

**WHITEWATER SPRINGS POA BOARD OF
DIRECTORS JUNE 21, 2017 MEETING**

**AGENDA ITEM VIII
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No. 062117
WHITEWATER SPRINGS POA BOARD OF DIRECTORS
RESOLUTION PROVIDING CLARIFICATION TO THE WHITEWATER
SPRINGS ARCHITECTUAL CONTROL COMMITTEE REGARDING FRONT
YARD SET BACK REQUIREMENTS

WHEREAS, Article IV, Section 9 of the Whitewater Springs Declarations for Subdivision Sections I, II, III, IV, V, and VI states:

“No dwelling or garage shall be placed nearer to any property line than 100 hundred (100) feet from the street or fifteen feet from adjacent owner’s property line, or as shown on the plat of this section. Furthermore, (A.) No barn, shed or outbuilding shall be placed nearer to the front or street line than one hundred (100) feet, nor nearer to the side line than twenty-five (25) feet, nor nearer the front the primary dwelling.”; and

WHEREAS, Article IV, Section 12 A. of the Whitewater Springs Declarations for Subdivision Sections I, II, III, IV, V, and VI states:

“If Developer or Architectural Control Committee determines upon the ground that the setback distance from any front, rear or side line is impractical due to topography, grade or other conditions, then Developer or Architectural Control Committee will have the authority to change the required distances and provide for a functional building location.”; and

WHEREAS, the Whitewater Springs Architectural Control Committee has requested the Board of Directors for clarification and guidance in defining the term “street line”, as set forth in Article IV Section 9; and

WHEREAS, the Whitewater Springs Architectural Control Committee has requested the Board of Directors for clarification and guidance to establish setback distance from any front, rear or side line is impractical due to topography, grade or other conditions.

NOW THEREFORE, it is resolved by the Board of Directors of the Whitewater Springs Property Owners Association that:

Section 1: The above recitals are true and correct and are incorporated into this Resolution for all purposes.

Section 2: Unless superseded by a vote of the Whitewater Springs Property Owners membership, the Board adopts the following “street line” definition:

“Street Line” shall mean the platted front, rear or side property line(s) of a Whitewater Springs Subdivision lot that adjoins a POA Common Area containing a street, drive or trail that is maintained by the POA.

Section 3: Unless superseded by a vote of the Whitewater Springs Property Owners membership, the Board adopts the following policy pertaining to setback distance from a front, rear or side property line(s):

“If the Architectural Control Committee determines upon the ground that the setback distance from any front, rear or side line is impractical due to topography, grade or other conditions, the Architectural Control Committee will have the authority to change the required distances and provide for a functional building location that is no closer than 65-feet to a front street line and no closer to than 10-feet from an adjacent owner’s property line without the written approval of the POA Board of Directors. In no event may a front, rear or side setback line be any closer than shown on the plat, without a plat amendment.”

PASSED AND APPROVED this _____ day of _____, 2017 at an open meeting of the Whitewater Springs Board of Directors, Bertram, Texas.

Donald G. Rauschuber
President, Board of Directors

ATTEST:

Frank Owens
Secretary, Board of Directors

Section 1: No external improvements or changes shall be erected, placed, or altered on any tract until the construction plans and specifications and a plan showing the location of the structure, and a complete plan of sewer system showing relation to tract lines and water lines, water wells, or water sources, and a complete plan showing construction and location of water well and lines has been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, protection of the environment, and as to location with respect to topography and finish grade elevation. Approval shall be as provided herein.

Section 2: The Architectural Control Committee is hereby authorized to enforce any building or fire codes, or any rules, restrictions or requirements concerning the construction of buildings, sewer systems and water systems in this project, said requirements have been made by any local, county, or state Authority, or otherwise, having the legal authority to make such requirements. It is further stipulated herein that the Architectural Control Committee is empowered to require fire walls to be constructed as wall sections in contiguous housing, should such type housing in the future be allowed, wherever said Architectural Control Committee deems that such requirement is necessary or beneficial to the safety and preservation of property or life. Such requirement would be made based on the requirements of municipalities of the area or some other standard code ordinarily pertaining to the construction industry.

Section 3: The Architectural Control Committee is composed of three persons appointed by the Board of the Property Owners Association or by Developer in the interim. In the event of death, dismissal, or resignation of any member of the committee, the remaining members shall have full authority to designate a successor, subject to approval of the Association Board. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant except as is budgeted and approved by the Association Board.

Section 4: **Procedure** - The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fail to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, provided they do not violate these covenants, approval will not be required and the related covenants shall be deemed to have been fully complied with; however, any building or improvements placed upon a lot herein that was not presented to the Architectural Control Committee for approval prior to start of construction or placement will be in violation of these restrictions and may be removed by the Architectural Control Committee at the property owner's expense. If the P.O.A. pays for such removal, the cost, plus interest will become a lien upon the property.

ARTICLE IV USE RESTRICTIONS

Section 1: With the exception of commons or reserves, all tracts in this subdivision are designated as residential home sites for single family dwellings.

Section 2: Any dwelling constructed on said tracts must have a floor area of not less than 2,000 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports and garages, and shall be constructed of at least standard frame construction. Any primary dwelling construction on any lot must include a minimum two (2) car garage, which may be either attached or detached. This two car garage requirement is not a requirement for a guesthouse or servants quarters. If any building is set on blocks or piers, it shall have an outside or perimeter beam of brick or concrete on all sides of the building. Any such structure must be completely dried in within 6 months of beginning of construction. The Architectural Control Committee, however, will have broad discretion in waiving the exterior beam requirement for split-level homes or hillside homes.

Section 3: No structure of a temporary character, trailer, basement, tent, shed, garage, or other outbuilding shall be used on any tract at any time as a residence, either temporarily or permanently, except for guest houses and servant's quarters constructed after the main dwelling unless otherwise conforming to these covenants. Outbuildings shall be permitted in the project. Storage buildings may not be utilized as residences on the tract. The

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owner may place a servants or guest house on the property without conforming to the square footage requirements so long as the building otherwise conforms to these restrictions; however, no such dwelling will be permitted prior to construction of the primary dwelling. Any building of any type must be approved by the Architectural Control Committee.

Section 4: No tract shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. All other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition.

Section 5: Animals, livestock, or poultry may be kept, bred, and maintained on any tract under the following conditions:

- A. No livestock of any type shall be allowed to run loose upon the streets or commons.
- B. All horses, cattle, or other livestock or animals shall be kept enclosed by suitable fencing of the tract.
- C. No swine may be bred, kept or maintained on any tract in this project.
- D. No chickens, turkeys, or other poultry may be kept or raised in this project, except five (5) per acre owned for show competition.
- E. Though horses are permitted, not to exceed one head per acre owned, public stables are not permitted, except in areas so established by the Developer.
- F. Though cattle are permitted, not to exceed one head per acre owned, feed lots are not permitted.
- G. The premises shall be maintained in such a manner as to prevent health hazards and shall not be offensive to the neighboring tracts. Should any animal, including but not limited to cats and dogs, become offensive to the neighborhood, that animal situation constitutes a violation of these covenants.

Section 5A. Specific Commons created for horse pastures and stables in an equestrian complex estates area will be subject to rules made by the Special Association governing same, subject to these covenants and subject to any rules promulgated by the Association and these rules hereinafter set forth:

- A. Each member may keep two (2) horses per tract owned in the area served by the specific Commons.
- B. No member may rent his or her equestrian or stable space except to another member.
- C. No stud horses will be kept in the pasture or in any stall upon the premises.
- D. If any horse is declared dangerous to the other horses or to people by the Board of the Special Association governing the Specific Commons, the Board may require the owner thereof to remove that horse from the pasture area.

Section 6: No abandoned or inoperative automobile, other vehicle or trailer shall be permitted to remain on any tract or in front of any tract. This is not to be construed to mean that personal campers, boats, tractors, trailers, recreational vehicles, etc. in good and usable condition may not be kept on premises; however, campers, trailers, boats, tractors and utility vehicles of every nature must be kept on the rear 1/2 of the premises or in a garage, shed or other suitable building.

Section 7: No commercial activity other than that of permitted livestock shall be conducted on any tract. Raising of trees or farm produce is not considered commercial provided that the tract is not being used as a residential home site.

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Section 8: It is hereby specifically stated that to rent space to campers, recreational vehicles, trailers, or other units for occupancy or storage or to maintain stables, kennels or space for rental to others is considered commercial operation for purposes of these restrictions, and is not permitted.

Section 9: No dwelling or garage shall be placed nearer to any property line than one hundred (100) feet from the street or fifteen (15) feet from adjacent owner's property line, or as shown on the plat of this section. Furthermore,

- A. No barn, shed or outbuilding shall be placed nearer to the front or street line than one hundred (100) feet, nor nearer to the side line than twenty-five (25) feet, nor nearer the front than the primary dwelling.

Section 10: All lot owners shall provide for the disposal of waste material through a sewer treatment system approved by the appropriate governmental authority and the Architectural Control Committee and Property Owners Association. The sewer system will be an aerobic type plant with a sprinkler system to utilize the treated effluent for surface disposal or other disposal approved by appropriate authorities and the Property Owners Association. No septic tanks are allowed. Any system installed will have an alarm system to notify the homeowner if the system malfunctions.

Section 11: No tract, as platted in this section, will be re-subdivided, except that the developer, its successors or assigns, may replat tracts for better utilization and function. However, any such replat will be subject to approval by all governmental authorities having jurisdiction, and all purchasers of tracts herein hereby waive the right or necessity of approval.

No tract as herein platted or replatted will be utilized for more than one primary single family residence and one single family guest or servants house.

For purposes of this Section of this project, single family residence means one detached, site-built residential house designed to be occupied by one family only and one 2-car garage either attached or detached.

Section 12: Special Authority.

- A. If Developer or Architectural Control Committee determines upon the ground that the setback distance from any front, rear or side line is impractical due to topography, grade or other conditions, then Developer or Architectural Control Committee will have the authority to change the required distances and provide for a functional building location.

- B. Water Well Location and easements: Water wells for the purpose of irrigation, watering livestock, etc., including any purpose other than household may be installed. It is assumed that every tract in this Project has potable water available by drilling a well on the tract. However, should potable water be unavailable at a reasonable depth, quality, and quantity beneath any tract in this subdivision, then that lot owner will have access to other locations for drilling. These well locations are to be designated by Developer and will be located in the commons areas and utility easements. Lines from these wells to the dwellings served may be buried in the commons, streets, utility easements and rights of way. Such wells and lines, if any, must be serviced and maintained at the expense of the lot owner served thereby, for which purpose the lot owner is permitted to perform drilling and maintenance activities with: said commons, streets, easements and rights of way. However, nothing in this paragraph shall be construed to allow any lot owner to permanently damage, interfere with, or change the direction or flow of drainage facilities in any drainage easement, or to permanently interfere with passage along or across commons or roadways, or to permanently interfere with the maintenance of such commons, streets, easements and rights of ways. Exercise of owner's rights under this Section 12 will be subject to approval of proposal and plans by the P.O.A. There is no guarantee that water will be available by wells.

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- C. Vegetative Filter Strips (VFS) and Best Management Practices (BMP). Developer will be required by authority, such as LCRA and Burnet County and good practices of conservation and environmental protection to establish VFS & BMP structures and areas in easements across lots and in street easements and commons. If such areas are easements across any lot line, the lot owner shall mow and maintain such area. However, lot owner may not alter the area to the extent it would fail to function for its purpose, nor shall said area be cemented, paved, or otherwise made impervious. Developer and P.O.A. retain the right to maintain all VFS and BMP areas, even if they are upon a lot.
- D. Should a lot owner fence in a BMP or VFS area, located upon owner's property, then the owner is obligated to maintain the area in a manner that conforms to the general practices of the developer and the Property Owners Association. Should owner fail to do so, then the Property Owners Association may, ten (10) days after written demand and notice, enter upon the premises to accomplish proper maintenance and create a charge and lien for the cost plus a fee of 10%.
- E. The drainage swale in any street or road right of way that contains structures or materials installed under the supervision of, or at the request or direction of the Lower Colorado River Authority shall not be modified or removed or damaged without the specific written approval of Developer or the Association, and LCRA.

Section 13: Any fence installed within 100 feet from the front or rear lot line of any tract or lot, or within 100 feet from any street or road easement must be constructed of wood, masonry or wrought iron. All fences must be approved by the Architectural Control Committee prior to beginning construction.

Section 14: Oil and Mining Operations. No oil drilling or 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 or in 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 in this subdivision.

Section 15: No culvert, bridge, or crossing may be installed by lot owners unless approved by the proper authorities and the Architectural Control Committee. Conformances to size and grade requirements are mandatory. All culverts will be installed with headers, or retainers, on each end to prevent erosion and to dress culvert ends, and must be approved by the Architectural Control Committee prior to installation of culvert or wings.

Section 16: No "For Sale" signs will be placed upon any vacant lot by individual lot owners, developers or any other person or entity. The Property Owner's Association or authority as created herein has the right to remove and dispose of any such signs. No other signs are permitted without approval of the Architectural Control Committee.

Section 17: Prior to beginning construction on any house or building on any lot herein, owner will install a driveway from street to slab of at least four inches (4") of compacted rock, gravel, crushed limestone or better to prevent tracking of mud onto the streets.

Section 18: Should any property owner herein violate these covenants and restrictions, the developer, the property owners association and the authority created herein will fifteen (15) days after notice, have the power to file suit to enforce compliance. The association and authority will be empowered to charge as a special assessment all costs of time and expenditures, including legal fees, member's time, meeting fees, cost of removal of improvements in violation and pay all related expenses. This special assessment will attach to the property upon which the violation rests and will become a lien as provided in these covenants for assessments and liens.

Section 19: Any on-going violation may be prosecuted on an on-going basis with the goal of the Property Owners Association being to have the violation corrected by whatever means is necessary. Property Owners Association removal of violations is authorized at the property owner's expense.

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