VOL 857 PAGE 622

DEEDS

348677

APRIL SOUND, SECTION SEVEN

RESERVATIONS, RESTRICTIONS AND COVENANTS

STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MONTGOMERY)

That Southwestern Savings Association (hereinafter called "Developer") being the owner of that certain tract of land which has heretofore been platted into that certain subdivision known as "April Sound, Section Seven" according to the plat of said subdivision recorded in the Office of the County Clerk of Montgomery County, Texas, on the 12th day of June, 1974, after having been approved as provided by law, and being recorded in Volume 12, Page 39, of the Map Records of Montgomery County, Texas, and desiring to create and carry out a uniform plan and scheme for the improvement, development and sale of property in said April Sound, Section Seven (hereinafter referred to as the "Subdivision"), does hereby adopt, establish, promulgate and impress the following Reservations, Restrictions and Covenants, which shall be and are hereby made applicable to the Subdivision; except that notwithstanding anything to the contrary contained herein, these reservations, restrictions and covenants shall not apply in any manner to that property platted as Block 15 of this Section and such property shall be unrestricted and unaffected by this instrument.

I.

General Provisions

1.01. Each Contract, Deed or Deed of Trust which may be hereinafter executed with respect to any property in the Subdivision shall be deemed and held to have been executed, delivered and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed or Deed of Trust, and whether or not referred to in any such instrument.

1.02. The utility easements, Common Areas and building set back lines shown on the plat referred to above are dedicated subject to the reservations hereinafter set forth.

1.03.

(a) The utility easements shown on the recorded plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Montgomery County, Texas, as well as for the benefit of the Developer and the property owners in the Subdivision to allow for the construction, repair, maintenance

and operation of a system or systems of electric light and power, telephone lines, gas, water, sanitary sewers, storm sewers and any other utility or service which the Developer may find necessary or proper.

(b) The title conveyed to any property in the Subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities constructed by the Developer or public utility companies upon, under, along, across or through such public utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to the Developer, its successors and assigns.

(c) The right to sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the Developer.

(d) The Developer reserves the right to make minor changes in and minor additions to such utility easements for the purpose of more efficiently serving the Subdivision or any property therein.

(e) When necessary or convenient for the installation of any utility system or systems, the Developer or any utility company making such installation in utility easements dedicated on the above mentioned plat or dedicated herein or hereafter created in the Subdivision, may, without liability to the owner of the land encumbered by such utility easements, remove all or any trees and other vegetation within the utility easements. When necessary or desirable for the maintenance of such utility system or systems, Developer or a utility company may trim trees and shrubbery or roots thereof which overhang or encroach into such easements, without liability to the owner of such shrubbery or trees.

Duration

1.04. The provisions hereof, including the Reservations, Restrictions and Covenants herein set forth, shall run with the land and shall be binding upon the Developer, its successors and assigns, and all persons or parties claiming under it or them for a period of thirty-five (35) years from the date hereof, at which time all of such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of the initial period of thirty-five (35) years or a successive period of ten (10) years, the then owners of a majority of lots in the Subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such particular period be the aforesaid thirty-five (35) year period or any successive ten (10) year period thereafter.

Enforcement

1.05. In the event of any violation or attempted violation of any of the provisions hereof, including any of the Reservations, Restrictions or Covenants herein contained, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. It shall be lawful for the Developer or for any person or persons owning property in the Subdivision (or in any other Section of April Sound) to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of such provisions.

Partial Invalidity

1.06. In the event that any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision

or otherwise, such partial invalidity shall not affect, alter or impair any other provision hereof which was not thereby held invalid; and such other provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

Effect of Violations on Mortgagees

1.07. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any Mortgage or Deed of Trust presently or hereafter placed of record or otherwise affect the rights of the Mortgagee under any such Mortgage, holder of any such lien or beneficiary of any such Deed of Trust; and any such Mortgage, lien or Deed of Trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained, including said Reservations, Restrictions and Covenants.

II.

Architectural Control

Basic Rule

2.01.

(a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made thereto or exterior alteration made therein after original construction, on any property in the Subdivision until the approval of the Architectural Control Authority (as hereinafter provided) of the construction plans and specifications or other improvements has been obtained. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, harmony of external design with existing and proposed structures and location with respect to topography and finished grade elevation.

Patio Architect

2.02.

(a) Developer will designate an architect (hereinafter referred to as the "Patio Architect") who will have full authority to grant or deny preliminary approval of designs and construction plans and specifications with respect to all structures to be erected, constructed or altered on Patio Lots and Townhouse Lots (as herein defined). Any property owner may have his building designed by an architect of his choice, provided, however, that the plans and specifications developed by the property owner's architect shall, prior to any construction work, be submitted for approval to the Patio Architect and the Patio Architect shall have final authority to alter, amend or re-design owner's structure if necessary in order to conform to the provisions hereof or to provide a harmonious development of the Patio or Townhouse clusters. Each property owner shall bear the Patio Architect's fee, and Developer shall in no way be responsible therefor. Developer shall have the power, from time to time, to discharge any architect or architects who have been appointed Patio Architect and to appoint successors who shall succeed to all of the authority of the Patio Architect previously serving.

2.02.

(b) It is the intent of the Developer to provide an orderly pattern of building within each block of Townhouse Lots and Patio Lots in the Subdivision in order to make the construction of improvements therein as easy, inexpensive and as æsthetically attractive as practicable. In order to carry out this intent, Townhouse Lots and Patio Lots will be sold only by instrument which provides that the Developer will convey to each purchaser a lot within a designated block of the Subdivision, such lot to be designated by Seller when the full consideration therefore has been paid by the purchaser; when electrical, gas, water and sewer utilities and streets are completed to the designated block; and when the purchaser has demonstrated to the satisfaction of Developer that the purchaser is ready, willing and able to commence construction upon the lots so conveyed. Without limiting the discretion of the Developer, it is the Developer's intent that, in the case of the first purchaser to show himself entitled to a conveyance of a lot in each block, the Developer will designate and convey to the purchaser the lot on either end of that particular block requested by such purchaser. In the case of all other purchasers within the same block, the Developer will designate and convey to purchaser the lot adjacent to a lot already conveyed by the Developer. Without limiting Developer's discretion, evidence that a purchaser is ready, willing and able to commence construction of a dwelling upon either a Patio Lot or Townhouse Lot shall include purchaser submitting to Developer completed plans and specifications for the construction of a dwelling, which plans and specifications have been approved by the Architectural Control Authority provided for herein; an executed contract with a builder who is capable of the construction of a dwelling as called for by the plans and specifications and a commitment for such financing (either interim construction financing, permit financing, or both) will be necessary for the purchaser to prosecute to completion the construction of the improvements as called for in the plans and specifications.

(c) The owner of a Patio Lot or Townhouse Lot who desires to commence the process of designing and acquiring architectural control approval of improvements to be located on his lot may so notify the Patio Architect whereupon the Patio Architect will make a preliminary designation of the lot which would be conveyed to such owner pursuant to the provisions of Subsection (b) of this Section 2.02 above and, upon the immediate commencement of design work, Developer shall refrain from designating such lot to any other person for a period of thirty (30) days and for such additional period as such owner is diligently proceeding with the design and submission for architectural approval of plans for improvements upon such lot.

(d) As soon as reasonably possible after Developer designates tentatively which lot may be conveyed to such Lot Owner, Lot Owner shall submit to the Patio Architect for preliminary approval of the design concept of the improvements which the Lot Owner proposes to construct, a land lay-out and a rough

elevation of the front and rear of such proposed improvements showing the relation of such improvements to existing structures, if any, on adjacent lots. The Patio Architect shall consider such lay-outs and elevations and make a tentative approval or disapproval of the design concept within a period of thirty (30) days. Failure of the Patio Architect to give approval or disapproval within such period shall be deemed to be approval of such preliminary plans and the preliminary design concept shown thereon.

(e) As soon as reasonably possible after the preliminary approval of the design concept by the Patio Architect, final plans and specifications shall be prepared and submitted to the Patio Architect for preliminary approval. The Patio Architect shall consider such plans and specifications and approve or disapprove such plans and specifications within a period of thirty (30) days after they are submitted to him. Failure to approve or disapprove such plans within such period shall be deemed to be preliminary approval thereof.

(f) In the event that such plans and specifications have been approved by the Patio Architect, such plans and specifications shall be submitted to the Architectural Control Authority in the same manner provided herein for the erection of all other improvements within the Subdivision. Without limiting the authority of the Architectural Control Committee or waiving the necessity for approval of the Architectural Control Authority, it is the intent of Developer that the approval of plans and specifications by the Patio Architect shall be tantamount to approval of plans and specifications by the Architectural Control Authority, except in the exceptional case in which good cause exists for disapproval of such plans and specifications.

(g) Prior to the completion of construction of improvements on each lot, the instruments by which all Patio Lots and Townhouse Lots are conveyed shall provide for a termination of the estate therein granted to the Lot Owner and a revesting of such estate in the seller of such lot in the event that construction of improvements has not commenced to the stage of a completed foundation within sixty (60) days of such conveyance. In the event that such stage of construction is not reached within sixty (60) days of such conveyance, approval of the Patio Architect and the Architectural Control Authority shall be and be deemed to be revoked and the provisions of this Section 2.02 shall again be applicable to such lot.

Architectural Control Authority

2.03.

(a) The authority to grant or withhold architectural control approval as referred to above is vested in the Architectural Control Authority (herein sometimes referred to as the "Authority"), which Authority shall be the Developer; except, however, that such authority of the Developer shall cease and terminate upon the election of the April Sound Architectural Control Committee, in which event such authority shall be vested in and exercised by the April Sound Architectural Control Committee (as provided in (b) below), hereinafter referred to, except as to plans and specifications and plats theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plats.

(b) Each application made to the Architectural Control Authority (whether Developer or Architectural Control Committee) shall be accompanied by two sets of plans and specifications for all proposed construction to be done on such lot including plot plans showing the location on the lot and dimensions of all proposed walls, driveways, curb cuts and all other matters relevant to architectural approval.

(c) The Architectural Control Authority (whether Developer or Architectural Control Committee) shall have the power and authority to create, alter or amend building set-back lines, utility easement lines, and requirements as to design of buildings and materials to be used in the construction thereof for any lot or lots within the Subdivision provided that such authority shall be exercised for the purpose of making the lot or lots so affected useful for the purpose for which they were designed or for the purpose of harmonizing and making esthetically attractive the Subdivision or the neighborhood of the Subdivision in which the lots so affected are located, as such matters may be determined in the good faith judgment of the Architectural Control Authority (whether Developer or Architectural Control Committee).

(d) At such time as all of the lots in the Subdivision and in all other Sections of April Sound (as platted, from time to time, hereafter) shall have been sold by the Developer, then the Developer shall cause a Statement of such circumstances to be placed of record in the Deed Records of Montgomery County, Texas. Thereupon, the lot owners in April Sound may by vote, as hereinafter provided, elect a committee of three (3) members to be known as the April Sound Architectural Control Committee (herein referred to as the "Committee"). Each member of the Committee must be an ower of property in some Section of April Sound. Each lot owner shall be entitled to one (1) vote for each whole lot or building site owned by that owner. In the case of any building site composed of more than one (1) whole lot, such building site owner shall be entitled to one (1) vote for each whole lot contained within such building site.

The Developer shall be obligated to arrange for the holding of such election within sixty (60) days following the filing of the aforesaid Statement by the Developer in the Deed Records of Montgomery County, Texas, and give notice of the time and place of such election (which shall be in Montgomery County, Texas) not less than five (5) days prior to the holding thereof. Nothing herein shall be interpreted to require that the Developer actually file any such Statement so long as it has not subdivided and sold the entirety of the property heretofore or hereafter platted as Sections of "April Sound", nor to affect the time at which the Developer might take such action if, in fact, the Developer does take such action.

Votes of owners shall be evidenced by written ballot furnished by the Developer (or the Committee, after the initial election) and the Developer (or the Committee, after the initial election) shall maintain said ballots as a permanent record of such election for a period of not less than four (4) years after such election. Any owner may appoint a proxy to cast his ballot in such election, provided that his written appointment of such proxy is attached to the ballot as a part thereof.

The results of each such election shall promptly be determined on the basis of the majority of those owners then voting in such election.

The results of any such election and of any removal or replacement of any member of the Committee may be evidenced by the recording of an appropriate instrument properly signed and acknowledged in behalf of the Developer or by a majority of the then property owners voting in such election.

After the first such election shall have been held, thereafter the Committee shall be obligated to arrange for elections (in the manner and after notice as set forth above) for the removal and/or replacement of Committee members when so requested in writing by thirty (30) or more lot owners in the Subdivision. Members of the Committee may, at any time, be relieved of their position and substitute members therefor designated by vote as set forth above.

Upon the death, resignation, refusal or inability of any member of the Committee to serve, the remaining members of the Committee shall fill the vacancy by appointment, pending an election as hereinabove provided for.

If the Committee should fail or refuse to take any action herein provided to be taken by the Committee with respect to setting elections, conducting elections, counting votes, determining results and evidencing such results, or naming successor Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgment of the Developer, then the Developer may validly perform such function).

(e) The members of the Committee shall be entitled to such compensation for services rendered and reimbursement for reasonable expenses incurred as may, from time to time, be authorized or approved by the Developer. All such sums payable as compensation and/or reimbursement shall be payable only out of the "Maintenance Fund", hereinafter referred to.

Effect of Inaction

2.04. Approval or disapproval as to architectural control matters as set forth in the preceding provisions shall be in writing. In the event that the Authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plat submitted to it in compliance with the preceding provisions within thirty (30) days following such submission, such plans and specifications and plat shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plat and all of the other terms and provisions hereof.

Effect of Approval

2.05. The granting of the aforesaid approval shall constitute only an expression of opinion, whether by the Developer or the Committee, that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plat; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plat or in the event that such building and/or improvements are constructed in accordance with such plans and specifications and plat, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Exercise of any such prerogative by one (1) or more members of the Committee in their capacity as such shall not constitute action by the Developer after the election of such Committee members, notwithstanding that any such Committee member may be a Director of the Developer.

III.

Common Areas

3.01. There are shown on the aforesaid recorded plat of April Sound, Section Seven, certain areas designated on the plat as "C.O.A." and called thereon and which are hereby designated "Common Areas". No conveyance of any lot in the Subdivision shall be held or construed to include title to or any right or interest in the Common Areas.

3.02. Developer reserves the right to plan, clear, and landscape all or any such Common Areas; to construct and maintain pathways and access routes for pedestrians thereon; to construct off-street parking in the Common Areas if such parking should ever, in the reasonable opinion of Developer, become desirable to relieve congested streets; and to utilize such tracts generally for doing any other thing necessary or desirable in the opinion of the Developer, directly or indirectly, to maintain or improve the Subdivision. The decision of the Developer with respect to the uses which may be made or permitted from time to time of the Common Areas shall be final, so long as made in good faith. Owners of lots adjacent to such Common Areas may use such Common Areas for ingress and egress, or other purposes which the Developer may from time to time permit; and may, with the prior approval of the Developer, landscape, plant grass, shrubbery or trees and may take action necessary to maintain any grass, shrubbery, trees or improvements located upon the Common Areas to which his property is adjacent so long as such acts do not interfere with the rights reserved to Developer in this paragraph.

3.03. These provisions as to the Common Areas shall continue in effect unless changed in the manner and at the time or times hereinabove provided for effecting changes in the restrictive covenants hereinabove set forth.

IV.

Designation of
Types of Lots

4.01. All lots in Blocks 42 through 84, inclusive, as shown on the recorded plat are hereby designed as "Townhouse Lots".

4.02. All lots in Blocks 4 through 41, inclusive, except Block 15 (which block is not covered by these restrictions in any way), as shown on the recorded plat are hereby designed as "Patio Lots".

4.03. Lots 1, 20 though 29, 49 through 54, and 56 through 72, inclusive of Block 2 and all lots in Block 3 are designated as "Golf Course Lots".

4.04. All lots in Block 1 and all lots in Block 2 not designated as Golf Course Lots are hereby designated as "Town and Country Lots".

V.

General Restrictions

5.01. The exterior materials of all residential structures on all lots shall be of such material as may be approved by the Architectural Control Authority (whether Developer or Architectural Control Committee).

5.02. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood. All lots in the Subdivision shall be used only for residential purposes. For the purpose of this covenant, a lot shall be deemed to be used for residential purposes when it is used to house persons and their belongings, without regard to whether the persons are owners of the property or occupy the lot pursuant to a rental or leasing arrangement. Except for the leasing or renting of any improvements on a lot, no lot in the Subdivision shall be used for any commercial, business or professional purpose nor for church purposes. No tent, house trailer, camper trailer, camper vehicle or motor vehicle (or portion thereof) shall be lived in on any lot.

5.03. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, except that a field office, as hereinafter provided, may be established.

Until the Developer has sold all other lots in April Sound (and during the progress of construction of residences in the Subdivision), a temporary field office for sales and related purposes may be located and maintained by the Developer (and/or other parties authorized by Developer). The location of such field office may be changed, from time to time, as lots are sold. The Developer's right to maintain or allow others to maintain such field office (or permit such field office to be maintained) shall cease when all lots in April Sound except the lot upon which such field office is located, have been sold. No building may be used as a field office without the prior consent of the architectural control authority (whether Developer or Architectural Control Committee).

5.04. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept as household pets provided they are not kept, bred or maintained for commercial purposes and provided they do not constitute a nuisance and do not, in the sole judgment of the Developer constitute a danger or potential or actual disruption of other lot owners, their families or guests.

5.05. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by intersecting street right-of-way lines and a line connecting them at points twenty-five (25) feet from the intersection of the street right-of-way lines (or extensions thereof) shall be placed, planted or permitted to remain on lots.

therewith or arising from such removal nor in any way be liable for any accounting or other claim by reason of the disposition thereof.

5.09. The digging of dirt or the removal of any dirt from any lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on such lot. No trees shall be cut or removed except to provide room for construction of improvements or to remove dead or unsightly trees.

5.10. No outside aerial, pole or other device shall project above the highest ridge of the house by more than fifteen (15) feet.

5.11. No lot or other portion of the Subdivision shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring.

5.12. Driveways shall be entirely of concrete (except however, some other material may be used with the prior permission of the Architectural Control Authority) and shall be constructed with expansion joints not more than twenty (20) feet apart, with one joint at the back of the street curb. The width of each driveway may flair and the curb shall be broken in such manner that the driveway shall be at least four (4) inches thick at its end toward the street paving, and this extreme shall be poured against a horizontal form board to reduce the unsightly appearance of a raveling driveway.

5.13. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any water body. No septic tank or other means of sewage disposal may be installed unless approved by the proper governmental authorities having jurisdiction with respect thereto and the Developer.

5.14. No oil drilling, oil development operations, oil refining, or mining operations of any kind shall be permitted upon any lot, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil, or natural gas, shall be erected, maintained or permitted on any building site. At no time shall the drilling, usage or operation of any water well be permitted on any lot.

5.15. Neither the Developer, nor its successors or assigns, shall be liable for any loss of use of or damage done to any shrubbery, trees, flowers, improvements, bulkheads, piers (or any vessels attached thereto), fences, walls or buildings of any type or the contents thereof on any lot whatsoever in the Subdivision caused by changes in the water level of Lake Conroe.

5.16. For purposes of this instrument, the word "lot" shall not be deemed to include any portion of the following areas shown on the recorded plat: the golf course, the Common Areas, any Unrestricted or Restricted Reserve, and any unrestricted area shown on the plat.

5.17. No building shall be located on any lot nearer to the front line or nearer to any street side line than the minimum building set-back lines shown on the aforesaid plat nor upon or within any portion of any easement. For the purpose of this covenant, eaves, steps and unroofed terraces shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of the construction on a lot to encroach upon another lot.

5.18. Any owner of one or more adjoining lots (or portions thereof) may consolidate such lots or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case side set-back lines (if any) shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building set-back line of not less than the minimum frontage of lots in the same block. Any modification of a building site (changing such building site from either a single lot building site or from a multiple whole lot building site), whether as to size or configuration, may be made only with the prior written approval of the Developer until the Committee is selected and thereafter, only with the prior written approval of the Committee. Upon any such required approval having been obtained, such composite building site shall thereupon be regarded as a "lot" for all purposes hereunder, except, however, that for purposes of voting for the Committee (as provided under Paragraph 2.03 (b) above) an owner shall be entitled to one (1) vote for each whole lot within such owner's building site.

VI.

Special Restrictions - Patio Lots and Townhouse Lots

In addition to the General Restrictions set forth in Article V above, the following restrictions shall be applicable to all Patio Lots and all Townhouse Lots:

6.01. For the purposes of this Paragraph and other provisions of these Restrictions, the "front line" of each Patio Lot and Townhouse Lot (as referred to herein) shall be the shorter side of each lot (recognizing that all Patio and Townhouse Lots are rectangular in shape and have two longer sides and two shorter sides) which is contiguous to a street as shown on the above mentioned plat, unless a deviation from this provision is provided by a specific provision of these Reservations, Restrictions and Covenants, or unless a deviation is approved in writing by the Architectural Control Authority (whether Developer or Architectural Control Committee).

6.02. In the event that any two buildings on Patio Lots or Townhouse Lots share a common wall (the "Party Wall"), then the following provisions shall apply with respect thereto unless the owners of such buildings provide otherwise by a written contract between them which has been approved in writing by the Architectural Control Authority (whether Developer or Architectural Control Committee):

(a) Each wall or fence which is built as part of the construction of the houses upon the building sites and placed on or adjacent to the dividing line between the building sites shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damaged due to negligence or wilful acts or omissions shall apply thereto.

(b) In the event of damage or destruction of a party wall, the cost of reasonable repair and maintenance shall be shared equally by the owners who abut the wall; each party, his successors and assigns, shall have the right to the full use of said wall so repaired or rebuilt. If (other than in the case of damage by fire), either party's negligence or wilful acts shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction; provided, however, that in the case of damage by fire, the party negligently causing such fire (if any) shall be liable only to the extent that such damage is not covered by insurance, and to the extent of insurance proceeds therefor, the other party shall not have any claim against the negligent party, nor shall any insurance carrier have any such claim through assignment, subrogation or otherwise. If either party shall fail or refuse to pay his share, or all of such costs in the case of negligence or wilful act, the other party may have such wall repaired or restored and shall have a lien on the premises of the party so failing to pay, for the amount of such defaulting party's share of the repair or replacement costs (which lien shall be subordinate to any mortgage or Deed of Trust in the same way as that lien created by Section 1.07 hereof).

(c) The right of any owner to contribution from any other owner under this Article shall be appurtenant to the said building site owned by such owner and shall pass to such owner's successors in title.

(d) Neither owner shall alter or change any such party wall in any manner, interior decoration excepted, and said party walls shall always remain in the same location as when erected, and each party to said common or division wall shall have a perpetual easement in that portion of the premises of the abutting owner on which said party wall is located, for party wall purposes.

(e) The easements hereby created are and shall be perpetual and construed as covenants running with the land and each and every person accepting a deed to any building site in said multiple unit shall be deemed to accept said deed with the understanding that each and every purchaser is also bound by the provisions herein contained, and each and every purchaser by accepting a deed to any building site shall thereby consent and agree to be bound by the covenants herein contained to the same extent as though he had executed this instrument.

6.03. In the event that two buildings on Patio Lots or Townhouse Lots share a common wall (the "Party Wall"), then the Patio Architect or the Architectural Control Authority may require that such wall be constructed of such fire-resistant materials as may be deemed necessary or desirable in his judgment or in order to comply with any federal, state or local building regulation or code; provided, however, that no owner of any Patio Lot shall be required to construct or pay for more than one Party Wall to be constructed of such fireproof materials.

6.04. Each lot and the Common Areas shall be subject to a temporary easement for ingress, egress and encroachments and overhangs during and in connection with the construction of improvements on adjacent property, and a permanent easement for minor encroachments due to the settling of structures erected on an adjacent lot.

6.05. The improvements erected on each Patio Lot and each Townhouse Lot shall provide for the off-street parking of at least two (2) automobiles.

VII.

Special Restrictions - Patio Lots

In addition to the general restrictions set forth in Article V above and in addition to the special restrictions set forth in Article VI above, the following restrictions shall be applicable to all Patio Lots:

7.01. No building shall be erected, altered or permitted to remain on any Patio Lot other than one (1) single-family residential dwelling not to exceed two (2) stories in

height and a private garage (or other covered car parking facility) for not more than three (3) automobiles.

7.02. The living area of the structure (exclusive of porches, whether open or screened, garage or other car parking facility, terraces and driveways) shall be not less than 1,200 square feet.

7.03. In the event the two (2) buildings on Patio Lots are so closely adjacent that the Patio Architect or the Architectural Control Authority reasonably believes that a fire in one might endanger the other, the Patio Architect or the Architectural Control Committee may require that such walls be constructed of such fire-resistant materials and/or designed in such manner as will be necessary or desirable to prevent the destruction of property or in order to comply with any federal, state or local building regulation or code. Without limiting the discretion of the Patio Architect or the Architectural Control Authority, it is now intended that walls which are at least three but less than five feet apart will not be required to be constructed of fire-resistant materials but may have no windows or other openings therein and walls which are five feet or more apart shall not be required to be constructed of any fire resistant material and may have such windows or openings as may be appropriate to the design of the structure.

VIII.

Special Restrictions - Townhouse Lots

In addition to the general restrictions set forth in Article V above and the special restrictions set forth in Article VI above, the following restrictions shall be applicable to all Townhouse Lots:

8.01. No building shall be erected, altered or permitted to remain on any Townhouse Lot other than one (1) single family residential dwelling not to exceed two (2) stories in height and a private garage (or other covered car parking facility) for not more than three (3) automobiles.

8.02. The living area of the structure (exclusive of porches, whether open or screened, garages or other car parking facilities, terraces or driveways) shall not be less than 1,000 square feet.

8.03. The exterior walls of the living areas of all structures built on Townhouse Lots shall be contiguous and parallel with the side property lines (on both sides) of all Townhouse Lots.

IX.

Special Restrictions - Golf Course or Town and Country Lots

In addition to the general restrictions set forth in Article V above, the following restrictions shall be applicable to all Golf Course and Town and Country Lots:

9.01. Notwithstanding the provisions of Section 5.17 hereinabove, no building shall be located nearer than five feet (5') to an interior side lot line except that in an attached

garage or other permitted accessory building located forty feet (40') or more from the front lot line may be a minimum distance of three feet (3') from an interior side lot line. For the purposes of this paragraph other provisions of these restrictions, the "front line" of Golf Course and Town and Country Lots shall be the common boundary of such lot with a street and in the case of a corner lot (with a common boundary on two streets), the shorter of such boundaries.

9.02. The following restrictions shall apply to Golf Course Lots:

(a) Only underground electric service shall be available for said lots and no above surface electric service wires will be installed outside of any structure. Underground electric service lines shall extend through and under said lots in order to serve any structure thereon, and the area above said underground lines and extending two and one-half feet to each side of said underground lines shall be subject to excavation, refilling and ingress and egress for the installation, inspection, repair, replacement or removing of said underground facilities; owners of said lots shall ascertain the location of said lines and keep the area over the route of said lines free and clear of any structures, trees or other obstructions.

(b) No wall, fence, planter hedge (or other improvement or object serving a like or similar purpose) shall be constructed or permitted without the prior written consent of the Architectural Control Authority. In no event shall any of the aforesaid be approved along or near any lot line.

(c) Any garage must be attached to the main residence and must be not nearer to the common boundary separating such lot from the Golf Course than twenty feet (20').

9.03. No building shall be erected altered or permitted to remain on any Golf Course or Town and Country Lot other than one (1) detached single-family residential dwelling not to exceed two (2) stories in height and a private garage (or other covered car parking facility) for not more than three (3) automobiles and other than bona fide servants' quarters; provided however, that the servants' quarters structure shall not exceed the main dwelling in area, height or number of stories.

9.04. The living area of the main residential structure (exclusive of porches, whether open or screened, garage or other car parking facility, terraces, driveways and servants' quarters) shall be not less than 1,200 square feet for a one-story dwelling; 1,800 square feet for a two-story dwelling, with 1,000 square feet thereof on the first floor. The Architectural Control Authority may approve a deviation or waiver of this provision if the minimum floor area for the first level as set out above is impractical, unreasonable or causes unusual construction problems because of the terrain of the particular lot. The exterior materials of the main residential structure and any attached garage (or other attached car-parking facility) on all lots shall not be less than fifty-one percent (51%) masonry, unless a deviation or waiver of this provision is granted by the Architectural Control Authority. A detached garage (or other car parking facility) may be of wood.

9.05. All houses built on Golf Course Lots or Town and Country Lots shall face the front line of the lot on which such house is built unless a deviation of this provision is provided by a specific provision of these reservations, restrictions and covenants or unless a deviation is approved by the Architectural Control Authority (whether Developer or Architectural Control Committee).

X.

Maintenance Fund

10.01. Each lot (or residential building site) in the Subdivision shall be and is hereby made subject to an annual Maintenance Charge, except as otherwise hereinafter provided.

10.02. The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund", which shall be used as herein provided and such charge shall also include amounts relating to certain recreational facilities in April Sound; and each

such Maintenance Charge shall (except as otherwise hereinafter provided) be paid by the owner of each lot (or residential building site) to April Sound Recreational Corporation, a Texas corporation (hereinafter referred to as the "Recreational Corp."), monthly, in advance, on or before the first day of each calendar month, beginning with the first day of the second full calendar month after the date of purchase of the lot or residential building site.

10.03. The exact amount of each maintenance charge will be determined by the Developer during the month preceding the due date of said maintenance charge. All other matters relating to the assessment, collection, expenditure and administration of the Maintenance Fund shall be determined by the Developer, subject to the provisions hereof.

In addition to the maintenance charge herein referred to, each lot shall be subject to a monthly charge for street lighting services, beginning on the date on which street lighting is extended to the street adjoining each lot (or to the street adjoining the access easement of those lots which have no adjoining street). Such charge will be included in the monthly bill for residential electric services from Gulf States Utilities Company to each lot owner and shall be in addition to all other charges which such lot owner may incur for electric service. The exact amount of the street lighting charge will be determined by Gulf States Utilities Company.

In the event that Developer and a Municipal Utility District should so contract for the benefit of the said Utility District, in addition to the maintenance charge herein referred to, each lot shall also be subject to a monthly utility charge of Five and No/100 Dollars ($5.00) and payable to the said Municipal Utility District commencing on the first day of the first calendar month following the month in which a waterline and a sanitary sewer line are extended by such Municipal Utility District to a property line of the subject lot and terminating upon the completion of the construction of a residence on such lot and the connection of such residence to such waterline and sanitary sewer line. Developer, at its election, may require the payment of such utility charge annually in advance, subject to a prorata rebate in the event that a residence is completed during such year. Payment of the aforesaid street lighting charge and the aforesaid utility charge are and shall be secured by the same lien which secures the maintenance charge. The Developer shall have the right, at its option, to contract with Gulf States Utilities Company or the said Utility District or both to collect the maintenance charges, street lighting charges and/or utility charges herein imposed and in connection therewith may assign the lien securing payment thereof to either or both of said entities for the period of said contract.

10.04. The maintenance charge shall not, without the consent of the Developer, apply to lots owned by the Developer or owned by any person, firm, association or corporation engaged primarily in the building and construction business which has acquired title to any such lots for the sole purpose of constructing improvements thereon and thereafter selling such lots; however, upon any such sale of such lots by such person, firm, association or corporation to a purchaser whose primary purpose is to occupy and/or rent and/or lease such lot (and improvements thereon, if any) to some other occupant, then

the maintenance charge shall thereupon be applicable to such lot; and the Developer hereby consents to the applicability of the maintenance charge to each such lot under the circumstances herein stated. Any transfer of title to any lot by any such person, firm, association or corporation engaged primarily in the building and construction business shall not result in the applicability of the maintenance charge to such lot owned by the transferee or any succeeding transferee primarily engaged in the building and construction business without the consent of the Developer. The Developer reserves the right at all times, in its own judgment and discretion, to exempt any lot in the Subdivision from the maintenance charge, and exercise of such judgment and discretion when made in good faith shall be binding and conclusive on all persons and interests. The Developer shall have the further right at any time, and from time to time, to adjust, alter or waive said maintenance charge from year to year as it deems proper; and the Developer shall have the right at any time to discontinue or abandon such maintenance charge, without incurring liability to any person whomsoever by filing a written instrument in the office of the County Clerk of Montgomery County, Texas, declaring any such discontinuance or abandonment.

10.05. The maintenance charges collected shall be paid into the Maintenance Fund to be held and used for the benefit, directly or indirectly, of the Subdivision; and such Maintenance Fund may be expended by the Developer for any purposes which, in the judgment of the Developer will tend to maintain the property values in the Subdivision, including, but not by way of limitation: providing for the enforcement of the provisions of this instrument, including the aforesaid Reservations, Restrictions and Covenants, reasonable compensation and reimbursement to the Developer and members of the Committee with respect to services performed by such Developer and Committee members incident to their duties hereunder; for the maintenance, operation, repair, benefit and welfare of any recreational facilities which might hereafter be established in April Sound; and generally for doing any other thing necessary or desirable in the opinion of the Developer to maintain or improve the property of the Subdivision. The use of the Maintenance Fund for any of these purposes is permissive and not mandatory, and the decision of the Developer with respect thereto shall be final, so long as made in good faith.

10.06. In order to secure the payment of the Maintenance Charge hereby levied, a vendor's lien shall be and is hereby reserved in the Deed from the Developer to the purchaser of each lot or portion thereof, which lien shall be enforceable through appropriate judicial proceedings by the Developer. Said lien shall be deemed subordinate to the lien or liens of any bank, insurance company or savings and loan association ("Institutional Lender") which hereafter lends money for the purchase of any property in the Subdivision, and/or for construction (including improvements) and/or permanent financing of improvements on any such property.

10.07. These provisions as to the Maintenance Charge and Maintenance Fund shall continue in effect unless changed in the manner and at the time or times hereinabove provided for effecting changes in the restrictive covenants hereinabove set forth.

10.08.

(a) There shall be included in the Maintenance Charge levied upon each lot a sum to be determined by the Board of Trustees of April Sound Property Owners Assocation (such sum is hereinafter referred to as the "property charge") and a sum to be determined by the Board of Trustees of April Sound County Club (such sum is hereinafter referred to as the "recreational charge). The Recreational Corp. may add such additional sum to the Maintenance Charge as in its judgment is necessary to carry out the objectives for which the Maintenance Charge is to be used and such additional sum shall be deemed to be part of the "recreational charge". The Maintenance Charge shall be paid to the Recreational Corp. at the times and in the amounts set forth herein, and the Recreational Corp. shall distribute the Maintenance Charge payments to the Maintenance Fund, the April Sound Country Club, the owner of the recreational facilities in April Sound, and other entities entitled thereto. The recreational charge shall be secured by the lien referred to in paragraph 7.06 hereof.

(b) The owner of each lot, the Maintenance Charge on which is current and not delinquent, shall be a member in good standing, for the particular month for which such charge is current as aforesaid, of the April Sound Social Club as that club is organized pursuant to the by-laws of the April Sound Country Club, and shall, subject to good behavior and compliance by the owner with provisions of the by-laws, rules and regulations applicable to such facilities, be entitled to entry into the club house (including its dining room facilities) and use of the swimming pool, use of the launching facilities at the marina, use of bridle trails, and use of such other facilities as may from time to time be designated by the Recreational Corp. Unless and until otherwise determined by the Recreational Corp., neither membership in the April Sound Social Club nor payment of the property charge nor recreation charge nor any other term or provision of these Restrictions shall entitle the property owner to use the golf course, tennis center or any other recreational facility except as expressly stated above. The Recreational Corp. may make reasonable charges for storage of boats at the marina, and stabling of horses at the equestrian center.

10.09. Without limiting the right of the Board of Directors of the April Sound Recreation Corporation to determine and assess the exact amount of the Maintenance Charge and Recreational Charge, it is contemplated that the initial Maintenance Charge (including the Recreational Charge) shall be Twelve Dollars ($12.00) per month.

10.10. The Board of Directors of the April Sound Recreational Corporation may, at its own discretion, admit to membership persons other than owners of property in April Sound, Section Four, upon the payment of admission fees and monthly dues as determined by the Board of Directors. The Board of Directors of April Sound Recreational Corporation may create such other clubs within April Sound Recreational Corporation as they might deem desirable, and may charge a membership fee and monthly dues to the members of such clubs, whether such members are property owners or not.

XI.

Common Area Maintenance Fund

11.01. Each Patio Lot and Townhouse Lot in April Sound, Section Seven, shall, in addition to the maintenance charge referred to in Article X. above, be and is hereby made subject to an annual Common Area Maintenance Charge, except as otherwise hereinafter provided.

11.02. The Common Area Maintenance Charge referred to above shall be used to create a fund to be known as the "Common Area Maintenance Fund", which shall be paid monthly, in advance, on or before the first day of each calendar month, beginning with the first day of the second full calendar month after the date of the purchase of the lot or residential building site.

11.03. The exact amount of the Common Area Maintenance Charge will be determined by the Developer during the month preceding the due date of said Maintenance Charge. All other matters relating to the assessment, collection, expenditure and administration of the Common Area Maintenance Fund shall be determined by the Developer, subject to the provisions hereof. In the event that any streets in the subdivision are dedicated to the public and maintenance is assumed by Montgomery County or any other governmental authority but other streets in the subdivision are not so dedicated or maintenance thereof is not so assumed (which streets are herein called "Private Streets"), there shall be included in the Common Area Maintenance Charge levied upon each lot a sum to be determined by the Board of Trustees of the April Sound Property Owners Association (which sum is hereinafter referred to as the "Street Maintenance Charge"), which shall be used to create a fund to be known as the "Street Maintenance Fund" to be used for maintenance, repair and repaving of such Private Streets and as herein provided. Developer may add such additional sums to the Common Area Maintenance Charge as in its judgment is necessary to carry out the objectives for which the Common Area Maintenance Charge is to be used. The Common Area Maintenance Charge (including the Street Maintenance Charge and the sum established by Developer) shall be paid to the Developer at the times and in the amounts set forth herein, and the Developer shall distribute the Common Area Maintenance Charge payments to the Street Maintenance Fund, the April Sound Property Owners Association or other entities entitled thereto.

11.04. The Common Area Maintenance Charge shall not, without the consent of the Developer, apply to lots owned by the Developer or owned by any person, firm, association or corporation engaged primarily in the building and construction business which has acquired title to any such lots for the sole purpose of constructing improvements thereon and thereafter selling such lots; however, upon any such sale of such lots by such person, firm, association or corporation to a purchaser whose primary purpose is to occupy and/or rent and/or lease such

lot (and improvements thereon, if any) to some other occupant, then the Common Area Maintenance Charge shall thereupon be applicable to such lot; and the Developer hereby consents to the applicability of the Common Area Maintenance Charge to each such lot under the circumstances herein stated. Any transfer of title to any lot by any such person, firm, association or corporation engaged primarily in the building and construction business shall not result in the applicability of the Common Area Maintenance Charge to such lot owned by the transferee or any succeeding transferee primarily engaged in the building and construction business without the consent of the Developer. The Developer reserves the right at all times, in its own judgment and discretion, to exempt any lot in the Subdivision from the Common Area Maintenance Charge, and exercise of such judgment and discretion when made in good faith shall be binding and conclusive on all persons and interests. The Developer shall have the further right at any time, and from time to time, to adjust, alter or waive said Common Area Maintenance Charge from year to year as it deems proper; and the Developer shall have the right at any time to discontinue or abandon such Common Area Maintenance Charge, without incurring liability to any person whomsoever by filing a written instrument in the office of the County Clerk of Montgomery County, Texas, declaring any such discontinuance or abandonment.

11.05. The Common Area Maintenance Charges collected shall be paid into the Common Area Maintenance Fund to be held and used for the benefit, directly or indirectly, of the property and property owners of the Subdivision; and such Common Area Maintenance Fund may be expended by the Developer for any purposes which, in the judgment of the Developer, will tend to maintain or enhance the property values in the Subdivision, including, but not limited to: Providing for the enforcement of the provisions of this instrument, including reasonable compensation and reimbursement to the Developer or members of the Committee with respect to services performed incident to their duties hereunder; for the construction, maintenance, operation and repair of the Common Areas or any improvements which may be erected or constructed upon the Common Areas; for the planning, clearing and landscaping of all or any of the Common Areas, or for the construction and maintenance of pathways and access routes for pedestrians in or upon the Common Areas; and generally for doing any other thing necessary or desirable in the opinion of Developer to maintain or improve the property of the Subdivision. The use of the Common Area Maintenance Fund for any of these purposes is permissive and not mandatory, and the decision of the Developer with respect thereto shall be final, so long as made in good faith.

11.06. The Street Maintenance Charges, if and when collected, shall be paid into the Street Maintenance Fund to be held and used for the benefit, directly or indirectly, of the Subdivision and such Street Maintenance Fund may be expended by the Developer for any purpose or purposes which, in the judgment of the Developer,

will tend to maintain the Private Streets and any sidewalks adjacent thereto, in the Subdivision, including, without limitation: For the maintenance, repair or patching of any Private Streets or sidewalks built in the Subdivision. The use of the Street Maintenance Fund for any of these purposes is permissive and not mandatory, and the decision of the Developer with respect thereto shall be final, so long as made in good faith.

The Street Maintenance Charge and the Street Maintenance Fund shall continue until the latter to occur of:

1. The permanent assumption of the duties of maintenance and repair of all streets in the Subdivision by Montgomery County or another public governmental unit; or

2. The termination of these Restrictions pursuant to the terms hereof.

Upon the termination of the Street Maintenance Charge and the Street Maintenance Fund, all funds remaining in the Street Maintenance Fund shall be disbursed to the Common Area Maintenance Fund created herein, and shall be held and expended as part of that Fund pursuant to the terms hereof.

XII.

Transfer of Functions of the Developer

12.01. The Developer may at any time hereafter cause a non-profit corporation to be organized under the laws of the State of Texas for the purpose of exercising all or any of the duties and prerogatives of the Developer hereunder (including the matters relating to Maintenance Charges and all Maintenance Funds). Any such delegation of authority and duties shall serve automatically to release the Developer from further liability with respect thereto and vest such duties and prerogatives in such non-profit corporation. Any such delegation shall be evidenced by an instrument amending this instrument, placed of record in the Deed Records of Montgomery County, Texas, and joined in by the Developer and the aforesaid non-profit corporation but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in the Subdivision, a lienholder, mortgagee, Deed of Trust beneficiary or any other person.

XIII.

Binding Effect

13.01. All of the provisions hereof shall be covenants running with the land thereby affected. The provisions

hereof shall be binding upon and inure to the benefit of the owners of the land affected and the Developer and their respective heirs, executors, administrators, successors and assigns.

SOUTHWESTERN SAVINGS ASSOCIATION

Attest: By W. A. Hancock
W. A. Hancock, Vice-President

Champney F. Smith, Secretary

THE STATE OF TEXAS)
)
COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, on this day personally appeared W. A. Hancock, Vice-President of SOUTHWESTERN SAVINGS ASSOCIATION, a corporation, 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, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 11th day of June, 197__.

Margaret Mena

NOTARY PUBLIC IN AND FOR
HARRIS COUNTY, TEXAS

FILED FOR RECORD
AT 2 O'CLOCK P M

JUN 13 1974

ROY HARRIS, Clerk
County Court, Montgomery Co., Tx.
By Sandra Witt Deputy