

HARPER'S  PRESERVE

AMENDMENT AND ARTICLES OF
ANNEXATION FOR HARPER'S PRESERVE AND
SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
(Harper's Preserve, Section 6)

STATE OF TEXAS

§
§
§

KNOW ALL BY THESE PRESENTS THAT:

COUNTY OF MONTGOMERY

This Amendment and Articles of Annexation for Harper's Preserve and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements (this "Supplemental Declaration") is dated this 14 day of May, 2015 by, **242, LLC**, a Texas limited liability company (the "Declarant").

RECITALS:

WHEREAS, that certain Declaration of Covenants, Conditions, Restrictions and Easements for Wood Lake Village dated November 4, 2003, was recorded in the Office of the County Clerk of Montgomery County, Texas, under Clerk's File No. 2003-146583 on December 2, 2003, and subjects real property known as Wood Lake Village, Section One (1), now partially known as Harper's Preserve, Section One (1), a subdivision in Montgomery County, Texas, to the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration; and

WHEREAS, that certain Correction Amendment of Declaration of Covenants, Conditions, Restrictions and Easements dated December 15, 2003, was recorded in the Office of the County Clerk of Montgomery County, Texas, under Clerk's File Number 2004-002722 on January 8, 2004; and

WHEREAS, that certain Second Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Wood Lake Village was recorded in the Office

of the County Clerk of Montgomery County, Texas, under Clerk's File Number 201010729 on November 30, 2010; and

WHEREAS, that certain Third Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Wood Lake Village Concerning Annexation and De-Annexation was recorded in the Office of the County Clerk of Montgomery County, Texas, under Clerk's File Number 2011007006 on January 25, 2011; and

WHEREAS, the Declarant is the current "Declarant" under the Declaration (herein defined) pursuant to that certain Assignment of Declarant Interests dated as of September 15, 2006, and recorded in the Office of the County Clerk of Montgomery County, Texas, under Clerk's File Number 2008-058953 on June 12, 2008; and

WHEREAS, that certain First Amendment to Assignment of Declarant Interests was recorded in the Office of the County Clerk of Montgomery County, Texas, under Clerk's File Number 2011004068 on January 14, 2011; and

WHEREAS, that certain First Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Harper's Preserve was recorded in the Office of the County Clerk of Montgomery County, Texas, under Clerk's File 2011011454 on February 8, 2011 (as supplemented and amended, the "Declaration"); and

WHEREAS, the Declaration having been supplemented and amended by the following instruments.

<u>Instrument</u>	<u>Montgomery County Clerk, Texas Recording Information</u>
1. Notice, Amendment and Articles of Annexation.	2011058753
2. Amendment and Articles of Annexation for Harper's Preserve (Harper's Preserve, Section 2).	2012109651
3. First Amendment to First Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Harper's Preserve.	2012116878
4. Amendment and Articles of Annexation for Harper's Preserve (Harper's Preserve, Section 3).	2014005176
5. Amendment and Articles of Annexation for Harper's Preserve (Harper's Preserve, Section 4).	2015025964 and re-recorded under 2015029560

6. First Amendment to Amendment and Articles of Annexation for Harper's Preserve (Harper's Preserve, Section 4). 2015036677
7. Amendment and Articles of Annexation for Harper's Preserve (Harper's Preserve, Section 5); and 2015031723

WHEREAS, Article I, Sections 1.02 and 1.03 of the Declaration provides that "Declarant" may annex additional real property into and make same a part of the Subdivision (as defined in the Declaration and herein called the "Subdivision") by amendment of the Declaration as provided in Article XI of the Declaration without the joinder or consent of, or any notice to, an owner or person, and that any annexation must be evidenced by filing in the Official Public Records of Real Property of Montgomery County, Texas, of articles of annexation describing the real property to be annexed; and

WHEREAS, Article XI, Section 11.10.1 of the Declaration provides that during the Development Period (as defined in the Declaration and herein called the "Development Period"), the "Declarant" reserves the sole and exclusive right, without the joinder or consent of, or any notice to, an owner or other person, to annex and subject any other property to the scheme of the Declaration provided such annexation is not inconsistent with the scheme of the development contemplated by the Declaration; and

WHEREAS, the Declarant is the owner of that certain real property platted as Harper's Preserve, Section 6 and filed of record in Cabinet Z, Sheets 3233 and 3234 of the Map Records of Montgomery County, Texas, and in the Real Property Records of Montgomery County, Texas, under Clerk's File Number 2015010005 (the "Annexation Property"); and

WHEREAS, the Development Period has not expired; and

WHEREAS, the Declarant desires to encumber the Annexation Property with the Declaration, as modified in this Supplemental Declaration, and to be within the jurisdiction of the Harper's Preserve Community Association, Inc., a Texas non-profit corporation (the "Association") and to subject the Annexation Property to the additional covenants, conditions, and restrictions set forth in this Supplemental Declaration;

NOW, THEREFORE, for and in consideration of TEN and NO/100 (\$10.00) DOLLARS and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declarant does hereby agree and declare as follows:

1. The Annexation Property is annexed into the Subdivision, to be under the authority and jurisdiction of the Association.
2. The Annexation Property shall be held, transferred, sold, conveyed, used and occupied in accordance with and subject to those certain covenants,

conditions, restrictions, easement, charges and liens set forth in the Declaration, as modified in this Supplemental Declaration, and as it may be hereafter amended, which shall run with the land and shall be binding on all parties having any right, title, or interest in the Annexation Property or any part thereof, their heirs, successors and assigns, and which shall inure to the benefit of each owner thereof.

3. Pursuant to Article XI, Section 11.10.1 of the Declaration, during the Development Period, the Declarant reserves the sole and exclusive right, without the joinder or consent of, or any notice to, an owner or other person, to amend, modify, revise or repeal, from time to time and at any time, the Declaration.
4. Any capitalized terms which are used in this Supplemental Declaration and not defined herein shall have the meanings ascribed to them in the Declaration. Furthermore and notwithstanding anything contained in the Declaration to the contrary, the following covenants, conditions, restrictions and easements for Articles I, II, III, and IV shall apply to, and only to:

(a) Lots Seventeen (17) through Forty-Four (44) inclusive, in Block Two (2) of the Annexation Property; and

(b) Lots One (1) through Eighteen (18) inclusive, in Block Three (3) of the Annexation Property.

(herein collectively called the "Zero Lot Line Lots" and singularly called a "Zero Lot Line Lot"), which shall run with the land and be binding on all parties having any right, title or interest in a Zero Lot Line Lot or any part thereof, their heirs, successors and assigns, and may be enforced by the Association and shall inure to the benefit of each Owner thereof, to wit. Article V shall apply to all Lots in the Annexation Property.

ARTICLE I ZERO LOT LINE

Each residence on a Zero Lot Line Lot ("Zero Lot Line Dwelling") shall be designed so as to provide that a minimum of fifty percent (50%) of the linear distance of one (1) wall of the Zero Lot Line Dwelling to be constructed either adjacent to and abutting or within one foot (1') or less of a side Lot line. Such side Lot line where there is such construction shall be hereinafter referred to as the "Zero Lot Line". Provided however, an open court or patio may be built adjacent and abutting, or within one foot (1') or less of the aforementioned Zero Lot Line, but said open court or patio must be enclosed by a masonry wall having a minimum height of seven feet (7') above the foundation. This wall must, as is the case with the Zero Lot Line Dwelling wall, be constructed adjacent to, or within one foot (1') or less of the abutting Zero Lot Line and enclose the court or patio in such a manner as to appear

to be an extension of the Zero Lot Line Dwelling. The Zero Lot Line walls shall have no exterior objects or appurtenances, for example, there shall be no electrical panels (unless required by the electric company), vents, plumbing clean outs, windows or openings of any kind unless such Zero Lot Line side is on the street side of a corner lot or if approved by the ACC. If the Zero Lot Line side is on the street side of a corner lot, normal openings and exterior appurtenances may be constructed on the Zero Lot Line Dwelling abutting the Zero Lot Line. Provided, however, the roof overhang and the attached guttering of the Zero Lot Line Dwelling may extend and encroach over the Zero Lot Line for a distance not to exceed eighteen (18) inches. There is hereby established a five (5) foot minimum distance between the Zero Lot Line and the closest wall of the Zero Lot Line Dwelling situated upon the Adjoining Lot (as defined below); however, the minimum distance between the roof of the Zero Lot Line Dwelling located upon the Zero Lot Line and the roof of the Zero Lot Line Dwelling situated upon the Adjoining Lot may be four (4) feet. No Zero Lot Line Dwelling shall be located within any utility easement.

ARTICLE II ZERO LOT LINE EASEMENTS

1. Zero Lot Line Access Easement. Each Zero Lot Line Lot shall have a five (5) foot access easement (the "Access Easement") extending the entire depth of the Zero Lot Line Lot from front to back abutting and parallel to the Zero Lot Line wall, over, on and across the adjoining Lot (herein the "Adjoining Lot"), for the construction, repair and maintenance of improvements located on the Zero Lot Line. Conditions and use of the Access Easement are hereby declared and established by and between the Owner of the Zero Lot Line Lot and the Owner of the Adjoining Lot, which shall be covenants running with the land and binding on both of the above-mentioned Owners and all of their respective heirs, successors, and assigns forever, to-wit:

(a) The Zero Lot Line Lot Owner must replace or return to the existing condition, any fencing, landscaping or other items on the Adjoining Lot that he or she may disturb during construction, repair or maintenance, save and except as set out below in subsection (b).

(b) The Access Easement, when used by the Zero Lot Line Lot Owner for such construction, repair or maintenance, must be left clean and unobstructed unless the Access Easement is actively being utilized and any items removed must be replaced.

(c) The Zero Lot Line Owner must notify the Owner of the Adjoining Lot of his or her intent to do any construction, repair or maintenance upon the Zero Lot Line wall at least forty-eight (48) hours prior to starting any work. The hours that such Access Easement may be utilized shall be between 8:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m. on Saturday and noon through 6:00 p.m. on Sunday.

Notwithstanding the above, in the case of an emergency, and to prevent imminent damage to the Zero Lot Line Dwelling or occupants, a Zero Lot Line Owner may enter at whatever time necessary and without prior notice to the Owner of the Adjoining Lot to do necessary repairs or escape any injury to the occupant and/or the occupants' invitees and licensees.

(d) Both the Zero Lot Line Owner and the Adjoining Lot Owner shall have the right of surface drainage over, along and upon the Access Easement area. Neither Owner shall use the Access Easement area in such a manner as will interfere with such drainage.

(e) Neither Owner shall attach any object to the Zero Lot Line wall, facing onto the Access Easement area and the Owner of the Adjoining Lot will not use the Zero Lot Line wall as playing surface for any sport. In addition, no structure, including but not limited to pools, spas and equipment for pools and spas, shall be constructed or placed upon the Access Easement area by either Owner, except the roof overhang and guttering as provided for above, and a fence by the Owner of the Adjoining Lot, which allows proper surface drainage; however, access to the Access Easement must be preserved for the Owner of the Zero Lot Line Lot.

2. Bell Bottom Easements. Owners of each Zero Lot Line Lot shall have and are hereby granted a five (5') foot underground easement, extending five feet (5') into the side building setback line of the Adjoining Lot with said easement being contiguous to the Zero Lot Line of the Lot benefiting from said easement, hereinafter the "Bell Bottom Easement". The underground Bell Bottom Easement shall be used solely for the installation, construction and maintenance of underground bell bottoms in conjunction with the installation or repair of residential foundations.

ARTICLE III ZERO LOT LINE CRITERIA

The following criteria shall apply to the Zero Lot Line Lots unless otherwise approved in writing by the ACC:

1. Zero Lot Line Pattern. The Lots shall be for a single family home program, based upon a zero side yard, building setback concept. See the Harper's Preserve East Village Architectural Guidelines for zero lot line pattern specific to each Zero Lot Line Lot.

2. Set Backs. The side yard building set back on the zero side of the Zero Lot Line Lot shall be one foot (1') or less and the setback along the non-zero side of the Zero Lot Line Lot shall be five feet (5') or greater, as set forth in the Harper's Preserve East Village Architectural Guidelines. Owners must verify Entergy Lot easements before design and construction.

3. Zero Lot Line Requirements. The Zero Lot Line Lots must adhere to the Architectural Guidelines set forth by the ACC.

ARTICLE IV DRIVEWAY REQUIREMENTS

The following criteria shall apply to the Zero Lot Line Lots unless otherwise approved in writing by the ACC:

1. Water, sewer, and drainage facilities have been designed on the basis of a zero side yard Lot line pattern, which assumes that straight-in driveways into garages will be designed and located in a manner for homes to be centered on the zero side line of the Zero Lot Line Lot. Non-conforming driveways to this design standard, *i.e.*, swing-in or hook-in driveways, are allowed provided the driveway does not conflict between driveway with curb-inlets, hydrants or other utilities will occur. Owners assume all risk and obligation for driveway design conflicts or adjustments.

ARTICLE V GENERAL PROVISIONS

1. Applicability. Each Owner and each Owner's tenants, by acquisition of any right, title or interest in any Lot, covenant and agree to be bound by and to strictly comply with all restrictions, covenants, conditions and easements set forth in this Supplemental Declaration, the Declaration and all other governing documents of the Association as same may from time to time or at any time be hereafter amended. The foregoing provisions apply regardless of whether or not any such documents are filed in the Official Public Records of Real Property of Montgomery County, Texas, or any other public records except as otherwise expressly required by this Supplemental Declaration or by law.

2. Amendment. It is the intent of Declarant that the covenants, conditions, restrictions and easements provided for in this Supplemental Declaration apply only to the Annexation Property. Notwithstanding any provisions of this Supplemental Declaration to the contrary, it is also the intent of Declarant that the specific restrictions that are imposed on the Annexation Property by virtue of this Supplemental Declaration (other than those in the Declaration that are, in whole or in part, repeated herein) may be amended at any time by an instrument executed by the President or Vice President of the Association (after approval by the Board of Directors) and the Owners of a majority of the Lots within the Annexation Property and recorded in the Office of the County Clerk of Montgomery County, Texas; provided, however, any amendment hereto must also have the approval of and be executed by Declarant as long as Declarant owns any Lot in the Annexed Property. Further, this Supplemental Declaration may be amended unilaterally at any time and from time to time by the Declarant.

3. Severability. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

4. Gender and Grammar. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

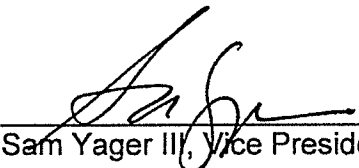
5. Conflict. In the case of a conflict between the provisions of this Supplemental Declaration and the provisions of the Declaration, the provisions of this Supplemental Declaration shall control.

It is expressly agreed and understood that the individual executing this document on behalf of Declarant is acting in his representative capacity only and solely as a representative of the Declarant and any liability resulting hereunder based upon the actions of such individual, including but not limited to, the breach of any warranty, covenant, representation and/or provision contained herein, if any, shall be that of the Declarant and not that of such individual.

EXECUTED as of the date first set forth above.

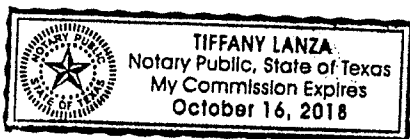
DECLARANT:


242, LLC, a Texas limited liability company

By: 
Sam Yager III, Vice President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 14 day of May, 2015, by Sam Yager III, the Vice President of 242, LLC, a Texas limited company, on behalf of said entity.




Tiffany Lanza
Notary Public

JOINDER OF LIENHOLDER

TEXAS CAPITAL BANK, joins herein for the purpose of subordinating the liens it holds on the Annexation Property to the covenants, conditions and restrictions hereby imposed by 242, LLC, a Texas limited liability company as Declarant with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

TEXAS CAPITAL BANK

By: 

Jerry Schillaci, Senior Vice President

THE STATE OF TEXAS

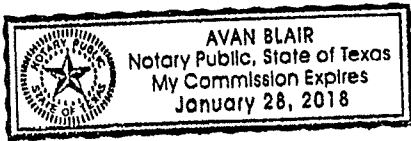
§

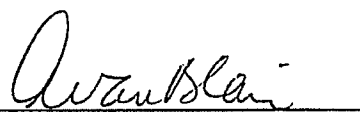
COUNTY OF HARRIS

§

§

This instrument was acknowledged before me on the 14th day of May, 2015, by Jerry Schillaci, the Senior Vice President of Texas Capital Bank, on behalf of said entity.




Notary Public

AFTER RECORDING RETURN TO:

Mark K. Knop
Hoover Slovacek LLP
5847 San Felipe, Suite 2200
Houston, Texas 77057-3918
File No: 122602-03

E-FILED FOR RECORD
05/22/2015 3:05PM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

05/22/2015



County Clerk
Montgomery County, Texas