

AMENDED DEDICATION AND RESTRICTIONS OF McAFEE'S CANYON, UNIT NO. ONE, NOW KNOWN AS TIMBERCREEK CANYON, UNIT NO. 3, A SUBDIVISION OUT OF SECTION 21, BLOCK NO. 6, I&GN R.R. COMPANY SURVEY, RANDALL COUNTY, TEXAS

THE STATE OF TEXAS)
COUNTY OF RANDALL) KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, by instrument dated the ___ day of ___, 1964, and recorded Volume 334, Page 233, of the Deed Records, Randall County, Texas, C. Lane McAfee and wife, Hylagene R. McAfee, "Developer" caused to be plated a subdivision of a part of Section No. 21, Block 6, I&GN R.R. Co. Survey, Randall County, Texas, with streets and easements dedicated to the public use with restrictions, conditions and covenants as therein provided, to which instrument and its record reference is here made for a complete description thereof, said land being more particularly described as follows, to-wit:

BEGINNING at the northwest corner of said Section 21; THENCE north 89° 50' 40" east a distance of 1,980 feet to a point; THENCE south a distance of 1,320.00 feet to the beginning corner of this tract; THENCE continuing south a distance of 1,650 feet to a point; THENCE west a distance of 500 feet to a point; THENCE north 60° 00' 00" west a distance of 675.00 feet to the center of the Prairie Dog Fork of the Red River; THENCE along the center line of said Prairie Dog Fork in the north and easterly direction to a point in a line 1,320.00 feet south of and parallel with the north line of said Section 21; THENCE north 89° 50' 40" east a distance of 221.00 feet to the point and place of beginning, containing 40 acres, more or less, reserving and excepting, however, all oil, gas and other minerals thereon and thereunder or that may be produced therefrom; and

WHEREAS, Roberts & McAfee, Inc., a Texas corporation, is the present owner and holder of all lots and blocks lying within the said McAfee's Canyon, Unit No. One, and has succeeded to all the rights and interests of the Developer as provided for and reserved in the above described dedication and restrictions of said subdivision subject to a certain vendor's lien reserved and retained by C. Lane McAfee; and

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WHEREAS, it is the desire of Roberts & McAfee, Inc, joined by C. Lane McAfee, to amend the dedication and restrictions of McAfee's Canyon, Unit No. One, in accordance with this instrument:

NOW, THEREFORE, for and in consideration of the premises, the undersigned, Roberts & McAfee, Inc., a Texas corporation, joined by C. Lane McAfee, individually, have and do hereby amend the dedication and restrictions of McAfee's Canyon, Unit No. One as follows:

The second and third grammatical paragraphs of the dedication and restrictions of McAfee's Canyon, Unit No. One shall be deleted in their entirety, and the following paragraphs substituted therefor, to-wit:

The name of said Subdivision shall be "Timbercreek Canyon, Unit No. 3" out of Section 21, Block 6, I&GN R.R. Co. Survey, Randall County, Texas, formerly McAfee's Canyon, Unit No. One.

The said Roberts & McAfee, Inc. reserves unto itself, its successors or assigns, all of the land within Timbercreek Canyon, Unit No. 3 lying adjacent to the Prairie Dog Fork of the Red River and outside the boundaries of the tracts of the said Timbercreek Canyon, Unit No. 3, as said boundaries are shown upon the plat attached to the dedication and restrictions of McAfee's Canyon, Unit No. One, to which reference is made for all purposes, and Roberts & McAfee, Inc. further reserves unto itself, its successors or assigns, all other areas not included within the boundaries of any tract shown upon said plat. The plat of McAfee's Canyon, Unit No. One attached to the dedication and restrictions of McAfee's Canyon, Unit No. 1 shall be and the same is hereby amended by renaming "Caliche Drive" as "Roberts Drive", and by designating as "Lot or Tract 30" the land bounded on the East by Roberts Drive, formerly Caliche Drive, and on the North, West, and South by Cottonwood Lane. It is expressly provided and agreed that the lands reserved to Roberts & McAfee, Inc. may be used in common by Roberts & McAfee, Inc., its successors or assigns, and the owners of the tracts of land shown upon the plat of Timbercreek Canyon, Unit No. 3, formerly McAfee's Canyon, Unit No. One, for the purposes of access, ingress, egress and recreational purposes, save and except camping and the use of firearms for any purposes. The foregoing provisions relating to the use of such reserved lands here permitted to the owners of the tracts shown upon said plat shall be construed as a covenant running with the land, but no owner of any tract shall otherwise have any right, title or interest in any part of the area covered by Timbercreek Canyon, Unit No. 3, save and except in the tract owned by such person.

DURATION

These restrictions and covenants run with the land and are binding and effective until January 1, 1998, after which time said restrictions and covenants shall be automatically extended for ten year periods unless and until terminated or changed by a recorded vote of a majority of the then owners of the above described property.

ENFORCEMENT

Violation of the covenants and restrictions shall not effect a reverter, but violation of them may be restrained in a proceeding at law or equity without proof of irreparable damage or damages, for which any lot owner may recover.

Invalidation of one or more of the restrictions or covenants shall not affect the other provisions herein which shall remain in full force and effect.

The dedication and restrictions of McAfee's Canyon, Unit No. One, now Timbercreek Canyon, Unit No. 3, shall be and the same is hereby further amended by deleting restrictive covenants numbered 1 through 14 in their entirety and by substituting therefor the following:

1. All tracts shall be used exclusively for residential purposes only and not otherwise, and said tracts shall not be used or occupied for any purpose or activity incidental to or in any manner connected with the operation or conduct of a business or profession thereon. Provided, however, that Roberts & McAfee, Inc., reserves unto itself, its successors and assigns, the right, during the period of development and sale of said subdivision, to use and occupy one or more of such tracts for any purpose associated with the development of said subdivision and the making, erection, and sale of improvements to be constructed thereon.

2. No owner shall use or operate any motorcycle, motor boat, automobile, motor engine, or motor vehicle which shall emit an unreasonably loud noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity.

3. No structure, tent, trailer, mobile home or other building or shelter shall be constructed or placed on any tract and used or occupied prior to the erection and completion of the main residential dwelling thereon.

4. No old or second-hand structures shall be moved on any tract and all residences and accessory buildings shall be of new construction only, with the provision that used brick may be used in the construction of new residences or other improvements.

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5. All buildings shall be set back at least thirty feet (30') from the front property line of the tract upon which the same may be constructed or maintained. No building shall be constructed or maintained upon any lot closer than eight feet (8') to the side tract line thereof, save and except that any buildings and structures otherwise permitted by this dedication, and situated upon the rear one-half (1/2) of any tract, may be located and maintained within three feet (3') of side tract lines. For the purpose of set-back requirements, eaves, steps and open porches shall not be considered as a part of the building to which they are affixed; provided, however, that this clarification shall not be deemed or construed to permit any building or any portion thereof to encroach upon or hang over any other tract or tracts. Neither fences nor retaining walls shall be considered to be buildings with respect to the set-back requirements contained herein. Nothing contained herein shall be construed to prohibit the owner of one or more contiguous tracts, or parts thereof, from constructing a residence and other improvements upon such tract of land; and in such cases, the entire plot of land shall be considered as a single tract for set-back purposes; provided, however, that no tract shall ever be divided into two or more smaller tracts or plots so as to result in increasing the number of building tracts.

6. The following restrictions with respect to the size and use of the dwellings shall be as follows:

(a) All residences constructed on Lots 2, 14 through 21, inclusive, and 26 through 29, inclusive, shall contain a minimum of 1600 square feet in the living area thereof, exclusive of open porches, decks, and garages.

(b) All residences constructed on Lots 3 through 6, inclusive, 12, 13, and 23 through 25, inclusive, shall contain a minimum of 2000 square feet in the living area thereof, exclusive of open porches, decks, and garages.

(c) All residences constructed on Lots 1, 7 through 11, inclusive, 22 and 30, shall contain a minimum of 2500 square feet in the living area thereof, exclusive of open porches, decks, and garages.

(d) All residences shall be detached single family dwellings, not exceeding two stories in height.

7. No open cesspools, outside toilets or privies shall ever be permitted to be erected, constructed, or maintained upon any tract within this subdivision. Metal, concrete, or manufactured tanks of a minimum capacity of 500 gallons, with adequate subterranean fields shall be installed on each tract. The construction thereof shall be in such a manner that no harm or damage shall occur to the underground water.

8. No noxious or offensive activities shall be carried on upon any tract, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

9. No cows, sheep, goats, swine, rabbits, or other animals or other livestock may be kept upon any tract within this subdivision, except, however, that dogs, cats, and other household pets shall be permitted, provided that the same are not kept for the primary purpose of breeding and commercial purposes. Provided, however, that the owner of each tract shall be permitted to keep a maximum of three horses for each tract for the personal use of the family only, and shall provide adequate stabling of such horses.

10. No obstruction, diversion, bridging or confining of the existing channels through which surface water in time of rain or storms naturally flows upon and across any tract shall be made by any tract owner in such a manner as to cause damage to other tracts.

11. No grass, weeds or other growth shall ever be burned from the property and no trees or other natural growth except mesquite shall be dug up, cut, mutilated or destroyed except as may be necessary in connection with the construction of the dwelling or accessory buildings and then only with the approval of the Developer.

12. No signs, billboards, posters or advertising devices of any character shall be erected or maintained on any tract, save and except one sign of not more than ten (10) square feet may be erected upon property which is being offered for sale or for rent, and similar signs may be used by the said Developer or by a builder to advertise the property during the period of construction and sale.

13. Each home or residence shall be equipped with an incinerator which meets the requirements in safety and performance prescribed by The American Gas Association Testing Laboratory, or other recognized testing laboratory. No rubbish, junk, salvage or debris shall be burned upon any lot except within such incinerator. No rubbish, junk, salvage or debris of any kind or character shall ever be placed or permitted to accumulate upon any portion of such tracts so as to render said premises unsanitary, unsightly, offensive, or detrimental to any other tract or tracts or to the occupants thereof.

14. No building, fence, wall, utility or other structure shall be erected, altered or maintained upon, under or above any tract unless plans and specifications therefor and a plot plan indicating the location of such structures upon the tract to be built upon have been approved in writing by the Developer. All buildings must be new construction and no old building shall be moved upon the property.

15. Prior to the commencement of any excavations, construction or remodeling or adding to any structure theretofore completed, there shall first be filed with the Developer a complete set of building plans and specifications therefor, together with a block or plot plan indicating the exact part of the building site the improvements will cover as well as indicating the location of fences, walls, utilities and other structures and said work shall not commence unless the Developer shall endorse said plans as being in compliance with these covenants and

and plans are otherwise approved by the Developer. In the event Developer fails to approve or disapprove in writing said plans within fifteen (15) days after their submission, then said approval will not be required. When all tracts in said subdivision have been sold by the Developer, said plans and specifications shall be approved by an Architectural Committee appointed by Developer. Such appointment shall be evidenced by an instrument filed for record in the Deed Records of Randall County, Texas.

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The dedication and restrictions of McAfee Canyon, Unit No. One, now Timbercreek Canyon, Unit No. 3, is further amended by adding the following paragraphs:

EASEMENTS

There is hereby reserved for the benefit of any person, public utility or municipality furnishing gas, water or electricity, telephone and/or other utilities, the use of the streets, alleyways and easements as shown on the accompanying plat, for the purpose of laying, operating, maintaining and removing pipes, poles, wires, or other lines, for the purpose of supplying utility service and connections to and with buildings constructed in this subdivision. Provided, however, the said Developer reserves unto itself, its successors and assigns, the exclusive right, franchise and privilege of furnishing water to all tracts within this subdivision for so long as the said Developer, its successors and assigns, shall desire to exercise such rights.

No building or other obstruction shall be erected upon or be permitted to remain upon any easement; and all easement areas shall be kept clear of overhanging limbs and branches and from shrubs and trees that might interfere with service lines or utility services; and in the absence of the owner of any lot keeping such easement areas free from such obstructions, overhanging branches, limbs, etc., then the person, public utility or municipality for whom the easement is reserved hereunder may clear such easement area of any such overhanging limbs, branches and obstructions without being liable in damages therefor.

PLAT

The conveyancing of lands within Timbercreek Canyon, Unit No. 3, formerly McAfee Canyon, Unit No. One, shall be made by "identity or lot numbers" fully described by metes and bounds and by reference to tract numbers within the plat attached to the dedication and restrictions of McAfee's Canyon, Unit No. One, now Timbercreek Canyon, Unit No. 3.

In the event of any conflict between the dedication and restrictions of McAfee's Canyon, Unit No. One as originally filed and the provisions of this instrument, the terms and

provisions hereof shall control.

EXECUTED this 19th day of February, 1973.

ROBERTS & McAFEE, INC.

By W.C. Roberts
President

APPROVED:

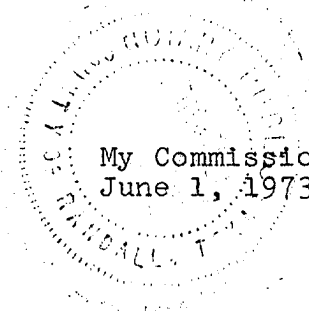
C. Lane McAfee
C. Lane McAfee, Individually

THE STATE OF TEXAS)
)
COUNTY OF RANDALL)

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared W.C. Roberts, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said ROBERTS & McAFEE, INC., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 19th day of February, 1973.

Lissa K. Young
Notary Public, Randall County, Texas



My Commission Expires
June 1, 1973

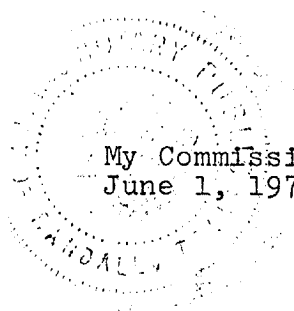
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THE STATE OF TEXAS)
)
COUNTY OF RANDALL)

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared C. LANE McAFEE, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 19th day of February, 1973.

Terisa K. Young
Notary Public, Randall County, Texas



My Commission Expires
June 1, 1973

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AMENDED
DEDICATION & RESTRICTIONS

McAfee's Canyon - #1

to

The Public

FILED FOR RECORD

At 9:30 O'Clock A.M.

FEB 20 1973

LEROY HUTTON
County Clerk, Randall County, Texas

By J. Kelly Deputy

RECORDED: 2-21-73

\$8.50 pd.

C. Lane McAfee
Box 1930
Amarillo, Texas 79105

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