

950499

WALDEN HEIGHTS SUBDIVISION

DECLARATION OF RESTRICTIVE COVENANTS
(Unit-3)

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

THAT, BAKER PROPERTIES, INC., a Texas corporation (Declarant), being the owner of all of the lots situated within that certain subdivision known as WALDEN HEIGHTS, UNIT-3; the plat of said Unit-3 having been duly recorded in Volume 9508, Pages 158-159; of the Deed and Plat Records of Bexar County, Texas (hereinafter called the subdivision), and desiring to create and carry out a uniform plan for the improvement, development and sale of the subdivided lots situated in the subdivision, does hereby adopt and establish the following restrictions and covenants to run with the land and to apply in the use, occupancy, and conveyance of the aforesaid described subdivided lots therein, and each Contract or Deed which may be executed with regard to any of such property shall be held to have been executed, delivered and accepted, subject to the following restrictions and covenants (the headings being employed for convenience only and not to be controlling over content):

I.

USE

All lots in the subdivision shall be used for single-family residential purposes only.

No owner shall occupy or use his lot or any improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private resi-

32 PAGE 97

construction and sales period of the initial dwelling units, the builder may erect and maintain such structures as are customary in connection with such construction and sale of such property, including, but not limited to, a business office, storage areas, construction yards, signs, model units, and sales office.

No building material of any kind shall be placed or stored upon any lot until the owner thereof is ready to commence improvements, and then, the material shall be placed within the property lines of the lot upon which the improvements are erected and shall not be placed on the street or between the curb and property line.

II.

ARCHITECTURAL CONTROL

a. Development Objectives. The aesthetic and ecological quality of the subdivision requires that all dwellings be compatible with other dwellings and be in harmony with the natural surroundings. To this end, an Architectural Control Committee (sometimes hereinafter called "the Committee") has been created as described in paragraph b. of this Article. The Architectural Control Committee has the responsibility to carry out the goals and functions that have been adopted and are described below and which may be amended from time to time.

b. Architectural Control Committee. The Architectural Control Committee shall be Jesse A. Baker; Bruce W. Baker; and Kathleen Hoffmann, or a representative or representatives appointed by such Committee. In the event of the death of any member of the Committee, the remaining members shall have full authority to carry out the duties of the Committee and the authority to designate a successor committee member or members with like authority.

c. Goal of Architectural Control Committee. The goal of the Committee is to encourage the construction of dwellings of

good architectural design, quality and proper size compatible with Declarant's conceptual plan for the subdivision. Dwellings should be planned and designed with particular attention to the design and aesthetic appearance of the exterior and the use of such materials as well, which, in the sole judgement of the Committee, create an attractive and harmonious blend with existing and proposed dwellings in the immediate area and the natural surroundings. The Committee may disapprove the construction or design of a home on purely aesthetic grounds where, in its sole judgment, such disapproval is required to protect the continuity of design or values of the neighborhood and of other homeowners or to preserve the serenity and natural beauty of any surroundings. Prior judgements regarding matters of design or aesthetics shall not be deemed binding upon the Architectural Control Committee if the Committee feels that the repetition of such matters will have an adverse affect on the subdivision.

d. Function of the Architectural Control Committee. The Committee shall function as the representative of the owners for the purposes herein set forth as well as for all purposes consistent with the creation and preservation of a first-class development. No building, roof, fence, wall or other structure shall be erected, placed or altered on any lot (nor may any such item be subsequently replaced, treated or repainted in a manner which materially alters the exterior appearance of the dwelling) until plans and specifications, in such form and detail as the Committee may deem necessary, shall have been submitted to and approved in writing by such Committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.

e. Procedures of the Architectural Control Committee. The

administrative procedures and separate building guidelines to supplement these restrictions.

f. Plans and Specifications. Review and approval of plans and specifications by the Committee shall be mandatory prior to the owner undertaking any improvements. In order that the Committee may give just consideration to the proposed dwelling, such plans and specifications must adequately describe the site plans, floor plans, foundation plans, elevations and exterior materials, color and other characteristics of the proposed structure; and, if the Committee so requests, a preliminary landscape plan and a cross-section sketch through the lot from the property line with the highest existing grade to the property line, with the lowest existing grade representing any improvements and grade changes and their relationship to existing conditions of the site. Plans and specifications shall be in duplicate and must include all items required by the Committee (they may not be submitted on a piecemeal basis).

g. Basis of Approval. Approval of plans and specifications shall be based upon the following:

- (1) The architectural and structural integrity of the design;
- (2) Harmony and conformity of the design with the surroundings both natural and built;
- (3) Adequacy of the design to conditions of the site;
- (4) Relation of finished grades and elevations to neighboring sites;
- (5) Conformity to specific and general intent of these Restrictive Covenants covering the particular platted unit of which the lot in question forms a part; and
- (6) Aesthetic considerations determined in the Commit-

h. Variations. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit an owner to construct, erect or install a dwelling which is in variance from the covenants, restrictions or architectural standards which are provided in this Declaration. In any case, however, the dwelling with such variations must, in the Committee's sole discretion, blend effectively with the general architectural style and design of the neighborhood and must not detrimentally affect the integrity of the subdivision or be unharmonious with the natural surroundings. Written requests for variations shall be deemed to be disapproved if the Committee has not expressly (and in writing) approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any owner for any claims, causes of action or damages arising out of the grant of any variance to an owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests; and the grant of a variance to any one owner shall not constitute a waiver of the Committee's right to strictly enforce the restrictions created by this Declaration.

i. Failure of the Committee to Act. If the Architectural Control Committee fails to approve or to disapprove the plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that such Committee has approved such plans and specifications. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and reject the balance.

j. Limitation of Liability. The Committee shall have the express authority to perform fact-finding functions hereunder and

in that may be vague, indefinite, uncertain or capable or more than one construction. All decisions of the Committee shall be final and binding, and there shall be no revisions of any action of the Committee except by procedure for injunctive relief when such action is patently arbitrary and capricious. Neither the Declarant, the Architectural Control Committee, nor any member of such Committee shall be liable in damages, or otherwise, to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgement, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

III.

SIZE OF DWELLING

The total floor area of the main structure of any dwelling shall not be less than two thousand two hundred square feet (2,200 sq. ft.). These areas shall be exclusive of open porches, breezeways, carports, garages and other outbuildings.

IV.

OUTBUILDING REQUIREMENTS

Every outbuilding, inclusive of such structures as a storage building, greenhouse or childrens' playhouse, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. All such buildings shall be located on the rear one-third of the lot and shall be subject to approval of the Architectural Control Committee. In no instance shall an outbuilding exceed one (1) story in height or have total floor area in excess of ten per cent (10%) of the floor area of the main dwelling. No outbuildings shall be located closer than five feet (5') from any side lot lines or ten feet (10') from any rear lot lines.

MASONRY REQUIREMENTS

The exterior walls of the main residence building constructed on any lot shall be at least seventy-five per cent (75%) by area, composed of masonry or masonry veneer, said percentage to apply to the aggregate area of all said walls where the bottom plate line does not exceed thirty-six inches (36") from the natural grade of the land, inclusive of door, window and similar openings. Masonry or masonry veneer includes stucco, ceramic tile, clay, brick, rock and all other materials commonly referred to in the San Antonio, Texas area as masonry, as well as glass areas which shall also be construed as masonry for the purpose of computing the aforesaid percentage. At the discretion of the Architectural Control Committee, the amount of masonry may be reduced so as to permit a greater variety of architectural styles and textures in the event such reduction, in the opinion of said Committee, will accommodate a unique or advanced building concept, design or material, and the resulting structure will add to the appearance and value of other lots in the subdivision and will not have a detrimental effect on the aesthetic integrity and harmony of the subdivision.

VI.

FENCES

No fence, wall, or hedge shall be built or maintained forward of the front outermost corners of the main structure, except for retaining walls, decorative walls or fences which are part of the architectural design of the main structure and which do not exceed a height of thirty-six inches (36") above the ground.

Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in

392 PAGE 379

20

1929A-080

concept design or material and the resulting decorative wall and/or retaining wall will not detract from the general appearance of the neighborhood.

No chain-link fences may be built or maintained on any lot except for interior chain-link fences not exceeding the height of the perimeter fence and not readily visible from public view.

On corner lots, the location of all fences must be approved in advance by the Architectural Control Committee, which said Committee shall have the right to impose fence setback requirements along either street abutting such corner lot in order to preserve reasonable views for adjoining lots and to prohibit conditions which, in the Committee's opinion, would detrimentally affect the subdivision.

No fence, wall, or hedge, or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner lot within the triangular areas formed by the street property lines and a line connecting them at points twenty-five feet (25') from the intersection of the street lines; or, in the case of a rounded property corner, from the intersection of the street line extended. The same sight line limits shall apply on any lot within ten feet (10') from the intersection of street property lines with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

VII.

DRIVEWAYS

All driveways shall be surfaced with concrete, asphalt, or other similar hard surfaced material and shall be a minimum of twelve feet (12') in width.

TEMPORARY STRUCTURES

No structure of a temporary character -- trailer, tent, shack, garage, barn or other outbuildings -- shall be used on any lot at any time as a residence, either temporarily or permanently. No trailer, camper or similar vehicle shall at any time be connected to utilities situated within a lot. No dwelling previously constructed elsewhere may be moved on any lot in the subdivision controlled by these covenants. This covenant specifically includes the use of a mobile home in which the axle and wheels have been removed and placed upon a concrete slab, which said mobile home is hereby specifically prohibited as a residence, either temporarily or permanently, and further, specifically includes a mobile home upon which the wheels have been left attached.

IX.

SIGNS

No signs of any kind shall be displayed to the public view on any lot, including, but not limited to, the displaying of any signs which advertise the lot for sale or lease, except as expressly permitted hereunder. The Architectural Control Committee shall establish standardized sign criteria which permit the displaying of one sign per lot which is uniform in size, color and permitted location on the lot, which such sign can be used to identify that a particular lot is for sale or lease; provided, however, that said sign shall not contain the words "For Sale," "For Lease," "Available" or any other similar descriptive words, and such sign shall not display the name, logo or phone number of any real estate company or owner's agent. The Committee specifically reserves the right to establish a separate set of sign standards and criteria to apply during construction of the dwelling on such lots, and a separate set of standards and criteria to

VOL 1392 PAGE 1982

apply to such lots after a dwelling has first been occupied thereon, and to modify such standards and criteria from time to time. Signs used by the Declarant to advertise the property during the development, construction and sales period shall be permitted, irrespective of the foregoing.

X.

MAINTENANCE

Grass, weeds and vegetation on each lot sold shall be kept mowed at regular intervals. Trees, shrubs, vines and plants which die shall be promptly removed from the property. Lawns must be properly maintained, fences must be repaired and maintained, and no objectionable or unsightly usage of lots will be permitted which is visible to the public view. Building materials shall not be stored on any lot except when being employed in construction upon such lot, and any excess materials not needed for construction and any building refuse shall promptly be removed from such lot.

Until a home or residence is built on a lot, Declarant may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees shrubs and plants removed therefrom. Declarant may also, at its option, remove any excess building materials or building refuse situated on a lot in violation of this covenant. The owner of any such lot shall be obligated to reimburse Declarant for the cost of any such maintenance or removal upon demand.

XI.

UTILITY EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, if any, no structure, planting, or other material shall be placed or permitted to remain which may damage

or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each lot, if any, and all improvements in such area shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. Neither Declarant nor any utility company using the easements herein or referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants to shrubbery, streets or flowers or other property of the owners situated on the land covered by said easements.

XII.

VEHICLES

No trailer, tent, boat, or stripped down, wrecked, junked, or wholly inoperable vehicle shall be kept, parked, stored, or maintained on any portion of the front yard in front of the building line of the permanent structure and shall be kept, parked, stored or maintained on other portions of a lot only within an enclosed structure or a screened area which prevents the view thereof from adjacent lots or streets. No dismantling or assembling of motor vehicles, boats, trailers or other machinery or equipment shall be permitted in any driveway or yard adjacent to a street. No commercial vehicle bearing commercial insignia or names shall be parked on any lot except within an enclosed structure or a screened area which prevents such view thereof from adjacent lots and streets, unless such vehicle is temporarily parked for the purpose of serving such lot.

XIII.

PETS

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except for cats, dogs, or other generally recognized household pets of a reasonable number, pro-

cial purposes; and provided further, that no more than two (2) adult dogs and two (2) adult cats may be kept on a single lot.

All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the Architectural Control Committee. It shall be the responsibility of the owners of such household pets to prevent the animals from running loose or becoming a nuisance to the other residents.

XIV.

OIL AND MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil 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 upon any lot. No tank for the storage of oil or other fluids may be maintained on any of the lots above the surface of the ground.

XV.

WATER AND SEWAGE SYSTEMS

No individual water supply system or sewage disposal system shall be permitted on any lot, including, but not limited to, water wells, cesspools or septic tanks.

XVI.

RADIO OR TV ANTENNA

No radio or television aerial wires, towers, antennas, discs, satellite dishes or other special television or cable apparatus or equipment shall be erected, installed or placed on any lot without the prior written approval of the Architectural Control Committee.

No solar panels or other similar apparatus shall be placed on any lot in such a manner that same is visible from the street.



DRAINAGE EASEMENTS

Easements for drainage throughout the subdivision are reserved as shown on the aforementioned recorded plat, such easements being depicted thereon as "drainage easements." No owner of any lot in the subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically, and without limitation, no owner may:

(1) alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;

(2) alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom without the prior written approval of the Architectural Control Committee and the City of San Antonio Drainage Engineer;

(3) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements which would impede the drainage flow;

(4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(5) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

The failure of any owner to comply with the provisions of this Article XVII. shall in no event be deemed or construed to impose liability of any nature on the Architectural Control Com-

shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Article XVII. shall in no way affect any other recorded easement in the subdivision.

XVIII.

NUISANCES

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Any owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their owners.

No exterior lighting of any sort shall be installed or maintained on a lot where the light source is offensive or a nuisance to neighboring property (except reasonable security or landscape lighting that has approval of the Architectural Control Committee).

No exterior speakers, horns, whistles, bells or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the lot and improvements situated thereon) shall be placed or used upon any lot.

No guns, pistols, rifles or other firearms shall be discharged by owners or their guests in the subdivision, nor shall target practice or hunting of any nature be permitted on any tract situated in the subdivision, or on any adjoining property situated in close proximity to the subdivision whether owned by Declarant or otherwise.

XIX.

GARBAGE AND REFUSE DISPOSAL

013392 PAGE 1986

rubbish. Trash, garbage and other waste shall be kept in sanitary containers, whether arranged for alley pickup or street pickup. No trash, ashes or other refuse may be thrown or dumped on any vacant lot or drainage area in said subdivision.

XX.

MAIL BOXES

Enclosed mail boxes of masonry, wood or other comparable composition shall be erected and maintained upon each lot on which a residence is situated in accordance with the current postal authority standards and the approval of the Architectural Control Committee.

XXI.

ATHLETIC FACILITIES

Tennis court lighting and fencing shall require the prior written approval of the Architectural Control Committee. Landscaping and fencing requirements set by the Architectural Control Committee for tennis courts are for the purpose of screening courts in an aesthetically pleasing manner. No basketball goals or backboards or any other similar sporting equipment of either a permanent or temporary nature shall be placed on any lot in the subdivision where same would be readily visible from the street or an adjoining lot, without the prior written consent of the Architectural Control Committee.

XXII.

GARAGES

A garage able to accommodate a minimum of two (2) automobiles and a maximum of four (4) automobiles must be constructed and maintained for each residence. Garages will be allowed as temporary builder's sales offices prior to permanent occupancy of the main structure. No carports shall be permitted without the prior written approval of the Architectural Control Committee.

VOL 302 PAGE 1987

XXIII.

ROOFS

The surface of all roofs of principal and secondary structures which are exposed to public view shall be 240# shingle, fiberglass shingle with wood-like appearance, wood shingle, metal, wood shakes, or tile. The Architectural Control Committee shall have the authority to approve other roof treatments and materials when in its determination such treatments and materials in the form utilized will not be a detriment to the quality of the neighborhood. No gravel or "built up" roofs shall be permitted without the written approval of the Architectural Control Committee.

XXIV.

SETBACK LINES

All buildings or other structures, permanent or temporary, habitable or not, must be constructed, placed and maintained in conformity with platted setback lines, and in no event shall any such building or other structure be constructed, placed or maintained within five feet (5') of the side boundary of a lot, within ten feet (10') from the rear property line, or within twenty feet (20') of the front boundary of a lot. The eaves of buildings shall not be deemed to be a part of a building or structure, but steps and porches shall be deemed to be a part of a building or structure for the purpose of this covenant. The Architectural Control Committee is empowered to grant variances from the setback requirements hereinabove provided in those instances where in the opinion of said Committee, the proposed location of the buildings or other structures will not detract from the appearance and value of other lots in the subdivision, and will not have a detrimental effect on the aesthetic integrity and harmony

SUBDIVISION OR COMBINATION OF LOTS

No further subdivision of platted lots shall be permitted. An Owner may, however, combine or integrate two adjoining lots into one dwelling and landscaped area at the time either of said lots is first improved, it being understood that neither lot can remain vacant and unimproved.

XXVI.

EXTERIOR LIGHTING

One operational post light (with photo cell or other automatic timing device) shall be installed and continuously maintained for each residence in the front yard.

XXVII.

ADDITIONAL PROVISIONSSloped Lots

The Architectural Control Committee shall have the specific right to waive the front building setback requirements herein set forth for any lot that it determines to have severe slope problems in order to permit a garage (but not the dwelling) to be situated as close as fifteen feet (15') to the front property line.

Any openings in excess of thirty-six inches (36") beneath a dwelling situated on a sloped lot which are readily visible from a street or another lot must be enclosed in a manner approved by the Architectural Control Committee (i.e., by lattice or other similar treatment).

Any cut into or "fill" added to the natural grade of a lot that is by face in excess of one foot (1') in height or depth, as the case may be, and is associated with the construction of a driveway or other improvement situated on a lot, must be "faced" with sodding, masonry, railroad ties, landscaping, natural rock or other similar treatment approved by the Architectural Control

VOL. 397 PAGE 1988

caliche is readily visible.

XXVIII.

TERM

The foregoing covenants are made and adopted to run with the land and shall be binding upon the undersigned and all parties and persons claiming through and under it until January 1, 2020, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument executed by a majority of the then owners of the lots in the subdivision controlled by these covenants has been recorded agreeing to change said covenants in whole or in part.

XXIX.

ENFORCEMENT

If the parties hereto, or any of them, or their heirs, successors, lessees or assigns shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any person or persons owning real property situated in the subdivision controlled by these covenants to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from so doing or to recover damages for such violations. Declarant, for itself, its successors or assigns, reserves the right to enforce these restrictive covenants, though it may have previously sold and conveyed all subdivided lots in the subdivision, controlled by these covenants. The reservation of this right of enforcement shall not create an obligation of any kind to enforce same.

XXX.

PARTIAL INVALIDITY

The invalidation of any one of these covenants by judgment or court order shall in nowise affect any of the other pro-

VOL 392 PAGE 1990

AMENDMENT

At any time the owners of the legal title to seventy per cent (70%) of the lots within the subdivision may amend the restrictions and covenants set forth herein by filing an instrument containing such amendment in the office of the County Clerk of Bexar County, Texas; except that, prior to January 1, 1990, no such amendment shall be valid or effective without the joinder of Declarant.

VOL 4392 PAGE 1991

EXECUTED this 6th day of May, 1985.

BAKER PROPERTIES, INC.

By: *Bruce W. Baker*
Bruce W. Baker, President

DECLARANT

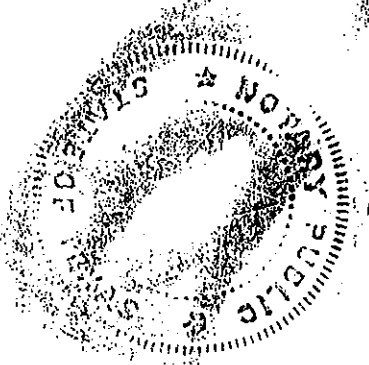
THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on May 6, 1985, by BRUCE W. BAKER, President of BAKER PROPERTIES, INC., a Texas corporation, on behalf of said corporation.

My Commission Expires:
9/22/86

Betty R. Burton
Notary Public, State of Texas

BETTY R. BURTON
(Please type or print name)



STATE OF TEXAS
COUNTY OF BEXAR
I hereby certify that this instrument was FILED in File Number
Sequence on the date and at the time stamped herein by me, and
was duly RECORDED in the Official Public Records of Bexar County of
Bexar County, Texas on

MAY 7 1985



Robert D. Brown
COUNTY CLERK BEXAR COUNTY, TEXAS