

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS

COUNTY OF WALLER

KNOW ALL MEN BY THESE PRESENTS:

DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS

APPLICABLE TO 34.377 ACRES OF LAND LOCATED IN

WALLER COUNTY, TEXAS

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (The "Restrictions") is made by James G. Phelan ("Developer")

WHEREAS, Developer is the owner of 34.377 acres of land which a portion has been surveyed into two separate parcels, all referred to herein as the "34.377 Acres" (the 34.377 Acres being more particularly described in EXHIBIT "A" attached hereto and made a part hereof for all intents and purposes) and each of the two parcels being described in EXHIBIT "A-1" attached hereto and made a part hereof for all intents and purposes.

WHEREAS, Developer desires to impose upon the two parcels the covenants, conditions, and restrictions herein set forth.

NOW, THEREFORE, Developer hereby declares that the two parcels shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall constitute covenants running with the land, and which shall be binding on all parties having any right, title, or interest in the two parcels or any part thereof, their respective heirs, personal representatives, successors, and assigns, and shall inure to the benefits of each owner thereof, and the Developer.

ARTICLE 1

DEFINITIONS

- Section 1. "Owner" or "Owners" shall mean and refer to the record owner(s) of a fee simple title to either of the two parcels, but excluding those having such interest merely as security for the performance of obligation.
- Section 2. "Parcel" shall mean and refer to those properties described in EXHIBIT "A-1".
- Section 3. "Developer" shall mean and refer to James G. Phelan, his respective heirs, successors and assigns.

ARTICLE II

USE RESTRICTIONS AND CONSTRUCTION OF IMPROVEMENTS

Section 1. USE RESTRICTIONS

- 1.01 Single-Family Residence. Each Parcel shall be used only for single-family residential purposes and/or for agricultural use, unless otherwise provided for herein.
- 1.02 Commercial Activity. No retail, commercial, industrial, manufacturing, multifamily, office building, or any other mixed-use commercial activity is permitted on any Parcel, other than a home-based business as provided for below. Noxious or offensive activities of any sort, including loud noises or anything done on any Parcel that may be or become an annoyance or a nuisance to the neighboring Parcels, shall not be permitted.
- 1.03 Home Based Business. Businesses and business activities not specifically excluded elsewhere in this instrument which involve use of office space in either residence, garage, or other building and which involve direct internet sales are permitted. Home-based businesses are not permitted to have deliveries from or to the business using semi-trucks.
- 1.04 Signs on the two parcels. Signs on any Parcel are prohibited, with the following exceptions:
- Signs advertising the banks and construction companies involved in the construction of improvements are allowed during the construction phase. Signs shall be removed within two (2) months of completion of the construction. Signs advertising a property for sale or lease are also permissible.
- 1.05 Non-Residential Structures. None of the following structures may be used as a residence at any time: structures of a temporary character, mobile home, trailer, tent, shack, garage, or other outbuildings. Non-residential structures may be used as building offices and for related purposes during the construction period and shall not be constructed, placed, or installed more than thirty days prior to beginning construction on the main residence. The non-residential structures may not be used as living quarters and the length of time to be used for construction purposes only shall not exceed 24 months.
- 1.06 Multi-Family Residence. No apartments, duplexes, or other buildings used for Multi-family residential purposes may be constructed on the two parcels.

Section 2. CONSTRUCTION OF IMPROVEMENTS

- 2.01 Main Residence. The main residence shall be a single-family residential dwelling. Other structures may include guest houses, guest quarters, barns and sheds. The main residence shall contain at least 2000 square feet of air conditioned living area which

excludes open porches and garages, both attached and detached. No more than one main residence may be located on each Parcel.

- 2.02 Septic Systems and Water Wells. Prior to occupancy of a home, or any livable building, each Parcel owner shall construct, install and maintain a septic tank and soil absorption system in accordance with the specifications for the same as established by applicable law, including the laws of the State of Texas and the rules and regulations of Waller County, Texas. If such septic systems complies with such specifications but still emits foul or noxious odors or unsafe liquid onto streets, ditches, or adjoining Parcels, such system shall be modified so as to eliminate such foul or noxious odors or unsafe liquid.
 - 2.03 Roofs. Roofing material for all buildings (including garage, guest quarters, and all outbuildings) shall be new or designed and manufactured specifically for roofs. Metal roofs not treated to prevent rust are prohibited on buildings.
 - 2.04 Propane Tanks. If propane tanks are installed, they must be installed behind the front line of the main residence and shall be obstructed from view from any public road adjacent to the Parcel through the use of shrubbery or fencing made of wood or masonry. Underground installation is permissible anywhere on the Parcel that is not within a required setback.
 - 2.05 Manufactured Housing. Manufactured and/or modular homes may not be located on any parcel. Recreational vehicles, including motor homes and travel trailers are permitted as long as they are used for occasional use, but may not be used as a primary residence. Recreational vehicles may be used for residence during construction for a period of one year. All recreational vehicles are to be stored behind the rear line of the main residence.
 - 2.06 House Moved to parcels. Existing houses or barns may not be moved on to any parcel.
 - 2.07 Exterior Materials. The exterior materials of the main residential structure and any attached garage, guest houses, and guest quarters shall be constructed of masonry (including brick and rock), stucco, log, hardi plank, cedar, wood or other metal siding.
- Section 3. Locations of Improvements on the Parcel. No building or other improvements shall be located on any parcel within thirty feet (30') of a public road adjacent to the parcel and within fifteen feet (15') of any side or rear property lines.
- Section 4. Storage of Automobiles, Boats, Trailers and Other Vehicles. No abandoned vehicles, boats or trailers shall be stored on the parcels. Personal boats, trailers, and RVs in working condition may be stored on the parcels behind the rear building line of the main residence.

- Section 5. Agricultural Use. For purposes of these restrictions, the term “agricultural use” shall be limited as follows:
- 5.01 Livestock. Raising of commercial livestock shall not be permitted: Non-commercial livestock shall be limited to one and one half (1 ½) animal units per one (1) acre. Any animal and their un-weaned offspring shall be deemed and considered to be a single animal unit. Raising of swine, other than for FFA, 4-H and other similar-type projects, is strictly prohibited. Raising of poultry, other than for reasonable personal use or FFA, 4-H and other similar-type projects, is strictly prohibited. Donkeys, roosters and commercial dog kennels are prohibited.
 - 5.02 Household Pets. Pets shall be judiciously maintained within the Parcel and refrained from crossing onto adjoining properties. No more than four (4) dogs allowed on any parcel.
 - 5.03 Crops. Raising of crops is permitted.
- Section 6. Noxious and Dangerous Activities. Any activities that may endanger the health or unreasonably disturb the peaceful enjoyment of other owners adjoining land are prohibited. No toxic chemicals are permitted on any parcel, except for reasonable residential purposes.
- Section 7. Mowing. Each Parcel owner is responsible for shredding the grass on his/her Parcel a minimum of twice a year.
- Section 8. DUMPING. No tract shall be used or maintained as a dumping ground for rubbish or junk. No garbage, trash, ashes, or other refuse of any kind may be dumped or thrown on any Parcel. All trash shall be stored in appropriate sanitation containers.

ARTICLE III

GENERAL PROVISIONS

- Section 1. Enforcement. All restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration shall run with the two parcels. Any Owner or Developer their heirs, successors and assigns shall have the right to enforce all restrictions, conditions, covenants, and reservations imposed by the provisions of this Declaration. Failure by the Owners or the Developer to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Owners or Developer may recover reasonable attorney’s fees and court cost incurred in the effort to enforce deed restrictions.

Section 2. Amendment The covenants and restrictions of the Declaration may be amended at any time with unanimous written consent of all Owners, Developer and/or their respective heirs, successor and assigns.

Section 3. Term. The covenants and restrictions of the Declaration shall run with the land for a term of thirty (30) years from the date this Declaration is recorded ("Initial Term"). At the end of the Initial Term and any successive extension thereof, these restrictions will be extended automatically for successive periods of ten (10) years each, unless terminated at the end of the initial term by filing in the Official Public Records of Waller County, Texas an instrument signed by those Owners of the two Parcels.

IN WITNESS WHEREOF, the undersigned Developer has executed this Declaration the _____ day of _____, 2024.

Developer:

James G. Phelan

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2024 by James G. Phelan.

Notary Public, State of Texas
My Commission expires: _____

EXHIBIT "A"

BEING a 34.377 acre tract of land situated partly in the William Baird Survey A-10 and partly in the Jesse Clary Survey A-110, Waller County, Texas, and being all of a call 26.343 acre tract of land described by deed dated August 2, 2008, recorded in Volume 1109, Page 341, Official Public Records Waller County, Texas, and all of a call 7.943 acre tract of land described by deed dated November 12, 1981, recorded in Volume 331, Page 126, Deed Records Waller County, Texas, said 34.377 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found with a plastic identification cap stamped RPLS 2085 on a curve in the northwest right-of-way line of F. M. Highway No. 1736 with the east line of Mellman Road, the southwest corner of the call 26.343 acre tract of land for the POINT OF BEGINNING and southwest corner of the herein described tract;

THENCE North 01 degrees 34 minutes 46 seconds East (Bearing Basis), along the east line of Mellman Road, a distance of 2413.02 feet (call 2413.10 feet) to a 1/2 inch iron rod found with a plastic identification cap stamped RPLS 2085 for the apparent southwest corner of a call 15.773 acre tract of land described by deed dated December 13, 2002, recorded in Volume 758, Page 231, Official Public Records Waller County, Texas, the northwest corner of the call 26.343 acre tract of land for the northwest corner of the herein described tract;

THENCE South 57 degrees 18 minutes 14 seconds East (call South 57 degrees 18 minutes 07 seconds East), a distance of 1057.69 feet (call 1058.14 feet) to a 1/2 inch iron rod found with a plastic identification cap stamped RPLS 2085 in the apparent west line of a call 30.0348 acre tract of land described by deed dated May 28, 1993, recorded in Volume 479, Page 587, Deed Records Waller County, Texas, the northeast corner of the call 26.343 acre tract of land for the northeast corner of the herein described tract;

THENCE South 04 degrees 49 minutes 50 seconds West (call South 04 degrees 45 minutes 43 seconds West), a distance of 201.44 feet (call 201.27 feet) to a 1/2 inch iron rod found for an angle point of the call 30.0348 acre tract of land an angle point of the call 26.343 acre tract of land for an angle point of the herein described tract;

THENCE South 04 degrees 50 minutes 03 seconds West, a distance of 377.29 feet to a 1/2 inch iron rod found for the northeast corner of the call 7.943 acre tract of land an angle point of the call 30.0348 acre tract of land for an angle point of the herein described tract,

from which a ½ inch iron rod found with an unreadable plastic cap bears North 08 degrees 27 minutes 28 seconds East, a distance of 5.26 feet;

THENCE South 04 degrees 41 minutes 55 seconds West, along the west line of the call 30.0348 acre tract of land, the east line of the call 7.943 acre tract of land, a distance of 671.13 feet to a 1-1/2 inch iron pipe found in the northwest line of F. M. Highway No. 1736, the southwest corner of the call 30.0348 acre tract of land, the apparent southeast corner of the call 7.943 acre tract of land for the southeast corner of the herein described tract;

THENCE South 77 degrees 26 minutes 54 seconds West, along the northwest line of F. M. Highway No. 1736, a distance of 161.72 feet to a concrete monument found for a POINT OF CURVATURE:

THENCE in a southwesterly direction along a curve to the left, having a Delta angle of 52 degrees 43 minutes 54 seconds, a radius of 1004.94 feet, a chord bearing of South 51 degrees 08 minutes 14 seconds West, a chord distance of 892.59 feet; at 316.44, feet pass a ½ inch iron rod found with a plastic identification cap stamped RPLS 2085 for the southwest corner of the call 7.943 acre tract of land, the lower southeast corner of the call 26.343 acre tract of land, continuing a total arc length of 924.89 feet to the POINT OF BEGINNING, containing within these metes and bounds a 34.377 acre tract of land as surveyed by Robert McCay, Registered Professional Land Surveyor No. 4509, October 22, 2018.

"Note: The Company does not represent that the acreage or square footage calculations are correct"

EXHIBIT A-1

METES AND BOUNDS DESCRIPTION

BEING A 2.250 ACRE (98,010 SQUARE FOOT) TRACT OR PARCEL OF LAND SITUATED IN THE THE WILLIAM BAIRD SURVEY, A-10 AND THE JESSE CLARY SURVEY, A-110, WALLER COUNTY, TEXAS AND BEING OUT OF THAT CERTAIN CALLED 34.377 ACRE TRACT CONVEYED TO JAMES G. PHELAN, RECORDED UNDER CLERK'S FILE NO. 1808613 OF THE OFFICIAL PUBLIC RECORDS OF WALLER COUNTY, TEXAS, SAID 2.250 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: (BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204)

BEGINNING AT A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET IN THE WEST LINE OF SAID 34.377 ACRE TRACT, SAME ALSO BEING THE EAST LINE OF MELLMAN ROAD AND BEING S 00°37'00" E, 846.39 FEET FROM A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "RPLS 2085" FOUND AT THE NORTHWEST CORNER OF THE 34.377 ACRE TRACT;

THENCE, N 89°23'00" E-326.28 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, S 00°37'00" E-300.39 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, S 89°23'00" W-326.28 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET IN THE WEST LINE OF THE AFORESAID 34.377 ACRE TRACT, SAME BEING THE EAST LINE OF MELLMAN ROAD AND MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, N 00°37'00" W-300.39 FEET WITH THE WEST LINE OF THE 34.377 ACRE TRACT, COINCIDENT WITH THE EAST LINE OF MELLMAN ROAD TO THE POINT OF BEGINNING AND CONTAINING 2.250 ACRES (98,010 SQUARE FEET) OF LAND, MORE OR LESS.

METES AND BOUNDS DESCRIPTION

BEING A 2.250 ACRE (98,010 SQUARE FOOT) TRACT OR PARCEL OF LAND SITUATED IN THE THE WILLIAM BAIRD SURVEY, A-10 AND THE JESSE CLARY SURVEY, A-110, WALLER COUNTY, TEXAS AND BEING OUT OF THAT CERTAIN CALLED 34.377 ACRE TRACT CONVEYED TO JAMES G. PHELAN, RECORDED UNDER CLERK'S FILE NO. 1808613 OF THE OFFICIAL PUBLIC RECORDS OF WALLER COUNTY, TEXAS, SAID 2.250 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: (BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204)

BEGINNING AT A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET IN THE WEST LINE OF SAID 34.377 ACRE TRACT, SAME ALSO BEING THE EAST LINE OF MELLMAN ROAD AND BEING S 00°37'00" E, 537.18 FEET FROM A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "RPLS 2085" FOUND AT THE NORTHWEST CORNER OF THE 34.377 ACRE TRACT;

THENCE, N 89°23'00" E-267.70 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET MARKING THE NORTHERLY NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, S 31°24'43" E-114.41 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET MARKING THE EASTERLY NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, S 00°37'00" E-210.93 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, S 89°23'00" W-326.28 FEET TO A 1/2-INCH IRON ROD WITH CAP STAMPED "PICKERING RPLS 5879" SET IN THE WEST LINE OF THE AFORESAID 34.377 ACRE TRACT, SAME BEING THE EAST LINE OF SAID MELLMAN ROAD AND MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, N 00°37'00" W-309.21 FEET WITH THE WEST LINE OF THE 34.377 ACRE TRACT, COINCIDENT WITH THE EAST LINE OF MELLMAN ROAD TO THE POINT OF BEGINNING AND CONTAINING 2.250 ACRES (98,010 SQUARE FEET) OF LAND, MORE OR LESS.