

PHASE I RESTRICTIONS AMENDED SECOND TIME
15979

VOL 1746 PAGE 772

APPROVAL OF AMENDMENT
TO DECLARATION OF RESTRICTIONS

STATE OF TEXAS

COUNTY OF SMITH

X
X
X

KNOW ALL MEN BY THESE PRESENTS:

THAT, LARRY P. BRANCH and wife, CAROL ANN BRANCH, on January 15, 1979, recorded in Volume 1720, Pages 158-164 of the Deed Records of Smith County, Texas, Declaration of Restrictions, as to that certain tract or parcel of land, a part of the William Luce Survey, Abstract 14, Smith County, Texas, also being that certain 272.00 acre tract described in a deed from Johnny Paul Price, et al to LARRY P. BRANCH et ux, dated June 1, 1978, and recorded in Volume 1683, Page 838 of the Deed Records of Smith County, Texas; and

THAT, said Declaration of Restrictions by its terms further extended to that certain tract or parcel of land, a part of the Ventura Tejada Survey, Abstract 21, and William Luce Survey, Abstract 14, Smith County, Texas, being 200 plus acres set forth in paragraph XI of that certain Amendment to Declaration of Restrictions and being part of that realty described in Contract of Sale between John Paul Price, et al and LARRY P. BRANCH et ux, filed February 26, 1979, under Clerk's File Number 4393, Deed Records of Smith County, Texas; and

THAT, LARRY P. BRANCH and wife, CAROL ANN BRANCH, have recorded on April 30, 1979, in the Deed Records of Smith County, Texas, that certain Amendment to Declaration of Restrictions, therein amending the above referenced restrictions; and

THAT, the undersigned, being owners of certain tracts and parcels of land situated within the above described acreages, hereby approve of and consent to in all respects that certain amendment to Declaration of Restrictions as filed by LARRY P. BRANCH and wife, CAROL ANN BRANCH, on April 30, 1979.

DATED: May 1, 1979.

FILED
MARY MORRIS
COUNTY CLERK
1979 JUL 11 PM 1:53
SMITH COUNTY TEXAS
DEPUTY

Jerry J. Morris
JERRY J. MORRIS

Sue Hannah Morris
SUE HANNAH MORRIS

Douglas H. Johnston
DOUGLAS H. JOHNSTON

Rebecca S. Johnston
REBECCA S. JOHNSTON

Richard A. Liptak
RICHARD A. LIPTAK

Dorthy Jean Liptak
DORTHY JEAN LIPTAK

Richard F. Thomsen
RICHARD F. THOMSEN

Lois Thomsen
LOIS THOMSEN

Marshall M. Whitesides
MARSHALL M. WHITESIDES

Gloria L. Whitesides
GLORIA L. WHITESIDES

THE STATE OF TEXAS

X

COUNTY OF SMITH

X

BEFORE ME, the undersigned, in and for said County and State, on this day personally appeared JERRY J. MORRIS and wife, SUE HANNAH MORRIS, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 17 day of May, 1979.



Sanita C. Neal
Notary Public in and for
Smith County, Texas

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THE STATE OF TEXAS

X

COUNTY OF SMITH

X

BEFORE ME, the undersigned, in and for said County and State, on this day personally appeared DOUGLAS H. JOHNSTON and wife, REBECCA S. JOHNSTON, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4th day of May, 1979.



May Gordon
Notary Public in and for
Smith County, Texas

THE STATE OF TEXAS

X

COUNTY OF SMITH

X

BEFORE ME, the undersigned, in and for said County and State, on this day personally appeared RICHARD A. LIPTAK and wife, DARTHY JEAN LIPTAK, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 7th day of July, 1979.



Willie Jackson
Notary Public in and for
Smith County, Texas

THE STATE OF TEXAS

X

COUNTY OF SMITH

X

BEFORE ME, the undersigned, in and for said County and State, on this day personally appeared RICHARD F. THOMSEN and wife, LOIS THOMSEN, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me

that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 1979.



Notary Public in and for
Smith County, Texas
COMMISSION EXPIRES
SEPTEMBER 20, 1980

THE STATE OF TEXAS
COUNTY OF HARRIS

X

X

BEFORE ME, the undersigned, in and for said County and State, on this day personally appeared MARSHALL M. WHITESIDES and wife, GLORIA L. WHITESIDES, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 9th day of July, 1979.



Patricia J. Hoyer
Notary Public in and for
Harris County, Texas

Commission Expires
1/1980

THE STATE OF TEXAS
COUNTY OF SMITH
I HEREBY CERTIFY THAT THE FOREGOING DEED OR INSTRUMENT OF WRITING WAS FILED IN MY OFFICE FOR RECORD AT 1:23 O'CLOCK P.M. ON THE 11 DAY OF July 1979 AND THAT THE SAME TOGETHER WITH THE CERTIFICATE OF AUTHENTICATION WAS ON THIS DAY CORRECTLY RECORDED ON PAGES 775-776 IN VOLUME 1746 RECORD OF DEEDS OF SMITH COUNTY TEXAS.
GIVEN UNDER MY HAND AND SEAL OF OFFICE IN TYLER, TEXAS THIS 11 DAY OF July 1979
MARY MORRIS, County Clerk, Smith County, Texas
BY Julia M. Warren Deputy

-19-
PHASE I RESTRICTIONS AMENDED
1735 115 2515
AMENDMENT TO DECLARATION OF RESTRICTIONS

WHEREAS, LARRY P. BRANCH and CAROL ANN BRANCH, husband and wife, caused to be recorded on January 15, 1979, in Volume 1720 on Pages 158 through 164 in the Record of Deeds of Smith County, Texas, a certain document entitled Declaration of Restrictions,

WHEREAS, LARRY P. BRANCH and CAROL ANN BRANCH were the owners of record at that time of that certain 272 acre tract of land as conveyed from John Paul Price, et al to Larry P. Branch, et ux by Warranty Deed dated on or about June 1, 1978, and recorded in the Deed Records of Smith County, Texas, said land a part of the Ventura Tejada Survey, Abstract 21, a part of the William Luce Survey, Abstract 14, Smith County, Texas,

WHEREAS, the undersigned stated in said Declaration of Restrictions their desire to make certain declarations as to limitations, restrictions, and uses to which the real property above described might be put, thereby specifying that said declarations would constitute restrictions to run with the land and would be binding upon all of the grantees of any portion of said property and all other persons claiming under or through them, for the benefit of and limitations of all future owners of property in said real property,

WHEREAS, the undersigned and others have subdivided the above described tract into Lots 1 through 24 of Country Place Subdivision, as shown by Plat recorded in Volume 9, Page 125 of the Plat Records of Smith County, Texas,

WHEREAS, the undersigned have either sold to Buyers or dedicated to the public for roadways approximately 24 percent of the acreage in the above described tract,

WHEREAS, the undersigned desire to amend the Declaration of Restrictions, and whereas, the undersigned are still the owners of record of approximately 76 percent of the acreage contained in the boundaries of the Subdivision, now therefore, according to the provisions contained in Article VI on Page 6 of the Declaration of Restrictions, the undersigned do hereby amend the Declaration of Restrictions to read as follows:

I

DEFINITIONS:

As used herein the following words and terms shall have the following meanings:

1. Subdivision: The above described 272 acre tract, (Country Place Subdivision), or any part thereof.
2. Undersigned: Larry P. Branch and Carol Ann Branch, present owners of approximately 76 percent of the above described 272 acre tract.
3. Developer: Larry P. Branch, developer of this Subdivision.
4. Lot: Any parcel or part subdivided from the 272 acre tract (Country Place Subdivision).
5. Buyers: Any person, persons or company buying or otherwise owning a Lot in the Subdivision.

INTENT AND PURPOSE OF RESTRICTIONS:

1. By placing this document of record, the Undersigned hereby notify and inform the Buyers of any Lot that restrictions are an integral part of ownership of real property in the Subdivision, for the purpose of establishment and maintenance of the Subdivision as an uncrowded, desirable, planned "single family dwelling" residential community, in harmony with its wooded suburban location, with emphasis on preservation and enhancement of the natural beauty of the area while providing high quality homesites for families and individuals.
2. To make construction suggestions.
3. To establish restrictions in order to maintain high quality construction and maintenance standards for the purpose of creating and retaining an appearance and an atmosphere that will encourage appreciation in property values.
4. To establish the term for which the restrictions will be in effect, and to provide for automatic extensions of the term.
5. To establish procedures whereby restrictions may be amended.
6. To establish provisions whereby variances from the restrictions may be granted.
7. To establish procedures for enforcement of the restrictions.

III

CONSTRUCTION SUGGESTIONS:

1. Before beginning any construction on any Lot, careful consideration should be given to the suitability of the proposed structure and the materials of which it is to be built, to the Lot upon which it is to be erected and to the harmony thereof with the surroundings. Every effort should be made to design each home to fit the topography and trees on the Lot on which it is to be built; attempts should not be made to make drastic changes in the surface and character of the land to fit a particular house plan.
2. Thermal pane or double pane windows and doors, extra insulation and efficient fireplaces are highly recommended.
3. It is recommended that setbacks as far as practical beyond the minimum be used.

IV

RESTRICTIONS:

1. Each dwelling in the Subdivision shall be constructed and used for single family residential purposes only, and no commercial or industrial use shall be permitted in the Subdivision, except that individuals may conduct non-nuisance, unoffensive businesses from their homes. No sign may be placed on any Lot or roadway indicating that any business is conducted from any residence. No business may be conducted in the Subdivision that involves outdoor display of any product. (Note: The Undersigned will be conducting business associated with developing the Subdivision and selling Lots in the Subdivision).

This restriction against commercial or industrial use is not intended to attempt to stop owners of oil and gas mineral rights from exercising their legal rights. Strip mining and other similar activities that destroy the trees and drastically alter the surface of the land are not permitted.

2. The maximum number of Lots that Lots 1 through 24 of Country Place Subdivision may be further divided into is as follows:

<u>Lot Number</u>	<u>Maximum Lots</u>	<u>Lot Number</u>	<u>Maximum Lots</u>
1	2	13	2
2	2	14	2
3	2	15	2
4	2	16	6
5	2	17	4
6	8	18	12
7	12	19	20
8	3	20	1
9	3	21	20
10	20	22	6
11	4	23	3
12	2	24	4

The maximum number of homes that may be placed on Lots 1 through 24 of Country Place Subdivision is equal to the maximum number of Lots that each Lot may be further divided into.

No Lot in the Subdivision, with the exception of Lot 24, may be further subdivided into Lots less than one acre in size. Lot 24 contains 3,845 acres, has approximately 880 feet of road frontage, and may be divided into a maximum of four Lots.

3. Each residence erected in the Subdivision must contain a minimum of 1,900 square feet of living area, commonly referred to as heated and cooled area, unless variance is granted. (See Article V) Homesite location and exterior house plans must be approved in writing by a Building-Planning Committee prior to start of any construction on any Lot. At least one copy of the exterior plans must be furnished to the Developer for consideration by the Committee. A minimum three person Committee will be appointed or elected by majority vote of owners in the Subdivision on the basis of one vote per acre owned. Members of the Committee may be changed at any time by consent of the owners of a majority of the acreage in the Subdivision.

4. All construction shall be new construction built on the Lot except as provided in Article 18 below.

5. All construction (dwellings, garages, barns, outbuildings, fences, mailboxes, signs, etc.) shall be of high quality materials and professional quality workmanship and shall be compatible with and appropriate for the surroundings. Lettering on mailboxes and signs must be of professional quality.

6. A culvert of adequate diameter to meet County requirements (and a minimum length of 20 feet), and a driveway ditch crossing to be used by construction personnel and equipment must be installed by the Buyer prior to the start of any construction on any Lot. Installation of oiled, paved, concrete or some other form of dust free driveway must be completed to the residence or for a minimum distance of 200 feet from the Subdivision road (whichever is less), within six months of the start of construction of a residence on the Lot.

7. Acceptable exterior building materials are brick, brick-veneer, stone, stucco, wood, or combinations of the preceding; however

houses built principally of logs are not approved for this Subdivision unless Variance is granted due to unusual privacy and seclusion of the homesite. (See Article V)

8. Exterior coloring of structures built principally of wood must be of earthtone or natural stains, semi-transparent stains or clear sealers.

9. Roofs of structures must generally be cedar shingles, cedar shakes, tile or slate. However, in certain instances where the roof of the structure will be substantially out of sight of the road and where the structure will have a large set back from the road, Variance may be granted to allow composition asphalt shingles of the superior quality (340 lbs.) type. Such shingles must be of earthtone or rustic color, and approval of the specific type, style and color must be obtained in writing prior to the start of construction of the structure. (See Article V). Certain other types of roofing may be approved by the Building and Planning Committee, when other types are called for in special architectural designs and styles.

10. Exterior construction work on all buildings must be completed within six months from the start of construction, unless a Variance is granted (see Article V) due to special problems or circumstances.

11. A garage or carport (attached or detached) must be built on each Lot at the same time that a residence is built on the Lot.

12. All barns, workshops, outbuildings, kennels, etc. must be either to the rear of the residence or to the rear of the projected back line of the residence.

13. The front of each residence must face the Subdivision road that fronts the Lot, unless Variance is granted in an unusual situation.

14. All fencing that is built along any road or on any Lot within 200 feet of any road shall be made of wood, cedar rails, poles, brick, stone, wrought iron, chain link or combination of any of the preceding, so long as said fencing is constructed to professional quality standards and is maintained in a state of good repair. Any fencing erected beyond the depth stipulated in the previous sentence may be built of any of the above materials, or it may be of other materials, so long as same is constructed and maintained to the same standards as outlined above.

15. No building may be erected on any Lot within 85 feet of any road right-of-way; nor shall any building be erected within 20 feet of any side or rear lot line. These setback requirements shall also apply to porches, patios, garages, carports and other attachments.

16. No antenna (shortwave, CB, TV, etc.) may be erected on any Lot that is higher in space than 50 feet above the ground on which the residence is located.

17. In areas of the Subdivision where underground primary electric power lines are provided along either side of the Subdivision road fronting any Lot, the Buyer must contract with the electric power company for installation of underground service to his residence. A charge will be made for all underground service by the power company at rates in effect at the time of installation. Lots 13, 14, 15, 16, 18, 19 and 21 currently have overhead electric power available along

rear lot lines and may install overhead or underground service to their homesites. When overhead service is used, all power lines and poles must be installed along or near the rear of the Lot and not along Subdivision roads. The Undersigned hereby reserve the right to grant an easement ten feet in width along each side of Subdivision roads along the front of each Lot for the purpose of installation and maintenance of equipment necessary for underground utility lines.

18. No house may be moved into this Subdivision without the express written permission of the Developer and the Building-Planning Committee. No such permission will be granted unless the Developer and the Building-Planning Committee approve the house and the location that the house will be placed in the Subdivision, and unless the house when completed into a finished residence within six months from the time that said house is moved into the Subdivision, shall have a minimum fair market value of \$65,000.00, excluding land, (said \$65,000.00 to be adjusted upward annually to allow for inflation), and shall contain no less than 2,500 square feet of living area.

19. No mobile home or trailer house shall be permitted in this Subdivision for any reason or purpose; nor shall modular homes or other prefabricated homes be permitted in the Subdivision.

20. Travel trailers, campers, boats and motor homes must be kept stored or parked inside a garage or outbuilding or must be parked behind a building so that they will be substantially out of sight of the Subdivision road. Utility trailers, trucks (other than pickup trucks), equipment, machinery, fuel storage tanks, building materials, supplies, etc., must be kept, stored or parked inside a garage or outbuilding or must be kept behind a building out of sight of the road and neighboring homes within the Subdivision.

21. Each Lot in the Subdivision must be kept in a neat and orderly condition free of litter at all times. Each Buyer must require building contractors to remove refuse and litter at least once weekly during construction. No junk cars, cars not in running condition, or cars without current license plates may be kept in the Subdivision unless they are inside a closed building.

22. No more than two signs may be placed on any Lot or on the road right-of-way bordering any Lot. Said signs may not exceed four square feet (2 ft. x 2 ft. or equivalent) in size and may be for purposes of identification of residence or for advertising the property for sale. Exceptions: Political candidate signs may be displayed around election time. Also, a Subdivision identification sign that will be larger than the above stated maximum will be placed at the entrance to the Subdivision.

23. The Buyer of each Lot must "brushhog" or otherwise mow that part of the front 100 feet of each Lot that has been previously mowed by the Developer. Such mowing must be done a minimum of twice each year, with the first mowing to be completed by July 1 each year and the second mowing to be completed by November 1. In addition, that part of the balance of each Lot that has been previously mowed by the Developer must be mowed by the Buyer at least once each year.

24. No Lot may be clear-cut (removal of all trees), nor may large healthy trees be cut except as is necessary for construction of improvements. It is recommended that wooded areas be thinned where needed to promote healthy growth and the slash be disposed of in conformity with good forestry practices.

25. Each Buyer must arrange for or contract for the regular removal of all garbage, trash and building debris from his Lot at least once weekly. This requirement is in effect during construction as well as thereafter. All trees and stumps that are removed for construction and that are not salvaged and stacked for firewood must be disposed of or removed from the Lot immediately. Open burning or burning that is a nuisance, or that causes smoke damage or that creates an unusual fire danger is not allowed in the Subdivision; however, burning that is necessary in clearing and building Subdivision roads, construction sites, and driveways is permissible. Spark arrestors must be installed on all fireplace chimneys at the time of construction.

26. Household pets in reasonable numbers that are properly housed and cared for, and that are not raised for commercial purposes may be kept on the Buyers Lot. All dogs must be confined to the Buyers Lot at all times except when on leash. Dogs are not allowed to run at large in this Subdivision, nor are chronic barking dogs that disturb the peace allowed to be kept in the Subdivision. Dogs and cats are required to have current rabies shots.

Buyers who wish to keep horses or other animals in the Subdivision must submit a request to the Building-Planning Committee and Subdivision Developer showing plans for barn, stables, corral, fencing, and pasture, as well as type and number of animals to be kept. If plans for said improvements are approved in writing, the animal or animals may be placed on the Lot only after construction is complete. Approval to keep animals other than household pets will not be given on Lots of less than 2½ acres in size. Horses and any other animals that are kept in the Subdivision must not be a public nuisance and must be properly fed and cared for and kept in a barn or corral for an adequate amount of the time to avoid overgrazing and destruction of the grass and sod on the Lot. Horses may not be ridden on oil-surfaced roads in the Subdivision. Horses and other large animals may not be allowed access to lakes or ponds. Ducks may not be placed in lakes or ponds unless all landowners adjoining the lake or pond agree.

27. Vehicles may not be parked within the public road right-of-way overnight. All parking must be off street parking on private land. Speeding and reckless driving on roads within the Subdivision is prohibited, as is littering along the roadways in the Subdivision. Speed limit on Subdivision roads is 25 miles per hour.

28. Each Buyer must install a septic tank and drain field on his Lot which meets State and County requirements prior to occupying any residence on the Lot. No drain field lines may be installed within 100 feet of any flowing stream, pond or lake.

VARIANCE:

1. In order to retain reasonable flexibility in the Restrictions and in order to realistically deal with unforeseen changes and circumstances that may come to light in the future, the Building-Planning Committee (see Article IV, Item 3) may, at their discretion, grant moderate Variances from the general rule of the Restrictions in instances where, in their opinion, there will be no detrimental effect on property values and where the individual plans and needs of Buyers can better be served. All requests for Variances must be in writing, must explain the nature of variance requested, and must detail the alternative plan proposed. Any approval of a Variance request must be in writing by the Building-Planning Committee, and will be conditioned on various stipulations and agreements.

VI

TERM OF RESTRICTIONS:

1. These Restrictions are to run with the land and shall be binding on all persons or companies claiming under them for a period of twenty years from the date these Restrictions are recorded, after which time the said Restrictions shall be automatically extended for successive periods of five years each, unless an instrument denominated as a deed of revocation signed and executed by the owners of a minimum of fifty-five percent of the acreage in the Subdivision is recorded in the Record of Deeds of Smith County, Texas.

VII

AMENDMENT:

1. The conditions, restrictions, stipulations and agreements contained herein shall not be waived, abandoned, terminated or amended except by written consent of the owners of a minimum of fifty-five percent of the acreage included within the boundaries of the Subdivision, and unless said Amendment is recorded in the Record of Deeds of Smith County, Texas.

VIII

ENFORCEMENT:

1. Enforcement of these Restrictions shall be by proceedings at law or in equity against any person or persons or legal entity violating or attempting to violate any restriction, and said proceedings may be for the purpose of injunction to restrain violation or to recover damages, or both. Such enforcement may be appropriately undertaken by any person or persons or legal entity owning any of the above described property.

2. Even though the Undersigned plan to assist with enforcement of the Restrictions, the Undersigned make no promise or agreement that they will assume the major role in enforcing the Restrictions. Enforcement of said Restrictions is the right of every person or legal entity owning any property in the Subdivision.

IX

SEVERABILITY:

1. It is the intent of this Declaration of Restrictions that invalidation of any one of these Restrictions by judgement or court

order shall in no way affect any of the other provisions of the Restrictions, which shall remain in full force and effect.

X

LAWS:

1. This Declaration of Restrictions and the provisions herein are subject to all applicable local, State, and Federal laws and/or ordinances. It is not the intent of any provision of this document, nor is it the intent of the undersigned Owners to amend, replace, modify, reduce the effect of, or otherwise interfere with any applicable laws or ordinances. Among other things, these Restrictions are meant to provide a form of zoning for the benefit of all concerned, where no other zoning exists at this time.

XI

ADJOINING LAND:

1. Whereas the Undersigned Owners currently have a contract to buy and are in the process of buying a certain 400 plus acre tract of land, whereas 200 plus acres of said tract of land lie immediately adjoining the north side of the Subdivision and running north to Farm Road 346 and running west to Little Mud Creek (also known as Shackleford Creek), therefore, agreement is hereby made that any part of said 200 plus acres that is sold by Undersigned will be made subject to this same set of Restrictions.

Dated at Tyler, Texas this 30 day of April, 1979.

FILED
MARY MORRIS
COUNTY CLERK
1979 APR 30 PM 3:51
SMITH COUNTY TEXAS
DEPUTY

Larry P. Branch
LARRY P. BRANCH

Carol Ann Branch
CAROL ANN BRANCH

STATE OF TEXAS)
COUNTY OF SMITH) SS

On this the 30 day of April, 1979, before me, *Sharrell Dalton*, the undersigned officer, personally appeared Larry P. Branch and Carol Ann Branch, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein



in witness whereof I hereunto set my hand and official seal.

Sharrell Dalton
NOTARY PUBLIC

My commission Expires: *2-26-81*