

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PEACH TREE RANCH, SMITH COUNTY, TEXAS

All that certain real property located in Smith County, Texas, known as Peach Tree Ranch comprising all Tracts of said subdivision as recorded in Cabinet F , Slide 249-D , of the Official Public Records of Smith County, Texas (the "Property").

It is hereby declared that all of the property described above shall be held, sold and conveyed subject to the following covenants, conditions, assessments, charges, servitudes, liens, reservations, restrictions and easements, which are for the purpose of protecting the value and desirability of and which shall run with the real property and shall be binding on all parties having any right, title or interest in or to the above described property or any part thereof, and their heirs, successors and assigns, and which easements, restrictions, covenants and conditions shall bind and inure to the benefit of each owner thereof.

ARTICLE ONE – DEFINITIONS

- 1.01 "Owner" shall refer to the record owner, including the Declarant, whether one or more persons or entities, individually or jointly, of the fee simple title to any Tract, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 1.02 "Property" shall refer to that certain real property known as Peach Tree Ranch, a subdivision in Smith County, Texas, hereinabove described.
- 1.03 "Tract" shall refer to any of the plots of land in Peach Tree Ranch, shown upon the plat and subdivision map recorded in Cabinet F , Slide 249-D , Official Public Records of Smith Country, Texas.
- 1.04 "declarant" shall refer to Peach Tree Ranch, BJB Partners Real Estate, LLC, its successors and assigns.
- 1.05 "Architectural control Committee" shall refer the committee appointed by Declarant to carry out the duties and enforce the Architectural Controls as set out in Article Four.
- 1.06 "Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations, restrictions and easements set forth herein.
- 1.07 "Permanent Improvements" shall mean with respect to any Tract or any other portion or parcel of the Property, any and all improvements, structures and other

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materials and things located thereon, including without limitation, a residential structure, outbuildings, trees, berms, shrubs, hedges and fences.

1.08 "Street" shall mean public streets adjacent to or within the Property.

1.09 "Plat" shall mean the map or plat of the Property presently on file in Cabinet F, Slide 249-D, of the Plat Records of Smith County, Texas as such plat may be amended from time to time.

ARTICLE TWO – PURPOSE

2.01 The Property is hereby encumbered by the Covenants hereinafter set forth to ensure the best and highest use and the most appropriate development and improvement of each Tract within the Property for residential purposes; to further and preserve the use of the Property as a whole; to protect the Owners of Tracts against the improper use of surrounding Tracts; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection of poorly designed or poorly proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive, appropriately located improvements on each Tract; to prevent haphazard and inharmonious improvement of the Tracts; to secure and maintain the proper use of easements within the Property; to preserve the lines of sight and views from the Tracts and the Property; and, in general to provide for development of the highest quality to enhance the value of the investment made by the Owners in purchasing Tracts in the subdivision.

ARTICLE THREE – DEVELOPMENT OF THE PROPERTY

3.01 Declarant may re-subdivide, replat or amend the Plat or any Tracts owned by Declarant, so long as any such re-subdivision, replat or amending plat does not attempt to amend or remove any of the Covenants. Declarant shall have the right to develop the Property in accordance with the Plat and applicable governmental requirements, including the right, without limitation, to excavate, grade and construct streets, utilities, drainage and water quality and other improvements required for the development of the Property.

3.02 Declarant hereby reserves to itself and shall hereafter have the right, but not the obligation, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever (except as provide below), to impose the Declaration or a substantially similar Declaration upon other and additional property adjacent, contiguous or nearby to the Property as determined by Declarant in its sole discretion, Declarant may, at any time and from time to time, add any other lands to the

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Property, and upon such addition, this Declaration and the Covenants shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration, unless such supplemental Declaration shall provide for changes to the Declaration to deal with the unique character or Declarant's overall development plans for the added Property. In order to add lands to this Declaration and the Property hereunder, Declarant shall be required only to record in the Official Public Records of Smith County, Texas, a notice of addition of land (in the form of an Amended or Supplemental Declaration) containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the appropriate Clerk's File Number of the Smith County Official Public Records wherein this Declaration is recorded.
- (B) A reference that all of the provisions of this Declaration shall apply to the added land;
- (C) A legal description of the added land; and
- (D) Any covenants, conditions or restrictions that are different or unique to the added land.

3.03 Declarant may, at any time and from time to time, reduce or withdraw areas owned by Declarant from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to those lands withdrawn, but shall remain in full force and effect with respect to the remainder. In order to withdraw land from the Property hereunder, Declarant shall be required only to record in the Official Public Records of Smith County, Texas, a notice of withdrawal of land containing the following provisions:

- (A) A reference of this Declaration, which reference shall state the Clerk's File Number of the Smith County Official Public Records wherein this Declaration is record;
- (B) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- (C) A legal description of the withdrawn land, including any plats thereto.

ARTICLE FOUR – ARCHITECTURAL CONTROL

4.01 No residence, building, fence, wall, lighting fixture, culvert, driveway, parking space, mailbox, enclosure, Permanent Improvement or other structure shall be commenced,

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erected, materially altered or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, be made until the plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted to and approved in writing by the ACC as to the harmony of external design, location in relation to surrounding structures and topography, finish grade elevation and other criteria and guidelines as may be determined by the ACC in its sole discretion from time to time. However, approval by the ACC shall not be unreasonably withheld.

4.03 All requests for approval of any of the items set forth in this Article Four shall be submitted in writing to the ACC at BJB Partners Real Estate, LLC, 102 N. College Ave., Suite 1300 Tyler, Texas 75702, or at such other address as may from time to time be designated by the ACC and such request for approval shall be accompanied by:

- A) A complete set of construction plans and specification reasonably satisfactory to the ACC;
- B) A site plan of the part of the Tract, showing, with regard to all improvements, the nature, nature, kind, shape, elevations, height, materials, color, location, landscaping and other material attributes of the improvements for which approval is sought, additions, changes, alterations or excavation of a Tract or any part thereof (including all easements and any proposed front, rear, and side setbacks), location with respect to improvements on adjoining Tracts, and the location of the driveway on the Tract;
- C) A grading, clearing and drainage plan for the Tract;
- D) The ACC shall have the power and authority to charge an application fee to be submitted with all requests for approval.

4.04 In the event that any plans and specifications are submitted to the ACC as provided herein, and such Committee shall fail either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, approval by the Committee shall not be required, and the plans and specifications shall be deemed approved in full compliance with this Article Four.

4.05 In no event shall any approval obtained from the ACC pursuant to the terms of this Declaration be in any manner deemed to be a representation of any nature regarding the structural integrity or safety or engineering of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations, nor shall such approval be construed as a representation or warranty as to any matter which is the subject of such approval. No member of the ACC shall at any time have any liability to any Owner or other person or entity for any decision(s) that are made by the ACC as long as such decisions(s) are made by the decision maker without willful and intentional misconduct. Any and all errors or omissions from the plans submitted to the ACC shall be the sole responsibility of the Owner of the Tract to which the plans and improvements relate, and the ACC and each member thereof, shall have no obligation to check the plans for errors or omissions or to check such plans for compliance with this Declaration, zoning ordinances, laws, building lines, easements or rights-of-way, or any other issue.

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4.06 Whenever the consent or approval of the Declarant or the ACC is required under the terms of this Declaration, the Declarant or the ACC shall have the right to withhold such consent or approval for any reason or for no reason, unless expressly provided otherwise in this Declaration.

4.07 No construction nor pre-construction (site clearing, tree cutting or trimming, dirt removal, etc.), work of any type, kind or nature may be commenced on any Tract unless and until the Owner has received the written approval of the ACC as required by this Declaration.

4.08 The authority granted by the Declarant to the ACC in this Declaration is intentionally very broad and all encompassing. Therefore, no decision of the ACC may in any manner be avoided, challenged, reversed, rendered, modified, changed or nullified in any manner by any person, tribunal, court or other entity, except by the ACC itself, as long as the decision of the ACC was made without willful and intentional misconduct on the part of any member of the ACC, even if the decisions of the ACC may seem to some as inappropriate.

ARTICLE FIVE – USE RESTRICTIONS

5.01 Unless specified on the overall plan, all Tracts shall be used for residential purposes only, and no building shall be erected, altered, placed or permitted to remain on any Tract other than one single family dwelling not to exceed two (2) stories in height. Also, workshops, pool houses, private garages, barns and other outbuildings approved by the ACC (all such outbuildings not to exceed thirty (30) feet in height or number more than two (2) provided, however, that not more than one single family guest house may be erected on a Tract. Outbuildings and any guest house must be erected behind main house with same architectural design as the main single-family dwelling unless variations are approved and granted by ACC. The exterior walls of any residence situated on any tract shall consist of not less than eighty percent (80%) (i) brick, (ii) stone, (iii) hardi-plank or (iv) other similar construction approved by the ACC; provided, however, that construction shall be of materials designed and manufactured for finished exterior use on site built residential structures, the quality of which must be approved by the ACC. All non-masonry exterior construction (if any is approved by the ACC), on any residence or other building must be approved by the ACC. No aluminum or vinyl siding is allowed on any exterior walls except for outbuildings, such as barns if approved by the ACC. All newly-constructed houses must have at least a nine (9) twelve (12) pitch roof or more. All garages must be side or rear entry and the entry must not be visible from any street nor face county road 153.

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20004
5.02 Any residence constructed on any Tract must have a minimum floor living area of two thousand, (2,000) square feet, exclusive of open or screened porches, terraces, patios, driveways, carports and garages.

25' FRONT
B.L.
7.5' / 25'
SIDE
B.L.
25' REAR
B.L.
5.03 No Permanent Improvement may be located any nearer to the Street than twenty-five (25) feet. No Permanent Improvement may be located any nearer to an interior side boundary line of any Tract than seven and one half (7.5) feet. No Permanent Improvement may be located any nearer to the rear boundary lines of any Tract than twenty-five (25) feet. The rear boundary line of any Tract is the boundary line opposite from the Street. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a Permanent Improvement, provided, however, that this shall not be construed as to permit any portion of a building on a Tract to encroach upon any other Tract. This covenant shall not apply to interior Tract boundary lines between contiguous Tracts having a common owner. The ACC shall have the sole and exclusive right to grant variances to the setback distances set forth in this paragraph by recording an instrument stating the variance in the Official Public Records of Smith County, Texas.

5.04 No Tract may be subdivided without the express written consent of the Declarant.

5.05 Each Owner covenants to provide and hereby grants easement and right-of-way for existing utility lines and roadways, whether of record or not; easements and rights-of-way shown on the Plat; other easements and rights-of-way, if any, shown in the records of the County Clerk of Smith County, Texas; and easements for installation and maintenance of utilities and drainage facilities. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with, or change the direction of flow of drainage in the easements, The easement area of each Tract and all improvements thereon shall be continuously maintained by the owner of such Tract, except for improvements for whose maintenance a public authority or utility company is responsible.

5.06 No hunting or noxious or offensive activities shall be allowed on the Property. No activities of any kind shall be allowed on the Property which may become an annoyance, danger or nuisance to the neighborhood. No discharging of firearms shall be allowed on the Property except to kill snakes or varmints which threaten an Owner, the Owner's family or guests, or the Owner's pets or permitted livestock.

5.07 No used or existing structure shall be moved on any Tract without the express written consent of the Declarant or the ACC. No house trailer, modular home, manufactured home, mobile home, double wide home or similar manufactured residential structure shall be erected, parked or otherwise stated on any Tract for any reason at any time. No travel trailer, manufactured home, mobile home, camping vehicle, basement, tent, shack, temporary structure, garage, barn, other outbuilding erected or stated on any Tract shall at any time to be used as a

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residence, either temporarily or permanently; provided, however, that nothing herein shall prohibit the temporary occupancy of a tent, camping vehicle or travel trailer which is not permanently situated on a Tract. For purposes of this provision, temporary occupancy shall mean a period of occupancy not longer than forty-five (45) days including any periods of vacancy which commence after the start of the period of occupancy and which are shorter than ten (10) days in length.

5.08 All mailboxes and support poles for United States mail delivery must be placed in the designated location on the street approved by Declarant, Smith County, and United States Post Office.

5.09 Any radio and/or television antenna or satellite dish erected on any Tract shall not exceed by more than thirty (30) feet in height above the highest part of the roof of the highest building on the Tract and shall not be located forward of the principal dwelling erected on the Tract. Such dishes shall not exceed 48" in diameter. With respect to any antenna or satellite dish covered by Section 47 C.F.R. Part 1, Subpart S, Section 1,400 (or any successor provisions) promulgated under the Telecommunications Act of 1996, as amended from time to time, the provisions of this paragraph shall be applicable only to the extent that the requirements hereof do not (i) preclude reception of an acceptable quality signal, (ii) unreasonably delay or prevent installation, maintenance and use of the antenna or satellite dish, or (iii) unreasonably increase the cost of installation, maintenance and use of the antenna or satellite dish.

5.10 No manufacturing, business or commercial activity, enterprise or enterprises of any kind shall be maintained at any point on any Tract now shall any part or portion of any Tract in any way be used for other than strictly residential purposes. This covenant shall not be construed, however as preventing the growing of crops or the raising of animals (except as hereinafter provided) which are removed from the Property before sale or which are sold for practice, by a person actually residing on a Tract, of architecture, accountancy, engineering, computer programming, counseling, individualized teaching or tutoring, general or specialized consulting, or of similar or analogous professions or skills; provided, however that no sales of goods of any kind shall be permitted to be made on any Tract except sales which are only occasional and which are merely incidental to the residential or other permitted use of the Property (a non-commercial garage sale for example). Not more than one non-resident employee may be employed on any Tract at any one time. This covenant shall not be construed to prevent an artist or craftsman actually residing on a Tract from producing art or craft objects which are removed from the Property before the sale as long as the structure in which such items are produced is not visible from the Street. This provision shall not preclude Declarant from engaging in commercial activity related to the development, construction and sale of the Property, and Declarant may construct and maintain such facilities as may be reasonably necessary or convenient for such development, construction and sale, including but, not limited to sales offices, construction headquarters, storage areas, model units, etc. No sign of any kind shall be permitted to identify such practice, profession or skill on any Tract except those described and fully set out in Article 5.16.

???
CLUSTER
MAIL
BOX?

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5.11 No building or other structure shall be erected or situated on any Tract except in compliance with applicable building and use codes, zoning laws and other laws and regulations applicable to the Property.

5.12 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 equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. No rubbish or trash will be permitted or conducted on any Tract.

5.13 No individual sewage disposal system shall be permitted on any Tract unless (i) the system is designed, located and constructed in accordance with the requirements, standards and recommendations of any state, country, municipal or other governmental subdivision or agency having lawful authority pertaining, thereto and (ii) approved by the ACC. Approval of the system as installed shall be obtained from the state, country, municipal or other governmental subdivision or agency having lawful authority pertaining thereto.

5.14 Outside clothes lines or other facilities for drying clothes or airing clothes shall not be erected, placed or maintained on any Tract unless they are concealed in such a manner so as not to be visible from the Street or from any other Tract.

5.15 No individual water supply system shall be permitted on any Tract.

5.16 No signs shall be permitted on unimproved tracts except to identify the Tract by the physical mailing address. A general contractor may post one sign on the Tract upon which a residence is under construction. Owners of improved property (property with a home built on it), or builders, investors or their authorized agent who have constructed "spec homes" (a home not intended to be occupied by the Owner but, intended to be sold to a third party) may post one sign on the improved property indicating the property is available for purchase. All signs must be of professional quality and must be approved in advance by the ACC or Declarant.

5.17 Nothing shall be erected, placed, maintained, done or permitted to remain on any Tract which interferes with surface water runoff in such manner as to cause such water runoff be diverted across any other Tract or which causes flooding, ponding or erosion on any Tract or the Street or any ditch.

5.18 Brush and removed trees may be burned on if (i) it is not in violation of any local, State or Federal Ordinances, statutes, regulations or laws, (ii) the local fire department has no burning ban in effect at that time, (iii) it is done during damp weather with low winds and (iv) there is a cleared area around the brush or trees to be burned.

5.19 All springs, creeks, ponds, stock tanks, ditches and gullies and any water on any Tract shall be kept free of trash, rubbish, garbage, waste, effluent from sewage disposal systems or other waste disposal systems and all other forms of pollution on the Tract.

5.20 No wrecked, junked, broken down or inoperative automobile, truck, bus, motorcycle or other motor vehicle, boat or trailer, or any part thereof, shall be placed or parked

Sign only
during
construction

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or be permitted to be placed or remain on any Tract so, as to be visible from the Street or from any adjacent Tract. Travel trailer, campers and motor homes may be placed or parked on a Tract as long as (i) they are parked on an improved surface approved by the ACC and (ii) are not visible from the Street or parked in an enclosed garage. Travel trailers, campers and motor homes cannot be used as a residence or guest house on any Tracts at any time; provided, however, that guests of an Owner shall be allowed to park and reside in a travel trailer or motor home on a Tract while visiting an Owner not to exceed thirty (30) days. No one guest or family may park or reside in a travel trailer or motor home upon a Tract for a period of more than thirty (30) days in any one calendar year. In the event of the abuse of the privilege of parking a travel trailer or motor home on any Tract by an Owner as determined by the ACC in its sole discretion, the ACC shall have the right to restrict or limit the parking and use of travel trailer or motor home on any Tract by whatever method and for whatever period of time as shall be determined by the ACC in its sole discretion.

5.21 No part of any Tract shall be used or maintained as a place for the acquisition, storage, processing, disposition or sale of junk, used goods or bulk materials or goods.

5.22 No oil or gas well drilling, oil or gas development operations, oil refining, quarrying, gravel pits or mining operations of any kind shall be permitted on a Tract, nor shall oil wells, gas wells, tanks, tunnels, mineral excavations or shafts be permitted on any Tract without the express written consent of Declarant. No derrick or other structure designed for use in boring for oil natural gas or other minerals shall be erected, maintained or permitted on any Tract without the express written consent of Declarant.

5.23 No motor homes, recreational house trailers, horse or cattle trailers, truck campers, boats, boat trailers and other recreational vehicles shall be parked openly in the Street or visible from the Street. No motorized vehicle of any kind shall be operated in any manner that in the exclusive opinion of the ACC is dangerous, noisy or creates a nuisance.

5.24 All electrical service must be run to the various service areas (houses, garages, barns, shops, etc.) underground. No above ground electrical poles shall be permitted unless written approval is granted in advance by the ACC.

5.25 If an Owner does not, within twelve (12) months after the date of the Closing of the sale and purchase of such Owner's Tract, commence substantial and meaningful construction of a residential structure on the Tract, the plans and specifications of which shall have been approved by the ACC as provided in this Declaration, the Owner agrees to and shall pay to the Declarant a sum and amount equal to ten percent (10%), of the gross sales price paid by the Owner to the Declarant at Closing for the Tract (i) on the first day following the expiration of said twelve (12) month period and (ii) on the same day of each year thereafter until the Owner commences substantial and meaningful construction of a residential structure on the Tract. For the purposes of this Declaration, "substantial and meaningful construction of a residential structure on a Tract" shall mean that all of the rough-in plumbing work and slab or other foundation structure for the approved residential structure have been completed.

UNDERGROUND
ELECTRICAL

12 months
TO START
OR PAY
10%

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5.26 Once substantial and meaningful construction has commenced on a residential structure on a Tract, the Owner of the Tract agrees to and shall with reasonable diligence and dispatch substantially complete the construction of the residential structure in accordance with the approved plans and specifications within eighteen (18) months from the date of the commencement of construction. The determination of whether or not the residential structure has been substantially completed in accordance with the approved plans and specifications shall be made solely and exclusively by the ACC, whose decision shall be final and non-appealable with respect thereto. If any Owner does not, within said eighteen (18) month time period, substantially complete the construction of the residential structure in accordance with the plans and specifications, the Owner agrees to and shall pay to the Declarant a sum and amount equal to one percent (1%) of the gross sales price paid by the Owner to the Declarant at Closing for the Tract (i) on the first day following the expiration of said fifteen (15) month period and (ii) on the same day of each month thereafter until the Owner substantially completes the construction of the residential structure on the Tract in accordance with the approved plans and specifications.

5.27 No above ground pools shall be permitted on any Tract. In ground pools are permitted provided all components (pumps, pump house, decks, pool, etc.) are within the setback lines for the Tract. Pools must provide for overflow that does not encroach onto any other Tract. No pool equipment shall be visible from any other Tract.

ARTICLE SIX - IMPOSITION OF LIEN; OWNERS' AGREEMENT

6.01 Imposition of Assessment Lien and Priority of the Lien. THE OBLIGATION TO PAY FINES IN THE MANNER PROVIDED FOR IN ARTICLE IV AND TO PAY ANY OTHER CHARGES, OR ASSESSMENTS AS PROVIDED IN THIS DECLARATION, TOGETHER WITH INTEREST, COLLECTION COSTS, COURT COSTS, AND REASONABLE ATTORNEY'S FEES RELATED THERETO, SHALL BE AND IS HEREBY EXPRESSLY SECURED BY A CONTINUING CONTRACTUAL LIEN (THE "ASSESSMENT LIEN") AND CHARGE ON THE LOT COVERED BY SUCH MAINTENANCE CHARGES, FINES, ASSESSMENTS OR OTHER CHARGES, WHICH SHALL BIND SUCH LOT AND THE OWNERS THEREOF AND THEIR HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The aforesaid continuing contractual Assessment Lien shall attach to all of the Property as of the date of the recording of this Declaration in the Official Public Records of Smith County, Texas, and such Assessment Lien shall be superior to all other liens except as provided in Section 7.03 of this Declaration. Declarant shall have the right to subordinate the aforesaid Assessment Lien to any other lien, and the exercise of such right shall be entirely discretionary with the Declarant for a conveyance to a purchaser at a foreclosure sale pursuant to a lien to which the Assessment Lien is subordinate as provided herein or in Section 7.03 hereof, any part of the Property conveyed to, and accepted and held by, the Owner thereof shall be subject to the Assessment Lien provided

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for in this Section 6.01. To evidence any unpaid Assessments, the Declarant shall prepare a written notice of unpaid Assessments (the "Notice of Unpaid Assessment") setting forth the amount of the unpaid indebtedness, the name of the Owner and describing the affected part of the Property. Such notice shall be signed by Declarant and shall be recorded in the Official Public Records of Smith County, Texas. The Declarant shall record an appropriate release of any recorded Notice of Unpaid Assessments when the amounts referenced therein have been paid. THE ASSESSMENT LIEN MAY BE ENFORCED BY FORECLOSURE OF THE ASSESSMENT LIEN UPON THE DEFAULTING OWNER'S LOT BY THE DECLARANT SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENTS EITHER BY JUDICIAL FORECLOSURE OR BY NONJUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A MORTGAGE ON REAL PROPERTY IN ACCORDANCE WITH OF THE TEXAS PROPERTY CODE, AS SUCH MAY BE REVISED, AMENDED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME. In addition, the Declarant shall have the right and authority to institute suit against the Owner personally to obtain a judgment for unpaid Assessments. Furthermore, the Declarant shall have such other rights and remedies as permitted or allowed by applicable law. In any foreclosure proceeding, whether judicial or nonjudicial, or in any suit or other action against, or pertaining to, the Owner, the Owner shall be required to pay all costs, expenses and reasonable attorneys' fees incurred by the Declarant. The Declarant shall have the right and power to buy the Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, subject to any statutory right of redemption.

6.02 Owner's Agreement. Each Owner, owning a Lot for said Owner, and the Owner's heirs, executors, administrators, personal representatives, successors, and assigns, covenants and agrees:

(a) that the Owner acquires the Owner's Lot subject to the Maintenance Charges, Fines, Assessments, and the Assessment Lien set forth in this Declaration; and

(b) that by accepting a Deed to the Owner's Lot, the Owner is, shall be, and shall remain personally liable for any and all Fines, Maintenance Charges and Assessments created in this Declaration and assessed against the said Owner's Lot while the said Owner is (or was) the Owner thereof regardless of whether such covenants or agreements are expressed in such Deed and regardless of whether the said Owner signed the Deed; and

(c) that by accepting a Deed to the Owner's Lot and to secure the Owner's performance hereunder, the Owner agrees that the Association, in its capacity as trustee, shall have the right to nonjudicially foreclose upon the Assessment Lien granted herein in accordance with and upon compliance with the applicable provisions of the Texas Property Code, as the same may be amended or supplemented from time to time.

ARTICLE SEVEN - ENFORCEMENT OF DECLARATION AND OF ASSESSMENT
LIEN

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7.01 Enforcement by Declarant. The Declarant shall have the right, but not the obligation, to enforce the provisions of this Declaration, including, but not limited to, enforcement of the Assessment Lien. Any Owner shall also have the right to enforce this Declaration at the said Owner's sole cost and expense by any appropriate action, whether at law or in equity. The Declarant shall not have any liability to any Owner or any other person or entity for failing or refusing to enforce this Declaration.

7.02 Enforcement Remedies. If the Owner of any Lot fails to pay any Fines, Maintenance Charges or Assessments assessed, or to pay any interest accrued on any Fines, Maintenance Charges or Assessments, or any and all costs (including court costs and attorneys' fees) incurred by Declarant, in collecting same, the Declarant shall have the right to enforce the payment of the Fines, Maintenance Charges and Assessments, and all interest accrued thereon and costs incurred by Declarant in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Declarant does not prejudice their exercise of any other remedy);

(a) bring an action at law and recover judgment against the Owner personally obligated to pay the Fines, Maintenance Charges or Assessments; or

(a) enforce the Assessment Lien against such Owner's Lot by any means available at law or in equity, including without limitation a nonjudicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in 51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time. The Declarant or any other Owner may be the purchaser at any such foreclosure sale.

7.03 Subordination of the Assessment Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any valid first mortgage lien (purchase money or improvement loan) held by, or deed of trust of which the beneficiary is, an institutional lender which is chartered (or licensed) by the United States or any state within the United States. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of any such superior mortgage lien or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage lien foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure;

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but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all subsequent charges, liens, or encumbrances (except lien for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien financing), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take the Lot subject to all Maintenance Charges and Assessments, and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

ARTICLE EIGHT – GENERAL PROVISIONS

8.01 The Declarant, the ACC or any Owner shall have the right, but not the obligation to enforce by any proceeding at law or in equity all restrictions, conditions and reservations now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.02 Invalidation of any one of these covenants or restrictions by judgement, or court order shall in no way affect any other provision and all other provisions shall remain in full force and effect. To the extent that any provision of this Declaration conflicts with, or cannot be reconciled with any applicable loan regulation, rule or guideline of the Farmers Home Administration or Veterans Administration such regulation rule or guideline shall control. In such an instance the remaining provisions of this Declaration shall be unaffected and shall remain in full force and effect.

8.03 The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Declarant, the ACC and the Owner of any Tract and their respective legal representatives, heirs, executors, administrators, successors and assigns and unless amended as provided herein, shall be effective for a term of thirty (30) years from the date this Declaration is recorded after which time said covenants, conditions and restrictions shall be automatically extended for successive periods every (10) years unless a majority of the Owners causes to be recorded in the Official Public Records of Smith County, Texas an instrument in which the majority of the Owners indicate that these covenants, conditions and restrictions are not being renewed have been terminated and are void and of no further force and effect.

8.04 The covenants, conditions and restrictions of this Declaration may not be amended during the first five (5) year period except by Declarant and then may be amended for a period of twenty-five (25) years by an instrument signed by the Owner or Owners of not less

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PEACH TREE RANCH, SMITH COUNTY, TEXAS

than sixty-six and two-thirds percent (66 2/3%) of the Tracts and thereafter by an instrument signed by the Owner or Owners of not less than fifty-one percent (51%) of the Tracts. This Declaration may be amended from time to time unilaterally by the Declarant (i) until such time as Declarant no longer holds any right, title or interest in and to the Property or (ii) until such time as Declarant waived the right to unilaterally amended this Declaration. No amendment shall be effective until recorded in the Official Public Records of Smith Country, Texas nor until the approval of any governmental regulatory body which is required shall have been obtained.

8.05 Effective as of the date that the Declarant shall have conveyed all of its rights, title and interest in and to the Property and no longer holds any interest in and to the Property or any Property thereafter added pursuant to Article Three, Declarant shall be deemed to have assigned all its rights, benefits and obligations as Declarant hereunder to the ACC. Declarant shall the be relieved of the performance of any further duty or obligations of the Declarant with the necessity of any further writing of assignment of such rights and obligations by the Declarant. DURING THE TERM OF THIS DECLARATION AND THEREAFTER, NEITHER DECLARANT NOR THE SHAREHOLDERS, PARTNERS, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES AND AGENTS OF THE DECLARANT SHALL BE LIABLE FOR DAMAGES OR OTHERWISE TO ANY OWNER OF ANY PROPERTY RELYING ON THESE RESTRICTIONS FOR REASON OF THEIR UNENFORCEABILITY OR BY REASON OF DECLARANT'S ENFORCEMENT OR NON-ENFORCEMENT THEREOF. IN ADDITION DURING THE TERM OF THE DECLARATION AND THEREAFTER, EACH OWNER AGREES THAT THE OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT OR THE SHAREHOLDERS, PARTNERS, OFFICERS, DIRECTORS MEMEBERS, EMPLOYEES AND AGENTS OF THE DECLARANT, TO RECOVER ANY SUCH DAMAGES AND DECLARANT ARISING OUT OF OR IN CONNECTION WITH ANY DECISION, ACTION, JUDGEMENT, NEGLIGENCE, ENFORCEMENT ACTION OR ANY OTHER ACT OR OMISSION BY DECLARANT IN CONNECTION WITH THE ENFORCEMENT (OR LACK THEROF) OF THIS DECLARATION.

8.06 Notwithstanding any provision in Declaration to the contrary, Declarant may in writing filed of record in the Official Public Records of Smith County, Texas referring to this Declaration expressly assign in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other Person or entity and may permit the participation, in whole or in part, by any other Person or entity of any of its privileges, exemptions, rights and duties hereunder. Upon assignment by Declarant of any or all of Declarant's rights, the Declarant shall no longer be liable for performance of such assigned rights provided that the assignee expressly assumes in the record assignment the obligations of Declarant that are assigned.

8.07 Except for judicial construction for so long as the Declarant owns any Tract, the Declarant shall have the exclusive right and power to construe and interpret the provisions of this Declaration. Once the Declarant no longer owns a Tract, the ACC shall have the exclusive right and power to construe and interpret the provisions of this Declaration. In the absence of any

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PEACH TREE RANCH, SMITH COUNTY, TEXAS

adjudication to the contrary by a Court of competent jurisdiction, the Declarant’s or the ACC’s construction or interpretation of the provisions hereof, as applicable, shall be final, conclusive and binding as to all persons and property benefitted or bound by this Declaration and the provisions hereof.

8.08 If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the interest; the “lives in being” for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue and descendants of Declarant who are living at the time the period of perpetuities starts to run on the challenged interest.

8.09 In the absence of willful and intentional misconduct attributable to (i) Declarant, its successors or assigns or (ii) the ACC (and any and all members thereof), neither the Declarant, nor its successors or assigns, nor the ACC (nor any member thereof), shall have any liability of any nature whatsoever arising out of or in any manner related to the performance or non-performance of any of the rights and powers reserved unto Declarant or the ACC, or their respective heirs, executors, administrators, personal representatives, legal representatives, successors or assigns, pursuant to this Declaration.

8.10 This Declaration, and all of the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements shall be construed to effectuate the purposes of this Declaration.

8.11 In the event of any irreconcilable conflict between the provisions of this Declaration and the Texas Property code, the provisions of the Texas Property Code, the provisions of the Texas Property code shall control over the provisions of this Declaration.

Executed this ____ day of December, 2021

BJB Partners Real Estate, LLC,
A Texas Limited Liability Company

By: _____
Brent M. Byers, Manager

The State of Texas §

County of _____ §

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PEACH TREE RANCH, SMITH COUNTY, TEXAS

The foregoing instrument was acknowledged before me on this the ____ day of
December, 2021, by Brent M. Byers, Manager of BJB Partners Real Estate, LLC, a Limited
Liability Company.

Notary Public, State of Texas

Printed Name of Notary

Commission Expires

After Recording Return To:

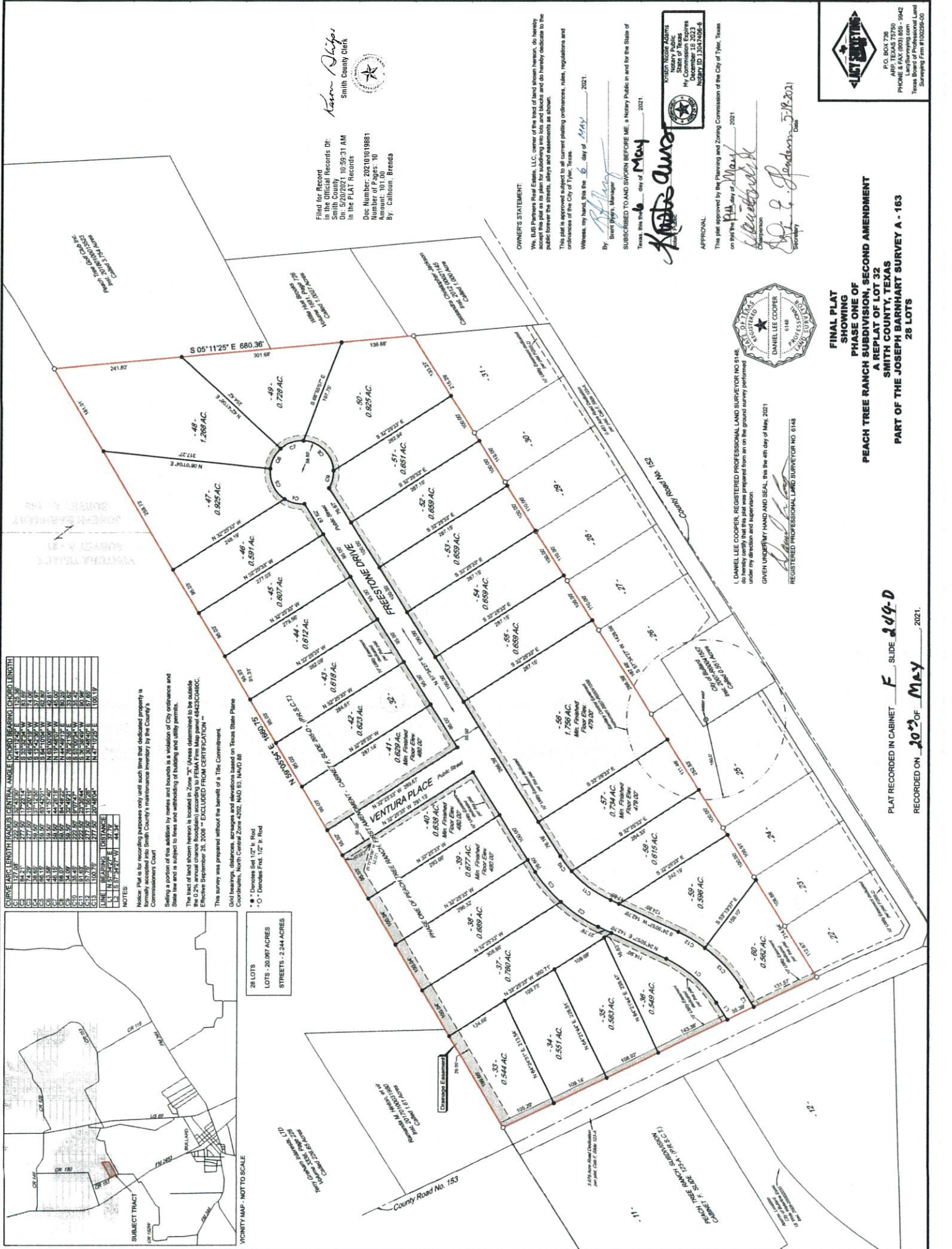
BJB Partners Real Estate, LLC
102 N. College Avenue, Suite 1300
Tyler, Texas 75702

CURVE	ARC LENGTH	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD LENGTH
C1	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C2	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C3	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C4	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C5	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C6	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C7	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C8	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C9	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C10	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C11	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C12	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C13	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C14	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C15	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C16	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C17	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C18	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C19	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C20	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C21	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C22	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C23	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C24	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C25	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C26	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C27	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C28	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'
C29	171.00'	666.50'	15.43°	N 41° 42' 48" W	35.35'
C30	171.00'	666.50'	15.43°	S 48° 17' 12" E	35.35'

NOTES:
 1. Notice: Plat is for recording purposes only until such time that dedicated property is formally accepted into Smith County's maintenance inventory by the County Commissioners Court.
 2. Selling a portion of this addition by metes and bounds is a violation of City ordinance and State law and is subject to fines and withholding of building and utility permits.
 3. The tract of land shown hereon is located in Zone "C". Areas determined to be outside the 0.2% annual chance floodplain according to FEMA Flood Map panel 48403CACR. Effective September 28, 2008 - EXCLUDED FROM CERTIFICATION -
 4. This survey was prepared without the benefit of a Title Commitment.
 5. Old bearing, distance, acreage and locations based on Texas State Plane Coordinates, North Central Zone 4202, NAD 83, NAD 83.
 * * * Distance 1/2" = 1' Field
 * * * * * Distance 1/2" = 100'



28 LOTS
 LOTS - 20.097 ACRES
 STREETS - 2.244 ACRES



Filed for Record
 in the Official Records of:
 Smith County
 On: 5/20/2021 10:59:31 AM
 in the PLAT Records
 Doc Number: 2021010881
 Number of Pages: 10
 Amount: 101.00
 by: Calloun, Brenda
 Smith County Clerk

OWNER'S STATEMENT:
 We, L&B Partners Real Estate, LLC, owner of the tract of land shown hereon, do hereby certify that this plat was prepared from an on the ground survey performed under my direction and supervision.
 Witness, my hand, this 6 day of May, 2021.

By: *[Signature]*
 Brent Byers, Manager
 SUBSCRIBED TO AND SWORN BEFORE ME, a Notary Public in and for the State of Texas, this 6 day of May, 2021.



APPROVAL:
 This plat approved by the Planning and Zoning Commission of the City of Tyler, Texas on this 6 day of May, 2021.
[Signature]
 Chairman
[Signature]
 Secretary



I, DANIEL LEE COOPER, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6148, do hereby certify that this plat was prepared from an on the ground survey performed under my direction and supervision.
 GIVEN UNDER MY HAND AND SEAL, this 6th day of May, 2021.
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6148

FINAL PLAT SHOWING PHASE ONE OF PEACH TREE RANCH SUBDIVISION, SECOND AMENDMENT A REPLAY OF LOT 32 SMITH COUNTY, TEXAS PART OF THE JOSEPH BARNHART SURVEY A - 163 28 LOTS

PLAT RECORDED IN CABINET F SLIDE 249-D
 RECORDED ON 10th OF May, 2021.

