

VOL. 2090 PAGE 36

DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS

8425

STATE OF TEXAS §
COUNTY OF SMITH §

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, First Realty Partners, hereinafter called the Declarant, is the owner of all that certain real property located in Smith County, Texas, described as follows, to-wit:

All those certain lots, tracts or parcels of land being situated in the Ventura Tejada Survey, Abstract No. 21, County of Smith, State of Texas, being more completely described as follows, to-wit:

Being Lots 1 through 58 of the Oakbrook Estates Subdivision, according to plats thereof of record in Slides 227-C, 227-D and 228-A, Cabinet B of the Plat Records of Smith County, Texas; and

WHEREAS, the Declarant will convey the above-described properties, subject to certain protective covenants, conditions, restrictions, liens, and charges 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, legal representatives, successors, and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Owner

1.01. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or portion of a lot in this subdivision.

Properties

1.02. "Properties" shall mean and refer to that certain real property hereinbefore described.

Lot

1.03. "Lot" shall mean and refer to that portion of any of the plots of land shown upon the plat and subdivision maps recorded in Slides 227-C, 227-D and 228-A, Cabinet B of the Plat Records of Smith County, Texas, on which there is or will be built a single family dwelling.

Declarant

1.04. "Declarant" shall mean and refer to First Realty Partners, its successors and assigns, if such successors or assigns shall acquire more than one undeveloped Lot from Declarant for the purpose of development and/or resale.

FILED
MARY MORRIS
COUNTY CLERK
SMITH COUNTY, TEXAS
BY *[Signature]*
DEPUTY
2006 MAR 14 AM 9:23

ARTICLE II**VOL 2090 PAGE 37****ARCHITECTURAL CONTROL****Building and Planning Committee**

2.01. Declarant shall designate and appoint a Building and Planning Committee consisting of not less than three (3) qualified persons, which committee shall serve at the pleasure of Declarant. Declarant at its sole discretion shall have the right at any time to transfer the power to designate and appoint the Building and Planning Committee to the Owners of the Property and shall also have the right to create a procedure by which the Building and Planning Committee may be perpetuated. Such transfer and procedure, to be effective, shall be filed of record in the Land Records of Smith County, Texas.

Approval of Plans and Specifications

2.02. No building, fence, wall, driveway, utility line, septic tank and drain field, stable, retaining wall, garden, pond, swimming pool, tennis court or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to, or change or alteration therein, be made, nor shall any landscaping of any Lot or Lots be undertaken, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the Building and Planning Committee as to harmony of external design and location in relation to surrounding structures and topography. The approval of such plans and specifications shall be at the sole discretion of the Building and Planning Committee.

Failure of Committee to Act

2.03. In the event that any plans and specifications are submitted to the Building and Planning Committee as provided herein and such Committee shall fail either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, approval by the Committee shall not be required, and full compliance with this Article shall be deemed to have been had.

ARTICLE III**EXTERIOR MAINTENANCE**

3.01. In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Declarant or the Building and Planning 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 any other improvements erected thereon, all at the expense of Owner, and the cost or expense thereof shall be and constitute a lien upon said Lot payable by the Owner of said Lot, or his successors or assigns.

ARTICLE IV**USE RESTRICTIONS****Type of Buildings Permitted**

4.01. All Lots shall be used for residential purposes only, and no building or structure shall be erected, altered, placed or permitted to remain on any Lot except as provided in Paragraph 4.02, other than one single family dwelling not to exceed two stories in height, and a private garage for not more than three (3) automobiles.

VOL 2090 PAGE 38

Stables, Etc.

4.02. A structure constructed solely for the purpose of stabling horses may be permitted upon such specifications and conditions as may be set by the Building and Planning Committee, provided that the Owner of an eligible Lot shall first make application to and receive approval from said Committee to keep horses on his property. An Owner may also construct a pool cabana or cabanas or a gazebo upon making application to and receiving approval from said Committee for such construction.

Minimum Floor Area and Exterior Walls

4.03. Any single story residence constructed on said Lots must have a heated/cooled ground floor area of not less than 2,000 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. Any two-story residence must have not less than 1,000 square feet of heated/cooled ground floor living area, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages.

Setbacks

4.04. Because of the terrain and topography of the various Lots in the subdivision, setback lines shall be determined on an individual Lot basis by the Building and Planning Committee, provided, however, no building or structure shall be located nearer to any road or street right of way than 50 feet and no nearer to any boundary line on other than a road or street right of way than 20 feet. In exceptional cases, the Building and Planning Committee may grant a variance from these minimums. No construction shall begin on any building or structure until such time as the setback lines shall have been approved by the Building and Planning Committee.

Resubdivision or Consolidation

4.05. None of said Lots shall be resubdivided in any fashion without the express written consent of the Declarant. Prior to any resubdivision, however, the Owner of the Lot shall, where applicable, be required to obtain any necessary permission or approval from any city, county or state authority. Any Owner owning two or more adjoining Lots may consolidate such Lots into one building site with the privilege of constructing improvements as permitted in Paragraphs 4.02 - 4.04 hereof. Should any Owner desire to resubdivide such Lots once consolidated, he shall first receive approval to do so from the Declarant as well as receive any required approvals from city, county or state authorities, provided that the consolidated Lot shall be resubdivided into the same number of Lots as existed before the consolidation, and the size, dimensions and location of the resubdivided Lots shall be exactly the same as the size, dimension and location as appear on the plat of Oakbrook Estates Subdivision, which plat is recorded in the Plat Records of Smith County, Texas.

Easements

4.06. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

Noxious or Offensive Activities Prohibited

4.07. No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done thereof which may be or may become an annoyance or nuisance to the neighborhood.

Prohibited Residential Uses

VOL 2090 PAGE 39

4.08. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, or other out building shall be used on any Lot at any time as a residence, either temporarily or permanently, provided that the Declarant shall have the right to use a temporary structure as a sales office for so long as said Declarant shall own any of the Property.

Signs

4.09. No signs of any character shall be allowed on any Lot except one sign of not more than one foot by three feet identifying the Owner of the residence, and one sign of not more than two feet by two feet, which shall be allowed only during the period of construction of the Owner's residence, identifying the contractor and various subcontractors constructing said residence. No "For Sale" or "For Rent or Lease" signs shall be allowed at any time without the express written consent of the Declarant.

Mineral Development Prohibited

4.10. No oil or gas well drilling, oil, gas or other mineral development operations, oil or gas refining, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall oil or gas wells, tanks, tunnels, mineral excavations, or shafts be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

Rubbish, Trash and Garbage

4.11. No Lot shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. Owners shall contract to have rubbish, trash and garbage removed at least once weekly, with such rubbish, trash and garbage to be picked up at the street in the front or at the side of the Owner's Lot. All rubbish, trash and garbage containers shall be subject to the approval of the Declarant, which right to approve shall not be waived by any inaction on behalf of the Declarant. Owners shall also be responsible for picking up litter in all rights of way adjacent to their Lots. Upon failure to perform the obligations of this Paragraph, Declarant, or his successors and assigns, may at his option have the Lot cleaned and the cost or expense thereof shall be and constitute a lien upon said Lot payable by Owner of said Lot to Declarant, or his successor or assigns.

Animals

4.12. Except as provided below with respect to horses, no animal, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. No animal, livestock, or poultry shall be allowed to run at large in the subdivision. Where prior approval has been obtained from Declarant, an Owner may keep a horse or horses, and they may be bred or raised for commercial purposes upon receiving the written consent of the Declarant to do so, which consent shall be at the sole discretion of the Declarant, and which consent may be revoked by the Declarant for good cause and upon reasonable notice to such Owner.

Shrubs and Trees

4.13. No shrub or tree planting which obstructs sight lines at elevation between two and seven feet above the roadway shall be planted or permitted to remain on any corner Lot within the triangular area formed by the curb lines of such intersecting streets and a line connecting such curb line at a point twenty-five feet from their intersection, or, in the case of a rounded corner, from the intersection of the curb lines as

VOL 2090 PAGE 40

extended. The same sight line limitations shall apply on any Lot within ten feet of the intersection of a street curbline and the edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at a height of more than seven feet above ground level.

Trucks, Buses and Trailers

4.14. No truck, bus, trailer, or semi-trailer shall be permitted to be left parked in the street in front or beside any Lot except for construction and repair equipment while a residence or residences are being built or repaired in the immediate vicinity, and no truck, bus, boat, trailer or semi-trailer shall be parked on the driveway or any portion of the Lot in such a manner as to be visible from the street.

Boats, Trailers, Motor Homes, Trucks, and Motorcycles

4.15. No boat, trailer, motor home, truck or motorcycle shall be parked or stored on any Lot in front of the rear line of the residence on said Lot. Declarant may, in its sole discretion, require suitable storage for any vehicle or boat.

Mowing

4.16. The Owner shall mow any vacant Lot at least once each Spring, Summer and Fall. Upon Owner's failure to perform such obligation, Declarant may, at his option, have the Lot mowed and the cost or expense thereof shall be and constitute a lien upon said lands payable by Owner of said Lot to Declarant, or his successors or assigns.

Prohibited Activities

4.17. No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot.

Occupancy

4.18. The Owner shall not allow anyone to occupy any residence built upon his Lot until such occupancy is approved in writing by the Building and Planning Committee.

Firearms, Fireworks and Hunting

4.19. No firearms or fireworks shall be discharged or set off anywhere in the subdivision. No hunting shall be allowed at any place in the subdivision.

Thoroughfare

4.20. No Lot or any part of a Lot shall be used for a street, access road or a public thoroughfare without the prior written consent of the Declarant.

Motorcycles and Horses

4.21. No motorcycle, trailbike or other motorized vehicle shall be allowed on any road or street in the subdivision unless duly licensed to be operated on the public streets and highways of the State of Texas. No motorcycle, trailbike or other motorized

VOL 2090 PAGE 41

vehicle shall be operated anywhere on the Property in such a manner so as to create a nuisance or annoyance in the Development or so as to do damage to any of the Property. Horses may be ridden in road or street rights of way in the subdivision provided that such does not cause or contribute to any soil erosion condition.

Speed Limits

4.22. All automobiles, trucks, motorcycles, and other vehicles shall at all times be operated at safe and reasonable speeds giving full consideration to all existing road and weather conditions at all times.

ARTICLE V

Easements

Reservation of Easements

5.01. All easements for the installation and maintenance of utility and drainage facilities are reserved as shown on the plat recorded in Slide _____, Cabinet _____ of the Plat Records of Smith County, Texas. No shrubbery, fence, or other obstruction shall be placed in any easement or alleyway. Right of use for ingress and egress shall be had at all times over any dedicated easement, and 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.

Underground Electric System

5.02. An underground electric distribution system will be installed to serve all Lots in the subdivision. The Owner of each Lot shall, at his own expense, furnish, install, own, and maintain (all in accordance with the requirements of local government authorities and the National Electrical Code) an underground service cable and appurtenances from the meter installed upon the Lot by the electric company to such point as may be designated by such company on the property line of such Lot. The Owner shall be responsible for the cost of all connections with electric, water and telephone companies' lines which lines shall be provided by the Declarant to each Lot. The Owner shall be responsible for complying with all requirements for continued service from the electric, water and telephone companies.

ARTICLE VI

General Provisions

Liability of Owner for Guests and Invitees

6.01. Each Owner shall be responsible to see that his guests and invitees, including his contractor and all subcontractors, are aware of and shall abide by all restrictions herein, and the Owner shall be liable for any violation of these restrictions by his guests or invitees, and for any damage caused by any guests or invitees.

Enforcement

6.02. 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

VOL 2090 PAGE 42

or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Severability

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

Duration and Amendment

6.04. 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 five (5) years. The covenants, conditions, and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners; during any succeeding five (5) year period, the covenants, conditions, and restrictions of this Declaration may be amended during the last year of any such five (5) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. No amendment shall be effective until recorded in the Deed Records of Smith County, Texas, nor until the approval of any governmental regulatory body which is required shall have been obtained.

Executed by the said Declarant, this 11 day of March, 1983.

FIRST REALTY PARTNERS

By: [Signature]
MICHAEL H. KRITZ

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF SMITH §

This instrument was acknowledged before me on the 11 day of March, 1983, by MICHAEL H. KRITZ, partner on behalf of FIRST REALTY PARTNERS, a partnership.



[Signature]
Notary Public in and for
the State of Texas

My commission expires:
5-5-86

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that the foregoing was filed on the date and time indicated herein by me and was duly recorded in the volume and page of the public records of Smith County, Texas.
MAR 16 1983
MARY MORRIS
COUNTY CLERK, Smith County, Texas
[Signature]