

22513

RESTRICTIVE COVENANTS

THE STATE OF TEXAS)

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF MIDLAND)

THAT, D. H. THOMASON and FRED PORTER, herein called "Owners", being the owners of all of that certain lot, tract or parcel of land lying and being situated in Midland County, Texas, and being described as follows, to-wit:

All of the East one-half of the Southeast one-fourth (E/2 of SE/4) of Section 23, Block 40, Township 1-South, T&P Ry. Co. Survey,

which is called Llano Estacado - First Part on a certain map or plat thereof made by O. T. Cheves, Registered Public Surveyor, dated as of July 10, 1965, which is attached hereto, marked Exhibit "X" for purposes of identification, and here referred to and incorporated herein for all purposes, do hereby impress all of the land included in the boundaries of the survey identified as Exhibit "X" hereto with the following restrictions, to-wit:

Article I. Designation of Tracts:

The separate parcels or tracts of land as delineated on Exhibit "X" are hereby adopted, and the reference herein to "tracts" or to a particular "tract" by number shall mean the separate tracts, the boundaries of which are as shown by said Exhibit "X", or a particular tract as identified by the numerical designation assigned thereto as shown by said Exhibit "X", as, for example, "Tract No. 1".

Article II. Street and Alley Easements:

(a) The North thirty (30) feet of the following numbered tracts, to-wit:

Tracts Nos. 13, 14, 15, 16, 32, 33, 34, 35, 36, 49, 50, 51, 52, 65, 66, 67, 68, 81, 82, 83, 84, 100, 101, 102, 103, 104, 117, 118, 119 and 120,

and the South thirty (30) feet of the following numbered tracts, to-wit:

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Tracts Nos. 1, 2, 3, 4, 17, 18, 19, 20, 21, 37, 38, 39,
40, 53, 54, 55, 56, 69, 70, 71, 72, 85, 86, 87,
88, 89, 105, 106, 107, 108, 121, 122, 123 and
124,

and the East forty (40) feet of the following numbered
tracts, to-wit:

Tracts Nos. 1, 16, 17, 36, 37, 52, 53, 68, 69, 84, 85,
104, 105, 120 and 121,

and the West thirty (30) feet of the following numbered
tracts, to-wit:

Tracts Nos. 4, 13, 21, 32, 40, 49, 56, 65, 72, 81, 89,
100, 108, 117 and 124,

are hereby designated as "Street Easements".

(b) The North ten (10) feet of the following
numbered tracts, to-wit:

Tracts Nos. 1, 2, 3, 4, 17, 18, 19, 20, 21, 37, 38, 39,
40, 53, 54, 55, 56, 69, 70, 71, 72, 85, 86, 87,
88, 89, 105, 106, 107, 108, 121, 122, 123 and
124

and the South ten (10) feet of the following numbered
tracts, to-wit:

Tracts Nos. 13, 14, 15, 16, 32, 33, 34, 35, 36, 49, 50,
51, 52, 65, 66, 67, 68, 81, 82, 83, 84, 100,
101, 102, 103, 104, 117, 118, 119 and 120,

are hereby designated as "Alley Easements".

(c) The owners, now and hereafter, of each parcel
or tract of land within the boundaries of the land described
in Exhibit "X" and the other portions of said Section 23, in
common with each other, and their respective heirs, personal
representatives, successors and assigns, and the tenants,
servants, guests, and invitees thereof, in common with said
owners and each other, are hereby granted the perpetual free
and uninterrupted use, liberty, privilege and easement of
passing in and along and across the areas above designated
as "Street Easements" and "Alley Easements" to and from the
several parcels and tracts of land within the boundaries of
the land described in Exhibit "X", and the streets, roads
and alleys now or hereafter adjacent thereto, for any and all
lawful purposes whatsoever, by foot, automobile, vehicles, or
otherwise, but subject nevertheless to the laws, rules, regu-
lations and ordinances of the State of Texas, or any other
governmental agency having jurisdiction lawfully to govern
the use and operation of vehicles and other modes of trans-
portation.

(d) No fences, gates or other obstructions to passage along, over, across and through the areas above designated as "Street Easements" and "Alley Easements" shall ever be constructed or suffered to remain within, across or upon such areas.

(e) Companies, municipalities and governmental agencies providing gas, electricity, telephone, water, sewers, and other utilities or services to the public generally, with or without charges therefor, shall have the right to construct, reconstruct, maintain and remove pipelines, electric lines, poles and other structures and facilities incident to the furnishing of such services within the boundaries of the areas designated above as "Street Easements" and "Alley Easements", subject to the limitation that all such pipelines shall be buried beneath the ground and that all such facilities shall be located so as not to hamper, impede or constitute a hazard to passage along such areas for the purposes and by the means specified in (c) of this Article II.

(f) Nothing herein contained shall be construed or deemed to prohibit the paving, surfacing, blading, grading or other improvement of the areas designated herein as "Street Easements" and "Alley Easements" by the owners of the land described in Exhibit "X" hereto or by any municipality or other governmental agencies, and nothing herein contained shall be construed or deemed to prohibit or impair to any extent the assessment, as provided by law, of the property adjacent to said areas whenever such improvements are made, or caused to be made, by any municipality or other governmental agency.

(g) Nothing herein contained shall be construed or deemed to prohibit the owner or owners, now or hereafter, of a Tract or Tracts which are subject to one or more Street Easements or Alley Easements from dedicating the same, or any part or portion thereof, to the public for use as a street or streets, and as an alley or alleys, and any such dedication to the public may be made, and shall be effective for all purposes, without the consent, approval or joinder therein of the owners of other Tracts which do not adjoin or abut the portions of said easements being so dedicated to the public.

Article III. Drill Sites:

(a) The following numbered tracts, to-wit:

First Drill Site:

Tracts Nos. 19 and 34

Second Drill Site:

Tracts Nos. 87 and 102

are hereby designated as "Drill Sites".

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(b) The owners, now and hereafter, of each parcel or tract of land within the boundaries of the land described in Exhibit "X", in common with each other, and their respective tenants, heirs, personal representatives, successors and assigns, shall have the right to use the areas designated herein as "Drill Sites" for parks and recreation areas subject only to the prior and superior rights of the owners of the oil, gas and other minerals, their heirs, personal representatives, successors and assigns, to use the area of each such Drill Site having a radius of 150 feet around the center point (being the point on the common boundary line between the two adjacent tracts comprising a Drill Site which is equidistant from the East and West boundary lines thereof) of each of the two adjacent tracts which comprise a separate Drill Site to use the same for the purpose of drilling for, producing, storing, treating and marketing oil, gas and other minerals.

(c) The owners of the oil, gas and other minerals, and their heirs, successors, personal representatives and assigns, and their employees, servants, contractors and invitees, shall have the right of ingress and egress to and from the Drill Sites by means of the areas designated herein as "Street Easements" and "Alley Easements", together with the right to construct, maintain, replace, repair and remove underground pipelines for the purpose of transporting oil, gas, water and other minerals and to construct, maintain, replace, repair and remove electric lines and other structures to provide electricity and other sources of energy for operations carried on by them within said Drill Sites.

Article IV. Building Restrictions:

(a) Any tract shown on Exhibit "X" may be further divided into lots, subject to the limitation that each such lot shall contain not less than the following number of square feet of surface area, to-wit:

10,000 square feet,

exclusive of the number of square feet thereof included within the areas designated herein as the "Street Easement" and "Alley Easement", and subject to the further limitation that such lots into which a tract may be divided shall be rectangular in shape and shall be created with boundary lines parallel to the East and West boundary lines of the tract.

(b) Each tract, and the lots into which each tract may be further divided, shall be used only for residential purposes, with the exception of the tracts designated herein as Drill Sites, and with the exception of

Tracts Nos. 1, 2, 3 and 4; all tracts, except the tracts designated as Drill Sites and Tracts Nos. 1 to 4 inclusive being herein referred to as "Residential Tracts".

(c) No buildings, other than single family dwellings, shall be erected, altered, placed or permitted to remain on Residential Tracts, together with the out buildings used in connection therewith. The term "out buildings" shall include only garages, attached or detached, car ports, and similar storage for not more than three automobiles, pump houses, stables and other buildings for domestic animals and pets, children's play houses, shelter houses, game rooms, servant quarters, and structures of a similar nature for the convenience and pleasure of the occupants of the main dwelling and which are not incident to any commercial enterprise, business or profession.

(d) The ground floor area of each dwelling house on Residential Tracts shall be not less than 1,200 square feet, exclusive of garages, car ports and open porches or terraces, and not less than sixty per cent (60%) of the exterior walls, exclusive of doors, windows and gable ends of roofs of each such dwelling house, shall be of masonry construction.

(e) Each dwelling house on a Residential Tract shall set back twenty-five (25) feet, and each out building shall set back fifty-five (55) feet, from the area included in any Street Easements on the North or South side of the tract, and shall set back five (5) feet or more from any Street Easement on the East or West boundary of the tract. Each dwelling house on a Residential Tract shall face toward the area of the tract on the North or South side thereof designated as a "Street Easement", and shall set back five (5) feet or more from the East or West boundary lines of the tract, or of any lot into which the tract may be further divided. For the purposes of this paragraph (e), eaves, steps and open porches shall not be considered as a part of the buildings; provided, however, that this shall not be construed to permit any portion of a building to encroach upon, or overhang, any other tract, or a lot into which a tract may have been divided.

(f) No hogs, swine or goats shall be raised, bred or kept on any Residential Tract. Other animals and livestock may be kept, bred or maintained thereon for pleasure and for other non-commercial purposes.

(g) No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be used on any Residential Tract at any time as a residence, either temporarily or permanently.

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(h) No existing house or structure may be moved upon any Residential Tract; provided, that this restriction shall not apply to new pre-cut or prefabricated structures or temporary sales offices.

(i) No building shall be erected, placed, or altered on any Residential Tract until the construction plans and specifications and a plan showing the location of the structure has been approved by the architectural control committee. The architectural control committee shall, within the other provisions of these restrictive covenants, attempt to achieve a harmony of external design with other structures and dwellings already existing and shall not approve any plan which, in its sole discretion, would diminish the value of existing structures or hamper the further development and improvement of other Residential Tracts. The architectural control committee shall consist of D. H. Thomason and Fred Porter and another individual selected by them. If any member of the committee dies or resigns, the remaining two members thereof shall appoint a successor to the deceased or resigned member. The members of the committee shall from time to time designate an office or address at which plans may be submitted and, as a matter of convenience to the public, shall deposit with the Trust Department of The Midland National Bank a record of such address. The members of the committee shall serve without compensation, and shall discharge their duties in a reasonable and fair manner, having due regard to the rights of all owners of Residential Tracts, or parts thereof, and the approval of plans shall not be unreasonably withheld or delayed. The action of the committee in approving or disapproving plans shall be evidenced by a written statement, certified to by one of the members of the committee. Whenever any plans are submitted to the committee for approval and the plans are not acted upon within ten (10) days after the delivery thereof to the committee, it shall be considered for all purposes that the plans have been approved; provided, that the plans otherwise comply with the provisions of these restrictive covenants.

(j) No water well shall be drilled nearer than five (5) feet from the boundary of any tract or lot into which a tract may be further divided, and all water wells shall be cased from the surface to the water formation.

(k) No cesspools shall be constructed or used on any tract. All septic tanks and the absorption fields in connection therewith shall comply with the minimum requirements then in effect for septic tanks and absorption fields in connection therewith which have been prescribed by the Federal Housing Administration, or any agency which is the successor thereto, or by the Health Department of the State of Texas, whichever is the lesser requirement.

Article V. Commercial Sites:

Tracts Nos. 1, 2, 3, and 4 are hereby designated as commercial sites, and the owners hereby reserve the right from time to time to designate and redesignate the uses which may be made of said Tracts, as well as the types of structures to be constructed thereon, subject to the limitation that said Tracts shall never be used for wrecking yards, junk yards, second hand stores, heavy industry, refineries, stock yards, slaughter houses, cattle or other livestock feeding pens, auction yards, or any other business, trade or occupation of a similar nature.

Article VI. General Provisions:

(a) The terms and provisions hereof are hereby declared to be covenants running with the land above described and shall be fully binding upon Owners and their respective successors and assigns, and upon all persons acquiring said property, or any tract, part, or parcel thereof, whether by descent, devise, purchase or otherwise, and Owners and all such other persons shall abide by and fully perform the restrictions and covenants herein contained.

(b) All of the terms and provisions hereof, except the provisions of Articles IV and V hereof, shall be permanent and perpetual, unless and until changed or amended by all of the parties who own the land covered hereby. The provisions of Articles IV and V hereof shall continue in full force and effect and shall be binding for a term of twenty (20) years from and after the date hereof. At the expiration of said twenty-year period, the terms and provisions of Articles IV and V hereof shall be automatically extended for successive periods of ten (10) years each unless and until an instrument in the form of a deed and duly acknowledged is executed by a majority in number of the persons who are then the owners of the lands covered hereby agreeing to the abatement of such restrictive covenants or the amendments thereof.

(c) If any person or persons shall violate or attempt to violate any of the restrictions and covenants herein contained, it shall be lawful for any person or persons owning any tract or portion thereof to prosecute proceedings at law or in equity against the person violating or attempting to violate any such restriction and covenant, either to prevent the commission thereof, or to correct or abate such violation, or to recover damages or other relief for such violation.

(d) Invalidity of any one or any part of these restrictions by judgment or court order shall in nowise affect any other provisions or parts of provisions which shall

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remain in full force and effect.

WITNESS THE EXECUTION HEREOF as of the 3rd day of
September, 1965.

D. H. THOMASON

Fred Porter
FRED PORTER

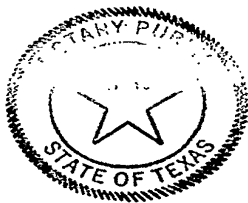
"OWNERS"

THE STATE OF TEXAS X

COUNTY OF MIDLAND X

BEFORE ME, the undersigned, a Notary Public in
and for said County and State, on this day personally ap-
peared D. H. THOMASON and FRED PORTER, both known to me
to be the persons whose names are subscribed to the fore-
going instrument, and acknowledged to me that they each
executed the same for the purposes and consideration
therein expressed, and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this
the 3rd day of November 1981.



BECKY WATZL
My Commission Expires: April 8, 1985

Becky Watzl
Notary Public in and for
Midland County, Texas

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Filed for Record on the 11 day of November A.D. 1981, at 10.05'clock AM.

Duly Recorded this the 11 day of November A.D. 1981, at 3.00'clock PM.

INSTRUMENT NO. 22513

ROSENELLE CHERRY, COUNTY CLERK
MIDLAND COUNTY, TEXAS

By Gilene Jarr, Deputy
