section Four (4), a subdivision in Travis County, Texas, according to the plat thereof of record in Book 78, Pages 212-213, Plat Records of Travis County, Texas, to which plat and its record reference is here made.

II.

COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, AND CHARGES

The property described in Section I hereof is encumbered by the covenants, conditions, restrictions, reservations, and charges hereinafter set forth to insure the best and highest use and the most appropriate development and improvements of each lot for residential purposes within said subdivision; to protect owners of lots against improper use of surrounding lots; to preserve so far as practicable, the natural beauty of said property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate locations; to prevent haphazard and inharmonious improvements of lots; to secure and maintain proper setbacks from streets and adequate free space; and in general to provide for development of the highest quality to enhance the value of investments made by owners.

A. Land Use and Building Types. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed two and one-half stories in height with attached, enclosed garage for not less than two nor more than four cars. No carports shall be permitted, except when approved in writing by the Architectural Control Committee as hereinafter provided. No building shall remain uncompleted for more than one year after construction has been commenced.

B. Dwelling Size. The ground floor area of the main structure of a single story, single-family residence shall be not less than 1,000 square feet, excluding all open and covered porches and garage units. If more than one story, the ground floor area shall be not less than 800 square feet, excluding open and closed porches and garage units, and not less than 1,600 square feet for the combined area for the first and second floors. The Architectural Control Committee may approve a dwelling size containing less square feet, but such

D. Fences. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the front wall of any house.

E. Architectural Control. No building, wall, fence or any other improvement shall be erected or placed on, nor shall any building, wall, fence or ~~any other improvement be altered, modified, added to or removed from any lot~~ until the construction plans and specifications thereof and a plan showing the location of all buildings, walls, fences and other improvements, including, but not limited to driveways and setbacks, have been approved in writing by the Architectural Control Committee, hereinafter called "Committee". Nor shall the topography of the lot be enlarged in any way which will impede, restrict or in any way divert the flow of water without the prior written approval of the Committee. The approval of the Committee shall not be unreasonably or whimsically withheld.

The Committee shall be composed of three members. The original members of the committee shall be Bill Milburn, Gall Nichols and Tom Pfunter. The majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have the authority to designate a successor by filing

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writing. In the event the Committee fails to approve or disapprove the plans and specifications and plot plan for the improvements to be erected or placed on a lot, or the plans and specifications for the alteration, modification, addition to or removal of any improvements located on a lot, within thirty (30) days after the same have been submitted to the Committee, then in that event the same shall be deemed approved and this covenant complied with. All plans and specifications shall be delivered to the Developer not less than thirty (30) days prior to the date construction is to be commenced at its office at 7440 Ed Bluestein Boulevard, Austin, Travis County, Texas, or such other address as it may designate, by certified mail, return receipt requested, or delivered and a written receipt received therefor, and the date received by the Developer shall be considered the date of delivery to the Committee.

Anything herein to the contrary notwithstanding, the Committee is hereby authorized, at its sole discretion, to waive any requirements relating to carports, dwelling size, masonry requirements and fences and such decision shall be binding on all owners of lots encumbered by this Declaration.

F. Easements and Setbacks. Easements reserved and setback requirements are those set forth on the plat of record of the Subdivision on file in the Plat Records of Travis County, Texas. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water. The easement area of each

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vehicle without a current license plate shall be permitted to remain on any lot or be parked on a street adjoining a lot.

I. Signs. No signs of any kind shall be displayed for public view on any lot, except one sign of not more than five square feet advertising the property for sale or rent, or signs used by builders to advertise the property for sale. All merchandising, advertising and sales programming shall be subject to the approval of the Developer.

J. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any character shall be permitted upon any lot.

K. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except any owner may keep no more than two dogs, two cats, or two other household pets, provided they are not kept, bred or maintained for any commercial purpose.

L. Garbage and Refuse. No lot shall be used or maintained as a dumping ground for trash, garbage or other waste and the same shall not be kept, except in sanitary containers. Each lot owner shall contract with an independent disposal service to collect all garbage or other waste if such service is not provided by the City of Austin.

III.

7 SIDEWALKS

The owner of each lot shall construct at his cost and expense and prior to his occupancy of the dwelling sidewalks, if any, as required by the City of Austin, or any other political subdivision in the State of Texas in which the lot is located, or as set forth on the recorded subdivision plat.

IV.

TERM

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2009, at which time said covenants shall be automatically extended for successive periods of ten years each, unless by a vote of a majority of the then owners of the lots encumbered by this Declaration, it is agreed to change said Declaration in whole or in part.

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Any such instrument of amendment or termination must be executed and acknowledged by fifty-one (51%) percent of the then owners of lots encumbered by this Declaration and filed of record in the Deed Records of Travis County, Texas. The instrument of amendment or termination shall be effective to amend or terminate this Declaration at the expiration of the initial year term if such instrument is filed of record as set forth above during the initial term hereof; or if such instrument is filed of record as set forth above during any 10 year period of extension, this Declaration shall be amended or terminated (as the case may be) at the end of such 10 year period of extension. Notwithstanding anything contained herein to the contrary, the Developer, its successors or assigns, may amend these covenants at any time, or from time to time, in order to correct any typographical errors or other errors or omissions in form which, in the discretion of the Developer, its successors or assigns, may require amendment in order to properly reflect the intent hereof. Such amendments to correct typographical or other errors shall be effective on the date that such an amendment is filed of record in the Deed Records of Travis County, Texas, by the Developer, its successors or assigns.

V.

ENFORCEMENT

If the owner of any lot, or his heirs, executors, administrators, successors, assigns, or tenants shall violate or attempt to violate any of the covenants set forth in this Declaration, it shall be lawful for any person or persons owning any lot encumbered by this Declaration, or Developer to prosecute any proceedings against the person or persons violating or attempting to violate any such covenants. The failure of the owner or tenant to perform his obligations hereunder would result in irreparable damage to the Developer and other owners of lots in the Subdivision, thus the breach of any provision of this Declaration may not only give rise to an action for damages at law, but also may be enjoined by an action for specific performance in equity in any court of competent jurisdiction. Such action may be brought against any person, firm or corporation violating or apparently about to violate any of these covenants, either before such violation occurs or within a reasonable time thereafter, for an appropriate order or injunction of either a restraining or mandatory nature or both and of either a temporary or permanent nature or both, including, but not

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limited to one restraining construction of any improvements commenced, or about to be commenced, without the prior written approval of the Committee or for the removal of any improvement constructed without the prior written approval of the Committee. In the event enforcement actions are instituted and the party bringing such action is successful in obtaining any relief, then in addition to the remedies specified above, the party or parties against whom such relief was granted shall pay to the enforcing party costs and reasonable attorney's fees in such amount as the court may determine.

VI.

SEVERANCE

In the event any of the foregoing covenants, conditions, restrictions, reservations or charges is held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, restrictions, reservations, or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced.

VII.

NUMBER AND GENDER

The singular shall be treated as the plural and vice versa if such treatment is necessary to interpret this Declaration. Likewise if either the feminine, masculine, or neuter gender should be any of the other genders, it shall be so treated.

EXECUTED this 30 day of August, 1979.

BILL MILBURN, INC.

By: 

BILL MILBURN

TWO SEALS