

Weaver's Branch

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State of Tennessee Hamilton County Register of Deeds **PAM HURST**

File: PTAJ

**This Instrument Prepared By
And After Recording Return To:**

**Chambliss, Bahner & Stophel P.C.
605 Chestnut Street, Suite 1700
Chattanooga, Tennessee 37450
Attention: Michael J. Stewart**

175729
175437
23129

DECLARATION OF RESTRICTIVE COVENANTS

WHEREAS, the undersigned, BLUE MOUNTAIN, G.P., a Tennessee general partnership, its successors and assigns (hereinafter referred to as "Developer"), is the owner of certain real property located in Hamilton County, Tennessee, such property being described more particularly on Exhibit A, attached hereto and made a part hereof (the "Property");

WHEREAS, Developer plans to subdivide the Property into five (5) lots (the "Lots") and to develop the Property as a residential subdivision (the "Subdivision"); and

NOW, THEREFORE, in consideration of the premise, and for the protection of the present owner, as well as the future Lot owners comprising the Subdivision, this Declaration of Restrictive Covenants (these "Restrictions") is made:

Each and every conveyance of any of the Lots shall be subject to conditions, reservations, covenants and agreements set forth in these Restrictions which shall run with the land, as follows:

(a) All of the Lots shall be single-family residential lots. Except as provided in these Restrictions, no structure shall be erected, altered, placed or permitted to remain on any of the Lots other than one (1) single-family dwelling. Notwithstanding the foregoing, in addition to a single-family dwelling, detached garages, pool houses, and/or a guest houses or "mother-in-law" houses may be allowed by Developer provided that such structures are constructed in a manner similar to the main house and are consistent in design with the main house and the architectural standards of the Subdivision.

(b) No Lot shall be used as a street, easement or otherwise for access to any adjacent property without Developer's written approval, which approval shall be in Developer's sole discretion.

(c) No house shall be designed, patterned, constructed, or maintained to serve more than one family. No house shall be used as a multiple family dwelling at any time, nor used in whole or in part for any business service or activity, or for any commercial purpose, except that a Lot owner may have a "home-based" business so long as such business does not create regular customer, client or employee traffic, or otherwise create a nuisance. In addition, no Lot shall be used for the storage of trucks, heavy/construction equipment, machinery or vehicles (unless construction is directly related to the construction in progress of the home being constructed on said Lot), or other equipment.

(d) No house or structure shall be located on any one of the Lots nearer than seventy-five feet (75') to the front lot line or any side street line; nor nearer than twenty-five feet (25') to any side lot line; nor set off of the rear lot line less than two hundred feet (200'). No Lot owner shall disturb the soil and/or vegetation located within two hundred feet (200') of the rear lot line. With respect to the preceding sentence disturbance of the soil and/or vegetation shall include without limitation completion of the following: excavating, trenching and/or the removal of trees over eight inches (8") in diameter. The setback distances and the prohibition against excavating and/or cutting trees within the rear setback may be waived by Developer if it, in its sole discretion, determines that any such waiver shall be in the best interest of the Subdivision.

(e) No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the other Lot owners. Boats, tractor trucks, tractor trailers, motor homes or recreational vehicles, inoperative or abandoned automobiles, and/or camping trailers shall not be frequently or habitually parked on a driveway located on any Lot. Nor shall a Lot owner park a boat, tractor trailer, motor home or recreational vehicle, inoperative or abandoned automobile, and/or camping trailer in the streets, or carry on any major repairs to any automobile, boat or other vehicle in a driveway or street in the Subdivision. Such vehicles may not be stored anywhere else on the Lot unless stored and hidden from view.

(f) No part of any Lot shall be used for residential purposes until after a completed house, conforming fully to the provisions of these Restrictions, shall have been erected thereon. The intent of this paragraph is to prevent the use of a garage, incomplete structure, trailer, tent, outbuilding or other structure as a temporary living quarters before or pending the completion of a permanent building. No structure of temporary character, including trailers and similar structures, shall be erected or permitted to remain on any Lot except the period of construction and with the express written permission of Developer. Developer, or its designee, shall be permitted to have a temporary construction trailer in the Subdivision to carry on construction and sales business it may have in the Subdivision.

(g) Any structure being erected on a Lot shall be completed within twelve (12) months from the commencement of construction.

(h) No house shall be erected or permitted to remain in the Subdivision unless it has the number of square feet of enclosed, heated living area, exclusive of open or screened porches, garages or basements, set forth in this paragraph:

Single level houses, without a basement, a minimum of 2000 square feet; if a two level house a minimum of 1,200 square feet must be on the first floor, and a minimum of 2,200 square feet total in the house.

The square footage requirements set forth in this paragraph may be waived by Developer if it, in its sole discretion, determines that any such waiver shall be in the best interest of the Subdivision.

(i) All houses and other structures shall have a conventional and acceptable frontal appearance from the main street fronting said Lots, as set forth in these Restrictions. All houses shall have an asphalt, concrete, gravel, brick paver or patterned (stamped) concrete driveway.

(j) It shall be permissible for Developer to subdivide Lots, rearrange boundary lines of the Lots and/or combine Lots or parts of Lots into one building plot, if so desired. No resubdivision of any Lot by a Lot owner shall be permitted or allowed without Developer's written consent. Any plat recorded in violation of this paragraph shall be immediately corrected at the expense of the party recording such plat.

(k) The fronts of all houses shall be constructed using brick veneer, stone veneer, synthetic stucco ("sto" or equivalent) or fiber-cement hardboard siding or its equivalent. No asbestos siding, masonite siding or vinyl siding shall be used on the front of a house on any Lot, with the exception that siding may be used for soffits, chimney chases, dormer windows and other areas that are deemed by Developer to be consistent with the character of the Subdivision and not to detract from the architectural integrity of the home style established in the Subdivision. No exterior concrete blocks shall be exposed and all concrete blocks shall be veneered with either brick or stone. The sole exception shall be for concrete block on the back of houses, which may be covered with stucco. All exterior materials shall be approved in writing by Developer prior to construction. The decision to approve or deny material choices shall be in the sole discretion of Developer.

(l) No sheep, goats, swine, horses, cattle, burros, fowl or any like animals shall be permitted to roam at large on any of the streets in the Subdivision. There shall be no commercial breeding of domestic pets. No dogs or other animals which evidence a propensity to bite or otherwise harm humans or other domestic pets or which constitute a nuisance to the other residents in the Subdivision shall be allowed or maintained on any Lot. Pet owners shall not allow pets to roam unattended. The pet owner shall also muzzle any pet which consistently barks. If the barking persists, the pet owner shall have the pet removed from the Subdivision. If the pet owner refuses, it shall be deemed an offensive activity and a nuisance.

(m) Regardless of whether it is expressly stated in any deed conveying any one or more of the Lots, each conveyance shall be subject to existing governmental zoning and subdivision ordinances or regulations in effect thereon.

(n) At all times a Lot owner shall maintain all structures located on such Lot including driveways and permitted fences in good repair which shall include exterior painting as needed.

(o) Detached garages, guest houses, "mother-in-law" houses, outbuildings, and other structures, may be constructed provided their construction and appearance is architecturally and structurally similar to the front elevation of the main house and similar materials are used. It is the intent of Developer to maintain a traditional design with consistent front facade, roof pitch, and exterior design. No such structures, other than the main house, shall be included in complying with the minimum square footage requirements set forth above. No mobile homes or above-ground pools shall be permitted.

(p) Fences must be constructed of a material that is comparable and aesthetically compatible with the material used in the construction of the house. Fences of cedar, ornamental iron and brick, brick or mountain stone, shall be preferred. Traditional wooden post and rail fences may be built. Fences constructed of white vinyl may be built provided that Developer determines that the location and design of such fence shall in no way detract from the architectural standard for the Subdivision. Any wooden fences must have the finished boards oriented toward the outside of the Lot and away from the house, and the lateral structural boards oriented toward the house so as not to be visible from other Lots. No chain link fences shall be permitted. The plans and locations for all fences must be submitted to Developer for written approval prior to construction, which approval shall be in the sole discretion of Developer. No construction of a fence may commence without prior written approval of Developer. Developer will specifically avoid fences on adjoining Lots that are constructed in a manner that will leave any area between the sides of the fences. Such small passageways between fences on adjoining Lots will be avoided.

(q) Before any house, other structures or improvements are constructed on any Lot, the plans for such improvements must be submitted to Developer for written approval. The decision to approve or deny plans shall be based upon whether the structure and its location will be consistent with the architectural standards of the Subdivision as determined by Developer in its sole discretion. Without limiting any approval rights in these Restrictions, Developer shall be allowed to waive any of the restrictions set forth in these Restrictions, provided that any such waiver results in a change which is consistent with the architectural and environmental concerns set forth in these Restrictions, as interpreted and determined in the sole discretion of Developer. Any such waiver shall be in writing and the decision by Developer to grant or deny any requested waiver shall be final.

(r) All exterior lighting shall be "Dark Sky" compliant. All exterior lighting fixtures must direct light downward. No stray light is permitted to project upward or horizontally. No "dusk-to-dawn" utility pole or similar type lights that do not project light downward are permitted. The intent of this restriction is to keep the night sky dark and prevent light from straying to neighboring residences.

(s) One sign offering the Lot and/or dwelling for sale and one sign reflecting the name of the builder may be placed upon a Lot. No other signs shall be erected or maintained on any Lot, except in accordance with approved standards for signs as set by Developer.

(t) No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devises used exclusively for security purposes,

shall be located, used or placed upon the Lots. The playing of loud music from any balconies or porches shall be offensive, obnoxious activity constituting a nuisance.

(u) All septic systems shall comply with applicable codes and requirements. There shall not be placed, permitted, maintained or operated on any Lot any privy or cesspool.

If for any reason any one or more of the foregoing protective covenants and restrictions is construed by judgment or decree of any court of record to be invalid, such judgment or decree shall not affect any of the other provisions, which shall remain in full force and effect, Developer hereby declaring that said restrictions are not interdependent but are severable, any one would have been adopted even without the others.

It is expressly stipulated that the covenants and conditions set forth in these Restrictions apply solely to the Property, and are in no manner whatsoever intended to apply to any other tracts or parcels of land in the area or vicinity owned by Developer or its affiliates.

Each and every one of the aforesaid covenants, conditions, and restrictions shall be binding upon each and every Lot owner and occupant of the same until January 1, 2050, and shall be extended automatically to apply to each of the Lots for successive periods of ten (10) years unless by action of a minimum of eighty percent (80%) of the then Lot owners, it is agreed to change said covenants in whole or in part provided further that the instrument evidencing such action must be in writing and shall be duly recorded in the Register's Office of Hamilton County, Tennessee. Neither the undersigned nor any party or parties claiming under it shall convey, devise or demise any of the Lots or any part of same except as being subject to these said covenants, conditions and restrictions, and the obligation to observe and perform same. The said covenants, conditions and restrictions shall run with and be appurtenant to the said land and every part thereof as fully as if expressly contained in proper and obligatory covenants or conditions in each and every contract or conveyance of or concerning any part of the said land or the improvements to be thereon.

If the undersigned or any party or parties owning any of the Lots shall violate or attempt to violate these Restrictions, it shall be lawful for Developer, or any person or persons owning any Lot or Lots to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or conditions or restrictions and either to prevent him or them from so doing, or to recover damages or other dues for such violation, including reasonable attorney's fees and court costs.

Developer's rights in these Restrictions terminate upon the earlier of: (i) twenty (20) years after the sale of the last Lot by Developer; or (ii) upon Developer filing an instrument with the Register's Office of Hamilton County, Tennessee acknowledging termination of its rights.

(execution page follows)

IN WITNESS WHEREOF, Developer has caused these Restrictions to be executed this the 5th day of December, 2017

DEVELOPER:

BLUE MOUNTAIN, G.P.,
a Tennessee general partnership

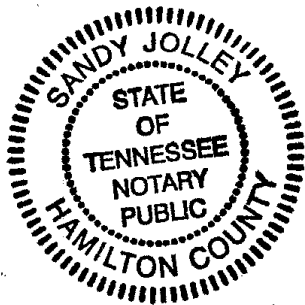
By: [Signature]
Name: TRACY SMITH
Title: Partner

STATE OF TENNESSEE

COUNTY OF HAMILTON

Before me, a Notary Public of the state and county mentioned, personally appeared (name) Tracy Smith, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be (title) Managing General Partn^r of Blue Mountain, G.P., a Tennessee general partnership, the within named bargainor, and that such person as such managing general partner, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the general partnership by such person as such Managing General Partner

WITNESS my hand and seal, at office in Hamilton County, Tennessee, this 5th day of December, 2017.



[Signature]
Notary Public
My Commission Expires: 3-7-18

**LENDER CONSENT AND SUBORDINATION
to Declaration of Restrictive Covenants**

WHEREAS, First Volunteer Bank is the holder of that certain note dated August 30, 2017 secured by a Deed of Trust recorded August 31, 2017 in **Book 11143, Page 825**, in the Register's Office for Hamilton County, Tennessee, (as the same may have been or may be amended, modified, supplemented or restated from time to time, hereinafter the "Deed of Trust"); and

WHEREFORE, First Volunteer Bank hereby consents to the execution of the foregoing **Declaration of Restrictive Covenants for Weaver's Branch** and agrees that the said Deed of Trust is subordinate to the terms and provisions of the said Declaration of Restrictive Covenants with the same force and effect as though such Declaration of Restrictive Covenants were recorded prior to the said Deed of Trust.

This the 5 day of December, 2017.

First Volunteer Bank

By: [Signature]

Name: Jeremy S Dean

Title: VP

STATE OF TENNESSEE
COUNTY OF HAMILTON

Before me, a Notary Public of the aforesaid County and State, personally appeared Jeremy S. Dean (name), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the V.P (title) of **First Volunteer Bank**, the within named bargainor, and that he/she as such V.P (title) executed the foregoing instrument for the purposes therein contained, by signing the name of the bargainor by himself/herself as its V.P (title).

Witness my hand and seal, at Office, this 5 day of December, 2017.
Carrie A. Brisendine

Notary Public
My Commission Expires: 9-14-21

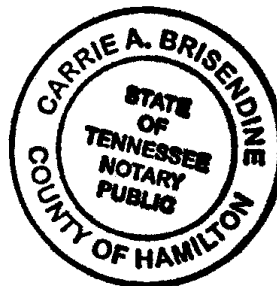


EXHIBIT A: Legal Description

Located in the Third Civil District of Hamilton County, Tennessee, being more particularly described as follows:

BEGINNING at a point on the Northern line of the Vandergriff Road right of way, same being a point 1,630 feet, more or less, west from the intersection of Vandergriff Road with the Sawyer Pike right of way; THENCE along said Vandergriff Road, the following calls and distances:

- North 52 degrees 10 minutes 42 seconds West, 321.37 feet,
- Along a curve to the right, said curve having a radius of 834.96 feet, being subtended by a chord with a bearing of 0 degrees 51 minutes 44 seconds and a chord length of 12.57 to a point,
- North 35 degrees 32 minutes 33 seconds West, 44.15 feet,
- Along a curve to the left, said curve having a radius of 342.29 feet, being subtended by a chord with a bearing of 14 degrees 59 minutes 37 seconds and a chord length of 89.57 to a point,
- Along a curve to the left, said curve having a radius of 342.29 feet, being subtended by a chord with a bearing of 19 degrees 28 minutes 59 seconds and a chord length of 116.39 to a point,
- North 70 degrees 01 minutes 11 seconds West, 258.03 feet,
- North 70 degrees 01 minutes 11 seconds West, 127.01 feet,
- Along a curve to the right, said curve having a radius of 274.24 feet, being subtended by a chord with a bearing of 15 degrees 22 minutes 57 seconds and a chord length of 73.63 to a point, and
- Along a curve to the right, said curve having a radius of 274.24 feet, being subtended by a chord with a bearing of 17 degrees 05 minutes 18 seconds and a chord length of 81.79 to a point at the northern terminus of the Vandergriff Road, county maintained right of way;

THENCE along the terminus of the said county maintained right of way, South 56 degrees 06 minutes 28 seconds West, 27.37 feet to a point; THENCE leaving said county maintained right of way, North 33 degrees 52 minutes 17 seconds West, 761.31 feet to a point in the eastern line of property owned by Henry (deed of record in Book 8589, Page 991, in the Register's Office for Hamilton County, Tennessee); THENCE along Henry property, North 27 degrees 07 minutes 44 seconds East, 948.88 feet to a point; THENCE continuing along Henry property, South 52 degrees 52 minutes 26 seconds East, 420.75 feet to a point; THENCE along a severance line with Carnes (deed of record in Book 9968, Page 398, said Register's Office) in a generally Southeastern direction along the centerline of Lige Branch, also known as Weaver's Branch, the following chords and distances:

- South 06 degrees 23 minutes 33 seconds West, 153.11 feet to a point,
- South 52 degrees 21 minutes 29 seconds East, 495.44 feet to a point,
- South 67 degrees 39 minutes 43 seconds East, 421.12 feet to a point,
- South 64 degrees 12 minutes 58 seconds East, 414.76 feet to a point, and
- South 50 degrees 30 minutes 35 seconds East, 312.62 feet to a chiseled "X" in stone;

THENCE continuing along a severance line with Carnes, and leaving said centerline of Branch, South 09 degrees 20 minutes 39 seconds East, 88.38 feet to a point; THENCE South 51 degrees 45 minutes 32 seconds East, 40.50 feet to a point; THENCE South 37 degrees 25 minutes 09 seconds West, 1,074.22 feet to the Vandergriff Road right of way, being the TRUE POINT OF BEGINNING. Being denoted as Tracts 1 through 5 on Boundary Survey dated February 27, 2017, drawn by David Mathews, TN RLS No. 747, David Mathews Surveying of Hixson, Tennessee, being job no. 17-02878.

NOTE FOR INFORMATIONAL PURPOSES ONLY, the above described property is said to contain 50.5 acres, more or less.

The source of grantor's title found in deed filed of record in Book 11143, Page 819, in the Register's Office for Hamilton County, Tennessee.