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Prepared by  
and return to:  
Hon & Kopet, Attorney  
617 Walnut Street  
Chattanooga, TN 37402

File

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Book/Page:	<b>GI 13128 / 679</b>
Instrument:	2022102800080
	11 Page RESTRICTIONS
	Recorded by JMS on 10/28/2022 at 11:30 AM
MISC RECORDING FEE	55.00
DATA PROCESSING FEE	2.00
<b>TOTAL FEES</b>	<b>\$57.00</b>
State of Tennessee Hamilton County Register of Deeds <b>MARC GRAVITT</b>	

DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
LOTS 2-8 CHARLES BYLES POSSUM TRAIL PROPERTY, BIRCHWOOD, TN, A  
RIVER STONE DEVELOPMENT, LLC SUBDIVISION

THIS DECLARATION made this 27 day of October, 2022, by  
RIVER STONE DEVELOPMENT LLC, a Tennessee limited liability company (herein  
"Developer").

WITNESSETH:

WHEREAS, Developer, as owner of certain real property located in Hamilton County,  
Tennessee, as more particularly described in Exhibit "A" attached hereto (herein "Property"),  
desires to create thereon a development for Lots 2-8 Charles Byles Possum Trail Property (herein  
"Development"); and

WHEREAS, Developer desires to provide for the preservation of the land values and  
home values when and as the Property is improved and desires to subject the Development to  
certain covenants, restrictions, easements, affirmative obligations, charges and liens, as  
hereinafter set forth, each and all of which are hereby declared to be for the benefit of the  
Development and each and every owner of any and all parts thereof; and

NOW, THEREFORE, the Developer subjects the real property described in Article II to  
the terms of this Declaration and declares that the same is and shall be held, transferred, sold,  
conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, easements,  
charges, assessments, affirmative obligations and liens (sometimes referred to as the  
"Covenants") hereinafter set forth. These Covenants shall touch and concern and run with the  
Property and each Lot (as defined herein) thereof.

ARTICLE I  
DEFINITIONS

The following words and terms, when used in this Declaration, or any Supplemental Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

- 1.01 Architectural Review Committee. "Architectural Review Committee" shall mean and refer to Developer, its successors and/or assigns as long as Developer owns lot(s).
- 1.02 Covenants. "Covenants" shall mean the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens set forth in this Declaration.
- 1.03 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions and any Supplemental Declaration filed pursuant to the terms hereof.
- 1.04 Developer. "Developer" shall mean RIVER STONE DEVELOPMENT, LLC, a Tennessee limited liability company, its successors and assigns as long as Developer owns a lot or lots.
- 1.05 Dwelling Unit. "Dwelling Unit" shall mean any building situated upon the Properties designated and intended for use and occupancy by a single family or any other means of residence.
- 1.06 First Mortgage. "First Mortgage" shall mean a recorded Mortgage with priority over other Mortgages.
- 1.07 First Mortgagee. "First Mortgagee" shall mean a beneficiary, creditor or holder of a First Mortgage.
- 1.08 Lot or Lots. "Lot" or "Lots" shall mean and refer to any improved or unimproved parcel of land located within the Property, which is intended for use as a site for a single-family detached Dwelling Unit as shown upon any recorded final subdivision map of any part of the Property.
- 1.09 Mortgage. "Mortgage" shall mean a deed of trust as well as a Mortgage.
- 1.10 Mortgagee. "Mortgagee" shall mean a beneficiary, creditor, or holder of a deed of trust, as well as a holder of a Mortgage.
- 1.11 Owner. "Owner" shall mean and refer to the Owner as shown by the real estate records in the office of the Recorder (as defined herein), whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Lot, situated upon the Property, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the Mortgagee or holder of a deed of trust, its successors or assigns, unless and until such Mortgagee or holder of a deed of trust has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the office of the Recorder, a long-term contract of sale covering any Lot within the Property, the Owner of such Lot shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the Lot for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the Lot until such payments are made, although the purchaser is given the use of said Lot. The Developer may be an Owner.

1.12 Property/Plat. The "Property" shall mean and refer to the real property described in Section 2.01 hereof. The "Plat" shall mean and refer to those plats of the Property recorded in the Register's Office of Hamilton County, Tennessee.

1.13 Record or To Record. "Record" or "To Record" shall mean to record pursuant to the laws of the State of Tennessee relating to the recordation of deeds and other instruments conveying or affecting title to real property.

1.14 Recorder. "Recorder" shall mean and refer to the Register of Deeds of Hamilton County, Tennessee.

1.15 Name. The name Lots 2-8 Charles Byles Possum Trail Property is being used for the purposes of the restrictions contained herein. If the name should change, these restrictions shall not be affected.

ARTICLE II  
PROPERTIES, COMMON PROPERTIES AND  
IMPROVEMENTS THEREON

2.01 Property. The covenants and restrictions set forth in this Declaration, as amended from time to time, are hereby imposed upon the real property located in Hamilton County, Tennessee and more particularly described on Exhibit "A", attached hereto, and additions or amendments thereto, which shall hereafter be held, transferred, sold, conveyed, used, leased, occupied and mortgaged or otherwise encumbered subject to the Declaration. The most recently recorded plats of each Lot shall create the Lot for the purposes of this Declaration. Additionally, any easements on any real property retained by or granted to the Developer for the purpose of erection and maintenance of streets, entrance signs or streetlights, or landscaping and maintenance thereof, shall also be considered Property and subject to these Covenants. Every person who is or shall be a record Owner shall be deemed, by the taking of such record title, to agree to all the terms and provisions of this Declaration.

ARTICLE III  
COVENANTS, USES AND RESTRICTIONS

3.01 Application. It is expressly stipulated that the covenants, uses, and restrictions set forth in this Article III apply solely to the Property described in Exhibit "A", which Property is intended for use as single-family residential Lots only. These Restrictive Covenants and Conditions are not intended to apply to any other lots, tracts or parcels of land in the area or vicinity, owned by the Developer. Specifically, the Developer, its successors or assigns, reserves the right to use or convey such other lots, tracts and parcels with different restrictions.

3.02 Residential Use.

A. All of the Lots in the Development shall be, and be known and described as, residential lots, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than as provided in these Covenants and Restrictions and in supplements hereto, or except as provided for in a deed of conveyance from the Developer.

B. "Residential," refers to a mode of occupancy, as used in contradistinction to "business" or "commercial" or "mercantile" activity.

C. No Lot may be used as a means of service to business establishments or adjacent property, including but not limited to supplementary facilities or an intentional passageway or entrance into a business or another tract of land, whether or not a part of the Property.

3.03 No Multi-Family Residences, Business, Trucks. No residence shall be designed, patterned, constructed or maintained to serve, or for the use of more than one single family, and no residence shall be used as a multiple family Dwelling Unit at any time, nor used in whole or in part for any business service or activity, or for any commercial purpose; nor shall any Lot be used for business purposes, or for trucks or other equipment inconsistent with ordinary residential uses. No panel, commercial or tractor trucks shall be habitually parked in driveways or overnight on streets in front of any of the Lots. No trade or business may be conducted in or from any Dwelling Unit, except that an owner or occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Developer. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to person's other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this section.

3.04 No Minimum Square Footage

3.05 Set-backs. No building shall be erected on any Lot nearer than the Architectural Review Committee may, in its discretion, establish for each Lot, which may not be consistent from Lot to Lot. For the purposes of this covenant, steps and open porches shall not be considered as a part of the building, providing, however, this shall not be construed to permit any portion of the building on the Lot to encroach upon another Lot. No provision of this paragraph shall be construed to permit any structure to be constructed and erected upon any Lot that does not conform to the zoning laws and regulations applicable thereto; provided, however, that for good cause shown, an Owner may petition the Developer or the Architectural Review Committee for a variance from such set-back requirements. If the Developer or the Architectural Review Committee grants such petition, the Developer will not oppose such Owner's attempt to obtain a variance from applicable zoning laws and regulations.

3.06 Rearrangement of Lot Lines. Not more than one Dwelling Unit shall be erected or maintained on any one Lot. Contiguous Lots may be combined if the Lots have the same Owner, for the purpose of erecting an approved Dwelling Unit thereon, however, any assessments provided for herein such as Jared Lane maintenance will continue to be based upon

the number of original Lots purchased. Lots may not be resubdivided so as to create a smaller area than originally deeded to a Lot Owner and as shown on the subdivision plat.

3.07 NA

3.08 Rainwater Drainage. The Drainage Easements and the Detention Basin Easement are shown on the Plat. Each Lot must be graded so as not to obstruct these easements. All drainage should be directed to these easements, and these easements must be graded so water flows to the basin, street or to an adjoining drainage easement, as the case may be.

3.09 Utility Easements. Perpetual easements are as shown on the recorded Plat. No structure of any kind shall be erected or maintained upon or over said easements.

3.10 Frontal Appearance. All Dwelling Units shall have conventional and acceptable frontal appearance from the main street fronting said Lots.,

3.11 Building Requirements. All buildings or structures of any kind constructed on any Lot shall have full masonry foundations or shall be built on a concrete slab. All exposed concrete block or poured concrete foundations and retaining walls must be covered with brick, stone, masonry rub, or stucco. Vinyl siding and Hardie Board siding are permitted.

3.12 Fences. Fences will be allowed on any Lot without the prior written consent of the Developer if they are not wire or chain link. Wire or chain link fences are only permitted if not visible from the road.

3.13 Na

3.14 Signs. One sign offering the Lot and/or Dwelling Unit for sale and one sign reflecting the name of the builder may be placed upon a Lot. Such sign must be in form approved by the Developer. No other signs shall be erected or maintained on any Lot

3.15 Na

3.16 Na

3.17 Na.

3.18 . Na

3.19 Animals. Pet owners shall not allow pets to roam unattended. The pet owners shall also muzzle any pet which consistently barks. If the barking persists, the pet owner shall have the pet removed from the Development. If the pet owner refuses, it shall be deemed an "offensive activity." In addition, no dogs or other animals which evidence a propensity to bite or otherwise harm humans or other domestic pets (including, but not limited to the Pitbull Terrier, Doberman, Chow, and Rottweiler breeds of dog), which constitute a nuisance to the other residents in the Development, shall not be allowed or maintained on any Lot.

3.20 Zoning. Whether expressly stated so or not in any deed conveying any one or more of said Lots, each conveyance shall be subject to existing governmental zoning and subdivision ordinances or regulations in effect thereon.

3.21 Unsightly Conditions. All of the Lots in the Development must, from the date of purchase, be maintained by the Owner in a neat and orderly condition (grass being cut when needed, as well as leaves, broken limbs, dead trees, and other debris being removed when needed). Tree limbs, rocks and other debris must be kept out of the streets. In the event that an Owner of a Lot in the Development fails, of his/her/their own volition, to maintain his/her/their Lot in a neat and orderly condition, Developer, or its duly appointed agent, may enter upon said Lot without liability and proceed to put said Lot into an orderly condition, billing the Owner two hundred and fifty percent (250%) of the cost of such work. All Owners in the Development are requested to keep cars, trucks and delivery trucks off the curbs of the streets. Existing Dwelling Units must be maintained in good repair, including being painted when necessary.

3.22 Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance, discomfort, embarrassment or nuisance to the Development.

3.23 Detached Buildings. Developer or the Architectural Review Committee will require that an allowed detached buildings be site built and that an allowed detached building be harmonious, in design and materials, with the Dwelling Unit unless Developer approves a waiver.

3.24 Tanks and Garbage Receptacles, Tree Houses, Tennis Courts and Swings.  
na

3.25 Wells. See plat

3.26 No Antennas. No cell towers, television or radio towers, are permitted on  
any Lot

3.27 Excavation. No owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which will materially affect the surface grade of a Lot unless the consent of the Developer or the Architectural Review Committee is obtained.

3.28 Sound Devices. No exterior speaker, horn, whistle, bell or other sound device, which is unreasonably load or annoying, except security devices used exclusively for security purposes, shall be located, used, or placed upon Lots within the Development. The playing of loud music from any balconies or porches shall be offensive, obnoxious activity constituting a nuisance.

3.29 Na

3.30 Drainage Swales/Ditches. Lot Owner shall be responsible for and shall properly maintain drainage areas, if any, located on their respective Lots.

3.31 Duty to Rebuild or Clear and Landscape Upon Casualty or Destruction. In order to preserve the aesthetic and economic value of all Lots within the Development, each Owner and Developer (with respect to improved Property owned by Developer) shall have the affirmative duty to rebuild, replace, repair, or clear and landscape, within a reasonable period of time, any building, structure, and improvement or significant vegetation which shall be damaged or destroyed by fire, or other casualty. Variations and waivers of this provision may be made only upon Developer or the Board establishing that the overall purpose of these Restrictive Covenants would be best affected by allowing such a variation. Variations to this section are to be strictly

construed and the allowance of a variance by the Developer or the Board shall not be deemed to be a waiver of the binding effect of this section upon all other Owners.

3.32 Vehicle Parking. Cars owned by Lot Owners shall not be parked on the street but shall be parked only in the Owner's garage or driveway. No inoperable vehicle, tractor, or other machinery shall be stored outside on the premises at any time, even if not visible from the street. No house trailer or such vehicle shall be stored on the premises. Recreational vehicles, vacation trailers, campers and boats may be stored on the Lot with written permission from the Developer and the decision of approval will be based upon the location of the lot and its visibility to the road.

3.33 Maintenance. Each Lot Owner shall, at all times, maintain all structures located on such Lot, including driveways and permitted fences, in good repair which shall include exterior painting as needed, and each Lot Owner shall keep all vegetation and landscaping in good and presentable condition.

3.34 Maintenance of Jared Lane 50' Private Access Easement. Each Lot Owner shall be jointly and equally responsible for the upkeep, maintenance, repair, and/or resurfacing of the gravel road known as Jared Lane from Possum Trail Road. Such upkeep, maintenance, repair and resurfacing shall be performed when four (4) Lot Owners shall so agree in writing and the costs shall be divided equally among all Lot owners 2-8. However, it shall be the responsibility of the Lot Owner, as the case may be, his/her/their heirs, successors and assigns, to repair and return to original condition any portion of Jared Lane, that may be damaged due to the said Lot Owner's, or his/her/their agents, tenants, or invitees, as the case may be, use or actions upon the Access Easement Area, normal wear and tear being excluded. Each Lot Owner shall park his/her/their motor vehicles(s) upon his/her/their own property. No Lot Owner, their tenants or invitees, shall park motor vehicles within the Access Easement Area so as to prohibit the other Lot Owners from accessing his/her/their property by way of motor vehicle. No Lot Owner shall destroy, remove, or change (size or materials) any portion of the road located within the Access Easement Area. By acceptance of a deed or acquisition by any other means of title to any land affected hereby, each subsequent owner shall be bound and subject to the provisions hereof, and covenant and agree to perform all the obligations set forth herein. Each of the rights and duties created hereunder may be specifically enforceable in a court of equity by the Lot Owners, it being agreed by the parties, for themselves and for their successors-in-title and assigns, that an action for damages may not be an adequate remedy for a breach of this agreement; however, this shall not preclude an action for damages. Whether an action in equity or for damages, all court costs and the attorney fees for both sides shall be paid for by the non-prevailing party.

3.35 na

3.36 Lawn Care. All unimproved Lots (except those owned by the Developer) and all improved Lots must be kept fully seeded with grass and regularly fertilized, cut and weeded.

3.37 Chimneys. na

3.38 Adjoining Lot Damage. Any damage done to any adjacent or adjoining Lot, or damage done by a contractor employed to build improvements on any Lot, will be repaired immediately at the expense of the Owner or contractor. Temporary construction support must be provided for the curbs and sidewalks by the Owner or contractor during the time of construction. All construction debris shall be removed weekly and the street must be kept clean during construction.

3.39 na

3.40 Renting or Leasing. An Owner(s) may enter into a long-term lease of his/her/their/its Lot and/or the premises and improvements located upon said Lot, with a long-term lease being defined as a period of not less than six (6) months. Short-term leases or rentals of any kind are prohibited. An Owner shall not cause, permit or allow his/her/their/its Lot and/or the premises and improvements located upon said Lot, or a portion thereof, to be subject to a rental, lease, license, or swap for a period of less than six months. No Lot and/or the premises and improvements located upon said Lot, or a portion thereof, shall be operated in a hotel like, bed and breakfast like, or vacation rental manner (for example: AirBNB.com, VRBO.com, HomeAway.com), or advertised or offered as such. A fine of five thousand dollars (\$5,000) is assessed for each offense/violation of the above. The fine will be secured by a continuing lien upon the Owner's Lot. The Owner will have forty-five (45) days from the date of notification of the violation to pay the fine in full to the Developer. The fine shall bear interest from the date of delinquency at the rate of ten (10%) per annum. The Developer may file a lawsuit for recovery of the fine and to recover the attorney's fees, costs, and court costs incurred in collecting the fine. The Developer may also foreclose on the Owner's Lot to protect its lien and collect its attorney's fees and costs associated therewith. No Owner may waive or otherwise escape liability for the fine provided for herein by nonuse or abandonment or sale of the Owner's Lot.

3.41 Violations and Enforcement. In the event of the violation, or attempted violation, of any one or more of the provisions of these Restrictive Covenants, the Developer, its successors or assigns, or any of the Lot Owners of the Lots to which provisions of these Restrictive Covenants apply, may bring an action or actions against the Owner in violation, or attempting violation, and the said Owner shall be further liable for such damages as may accrue, including any court costs and reasonable attorneys fees incident to any such proceeding, which costs and fees shall constitute liquidated damages.

By reason of the rights of enforcement of the provisions of this section being given unto Owners of Lots (subject to rights of variances reserved by the Developer ), it shall not be incumbent upon the Developer to enforce the provisions of these Restrictive Covenants or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of these Restrictive Covenants by any person other than itself.

#### ARTICLE IV

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#### ARTICLE V GENERAL PROVISIONS

5.01 Duration. The Covenants of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Developer or a Lot Owner, their



respective legal representatives, heirs, successors and assigns, in perpetuity, unless amended or terminated as provided herein.

5.02 Amendments. This Declaration may be amended, modified or revoked in any respect from time to time by the Developer or 100% of the Lot owners.

5.03 Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

5.04 Captions. The captions herein are inserted only as a matter of convenience and for reference and are in no way intended to define, limit or describe the scope of this Declaration nor any provision hereof.

5.05 Use of Terms. Any use herein of the masculine shall include the feminine, and the singular the plural, when such meaning is appropriate.

5.06 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

5.07 Law Governing. This Declaration is made in the State of Tennessee, and any question pertaining to its validity, enforceability, construction or administration shall be determined in accordance with the laws of that State.

5.08 Effective Date. This Declaration shall become effective upon its recording in the office of the Register of Hamilton County, Tennessee.

IN WITNESS WHEREOF, the Developer has executed this Declaration on the date first written above.

RIVER STONE DEVELOPMENT, LLC, a Tennessee limited liability company

By: [Signature]

Name: JASON FARMER

Title: MANAGER

STATE OF TENNESSEE  
COUNTY OF Hamilton

On this 27 day of October ~~2021~~<sup>2022</sup>, before me personally appeared JASON FARMER, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who upon oath acknowledged himself to be the/a MANAGER of RIVER STONE DEVELOPMENT, LLC, a Tennessee limited liability company, the within named bargainor, and that as such MANAGER, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of RIVER STONE DEVELOPMENT, LLC, a Tennessee limited liability company, by himself as such MANAGER.

Witness my hand and Notarial Seal.

[Signature]  
NOTARY PUBLIC  
My Commission Expires: 11/26/23

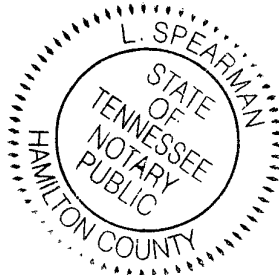


EXHIBIT "A"

LOCATED IN THE SECOND CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE:

**Map & Parcel Nos. 060-005.22; 060-005.23; 060-005.24; 060-005.25; 060-005.26; 060-005.27; and 060-005.28:**

a) Lots Two (2), Five (5), Six (6), Seven (7), and Eight (8), Charles Byles Possum Trail Property, a subdivision, as shown by plat of Record in Plat Book 69, Page 142, in the Register's Office of Hamilton County, Tennessee.

b) Lots Three (3) and Four (4), Corrective Plat of Lots 3 and 4, Charles Byles Possum Trail Property, a subdivision, as shown by plat of record in Plat Book 70, Page 50, in the Register's Office of Hamilton County, Tennessee.

For Prior Title, see deed to Riverstone Development, LLC, a Tennessee limited liability company, from Orderklik.com LLC, executed December 31, 2021, and recorded January 4, 2022, in Book 12797, Page 399, in the Register's Office of Hamilton County, Tennessee (as to property described "Tract 2").