

Land Use Restrictions (“Restrictions”)
147.259 acres, William H Toy Survey, Abstract 105 & Fayette County Land Survey, Abstract Fayette County¹, 8T2X

Date: _____, 2022

Declarant: DGV Investments, LLC, a Texas limited liability company **Declarant’s**

Address: 11152 Westheimer, Suite 1019, Houston, TX 77042 **Property:** The lands described in Exhibit A, attached.

I. Definitions

“Applicable Law” means all federal, state and local laws, ordinances, regulations, or rules, applicable to the person, circumstance and/or property addressed in the provision of these Land Use Restrictions in which the term appears.

“Covenants” means the covenants, conditions, and restrictions in this these Land Use Restrictions.

"Declarant" means, DGV Investments, LLC a Texas limited liability company, and any purchaser, successor, or assign that acquires all unimproved Tracts owned by Declarant for development. Declarant will name any successor in a recorded document evidencing the purchase and identifying the unimproved tracts.

"Easements" means easements within the Property for utilities, drainage, access, and other purposes as shown on the survey map or of record.

“Owner” means every record Owner of a fee interest of lands within the boundary of the Property, whether in whole or in part, any later tenant, lessee, or occupant of lands within the boundary the Property, whether in whole or in part.

“Real Property Records” means the real property records of the county or counties in which the Property is located.

"Residence" means a detached building designed for and used as a Single Family dwelling and constructed on one or more Tracts.

"Single Family" means a group of individuals related by blood, adoption, or marriage, or unrelated roommates not exceeding the number of bedrooms in a Residence constitute a single family under this paragraph.

"Structure" means any improvements on a Tract (other than a Residence), including a fence, wall, guest house, swimming pool, outbuilding, shop, barn, or similar improvement.

"Tract" means any land or portion of land containing any part of the Property described in Exhibit “A”.

II.

Clauses and Covenants 1.

Imposition of Covenants

- a. Declarant imposes these Covenants on the Property described in Exhibit A. All Owners and other occupants of the tracts by their acceptance of their deeds, leases, or occupancy of any tract agree to and are subject to the Covenants.
- b. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Property for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Tract.
- c. Each Owner and occupant of a Tract agrees to comply with this Declaration and agrees that failure to comply may subject him to a fine, damages, or injunctive relief.

2. Survey Map, Easements, and Setbacks

- a. Incorporation by Reference. The survey, easements, and all other matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

3. Use and Activities

- a. Single Family Residential, Agricultural or Recreational Use Permitted. Owners may use the Property for single-family residential, agricultural, or recreational purposes conforming with other applicable covenants, conditions, and restrictions.
- b. Business Use Limitations. Business Use Prohibited. Whether for-profit or not, no business nor business activity shall be permitted in any Residence or on any Lot, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential use within a Residence. The Owner's incidental use may continue so long as (a) the existence or operation of the business activity is not apparent by sight, sound, or smell from outside the Residence; (b) the business activity conforms with other applicable covenants.
- c. Sewage Disposal. Any sewage disposal system must be designed, located, and constructed in compliance with state or county entities' requirements and standards.

4. Construction and Maintenance Standards

- a. *Maintenance*. Each Owner must keep the Tract, Residence, and all Structures in a well-maintained and orderly condition and shall in no event permit the accumulation of garbage, junk vehicles, trash, or rubbish of any kind thereon.

5. Residences and Structures.

- a. *Required Area*. The total area of a Residence, exclusive of porches, garages, or carports, must be 1,500 square feet or greater.

6. General Provisions

- a. *Enforcement and Waiver.* The Declarant or any Owner shall have the right to enforce, by any proceeding at law or equity, all easements, and Covenants imposed by this Declaration. Failure to enforce any Covenant shall not be deemed a waiver of the right of enforcement either concerning the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound. The Declarant shall have no liability for such enforcement or non-enforcement.
- b. *Term.* This Declaration runs with the land and is binding for a term of ten (10) years. Thereafter this Declaration automatically continues for successive terms of ten (10) years each, unless within six (6) months before the end of a term, sixty-seven (67%) percent of the Owners vote not to extend the term. Each Tract has one vote.
- c. *Corrections.* The Declarant may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.
- d. *Amendment.* This Declaration may be amended at any time by the affirmative vote of sixty-seven percent (67%) of the Tract Owners. Each Tract has one vote. An instrument containing the approved amendment will be signed by the Tract Owners in favor of the amendment and recorded in the Official Public Records of Waller County, Texas. Owners will be provided with a copy of the amendment after adoption.
- e. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.
- f. *Notices.* Any notice required by this Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.
- g. *Covenants Running with the Land.* These restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the Property and shall be binding on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Tract, and each Tract Owner.
- h. *Subordination.* No breach of the covenants or other restrictions in this instrument will defeat or render invalid the lien of any deed of trust made in good faith and for value on the above-described Property or any parcel in it; provided, however, that such covenants or other restrictions will bind any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

- i. *Liberal Interpretation.* This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.

DGV Investments, LLC, a Texas limited liability company,

Ryan DiGiovanni, Member/Manager _____

STATE OF TEXAS)

COUNTY OF HARRIS)

Before me, on this day personally appeared Ryan DiGiovanni, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that Ryan DiGiovanni executed the same as the act of DGV Investments, LLC, a Texas limited liability company, as its Member/Manager, for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2022.

Notary Public, State of Texas _____

My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION: BEING A 147.259 ACRE TRACT OF LAND LYING IN AND BEING SITUATED OUT OF THE WILLIAM H. TOY LEAGUE, ABSTRACT 105 AND THE FAYETTE COUNTY SCHOOL LAND SURVEY, ABSTRACT 182 IN FAYETTE COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 180.4 ACRE TRACT OF LAND CONVEYED TO LEO F. ERNSTES BY DEED RECORDED IN VOLUME 1605, PAGE 247 OFFICIAL PUBLIC RECORDS, FAYETTE COUNTY, TEXAS; SAID 147.259 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JAMES E. GARON & ASSOCIATES IN MAY, 2022:

BEGINNING at a 1/2" iron rod with cap stamped "JE Garon RPLS 4303" set in the north line of that certain 100 acre tract of land conveyed to Robert Raabe by deed recorded in Volume 175, Page 396 deed records, Fayette County, Texas and the common line of the Robert Smith Survey, Abstract 95 and Fayette County School Land Survey, Abstract 182 for the southeasterly corner hereof and said Ernestes 180.4 acre tract and a corner of that certain 71.55 acre tract of land conveyed to Michael Joseph Mazoch and Laura Renee Mazoch by deed recorded in Volume 1769, Page 319 of said official records from which a 5/8" iron rod with cap stamped "Absolute" found for witness bears N 01°18'02" W a distance of 4.15 feet and a 1/2" iron rod found for the northeasterly corner of said Raabe 100 acre tract bears N 88°02'29" E a distance of 260.67 feet;

THENCE S 88°02'29" W a distance of 1820.22 feet along said line to a 2" aluminum disc stamped "FSC INC" found in the common line of the Robert Smith Survey and the William H. Toy Survey, Abstract 105 for the southwest corner hereof from which a 5/8" iron rod with cap stamped "Absolute" found for the southwest corner of said Ernestes 180.4 acre tract bears S 88°01'43" W a distance of 344.58 feet;

THENCE crossing said Ernestes 180.4 acre tract, N 07°23'28" E a distance of 1987.71 feet to a 2" aluminum disc stamped "FSC INC" found and continuing N 07°23'29" E a distance of 1118.55 feet to a 5/8" iron rod with cap stamped "FSC INC" found in the south margin of Roitsch Road for the northwest corner hereof from which a 5/8" iron rod with cap stamped "Absolute" found bears N 11°35'25" E a distance of 0.26 feet;

THENCE with the south margin of Roitsch Road, as generally fenced, the following five (5) calls:

1. S 73°19'31" E a distance of 128.13 feet to an 8" cedar fence post;
2. S 72°42'48" E a distance of 882.22 feet to a 6" cedar fence post;
3. S 78°27'50" E a distance of 587.91 feet to a 6" cedar fence post;
4. S 79°50'50" E a distance of 220.82 feet to an 8" cedar fence post;
5. S 81°49'26" E, passing a 1/2" iron rod found for reference at a distance of 950.47 feet and continuing for a total distance of 971.59 feet to a point for the northeast corner hereof and said Ernestes 180.4 acre tract;

THENCE S 01°35'09" E, passing a 1/2" iron rod found for the northwest corner of that certain 5.697 acre tract of land conveyed to Hattie Jane Kristynik by deed recorded in Volume 1254, Page 70 of said official records at a distance of 25.89 feet and continuing for a total distance of 444.99 feet to a 1/2" iron rod found for an angle point hereof and a corner of that certain 47.291 acre tract of land conveyed to Michael Joseph Mazoch by deed recorded in Volume 1146, Page 639 of said official records;

THENCE S 42°08'06" W a distance of 1242.66 feet to a 1/2" iron rod with cap found for an angle point and S 24°32'22" W a distance of 624.65 feet to a 1/2" iron rod found for the southwest corner of said Mazoch 47.291 acre tract and the northwest corner of said Mazoch 71.56 acre tract;

THENCE S 24°09'46" W a distance of 537.15 feet to the POINT OF BEGINNING, containing 147.259 acres of land, more or less and as shown on map of survey prepared herewith.