



February 1, 2024

To: Ronald Colter Metro Department

**Re: Conservation Greenway Easement 0 Asher Court
Planning Commission Mandatory Referral 2024M-023ES-001
Council District #03 Jennifer Gamble, Council Member**

On behalf of the Metropolitan Planning Commission, the following item, referred to the Commission as required by the Metro Charter, has been recommended for *approval* to the Metropolitan Council:

An ordinance approving a greenway conservation easement between the Metropolitan Government of Nashville and Davidson County, through the Metropolitan Board of Parks and Recreation, and Heritage Creek Homeowners Association, Inc. for greenway improvements. (Proposal No.2024M-023ES-001).

The relevant Metro agencies (Metro Parks, Metro Public Works, Metro Water Services, Metro Emergency Communications, the Nashville Electric Service, Metro Finance – Public Property and the Metro Historical Commission) have reviewed the proposal and concur in the recommendation for approval. This request must be approved by the Metro Council to become effective. A sketch showing the location of the request is attached to this letter.

Conditions that apply to this approval: none

This recommendation for approval is given as set forth in the Metropolitan Planning Commission Rules and Procedures. If you have any questions about this matter, please contact Delilah Rhodes at Delilah.Rhodes@nashville.gov or 615-862-7208

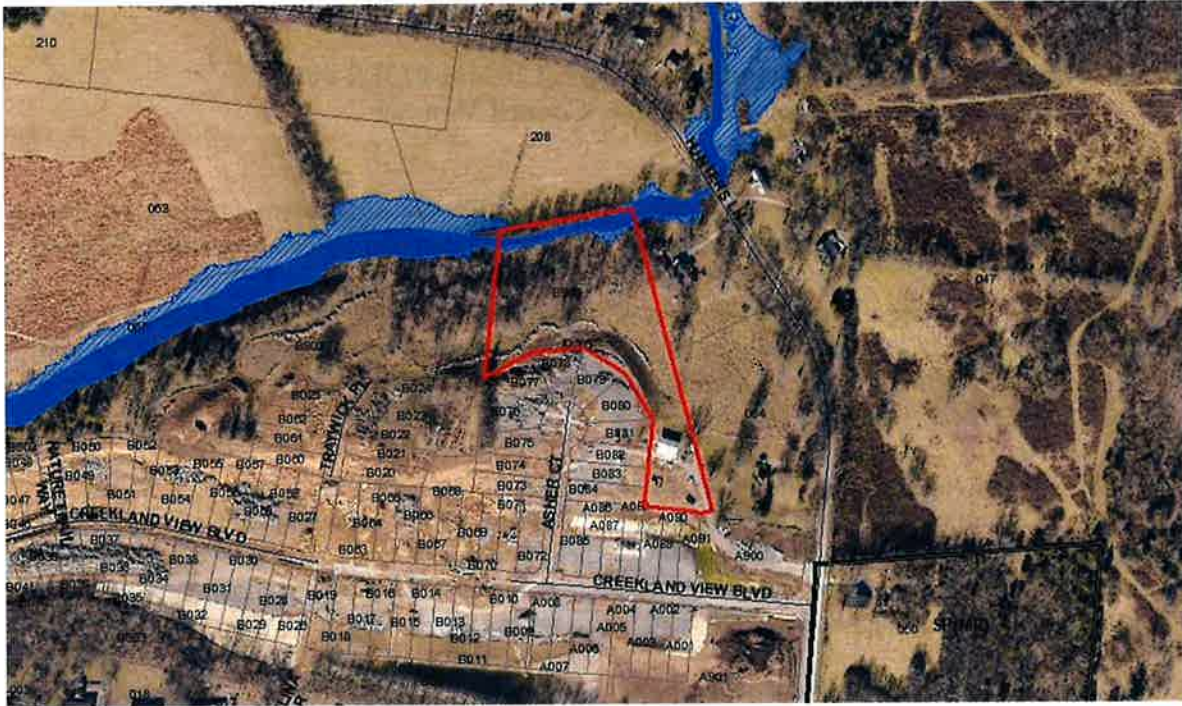
Sincerely,

A handwritten signature in blue ink that reads "Lisa Milligan".

Lisa Milligan
Assistant Director Land Development
Metro Planning Department
cc: *Metro Clerk*

**Re: Conservation Greenway Easement 0 Asher Court
Planning Commission Mandatory Referral 2024M-023ES-001
Council District #03 Jennifer Gamble, Council Member**

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AGREEMENT FOR GRANT OF EASEMENT

for

CONSERVATION GREENWAY

THIS AGREEMENT, made and entered into this the ____ day of _____, 23__, by and between **The Metropolitan Government of Nashville and Davidson County**, acting by and through its Board of Parks and Recreation (herein referred to as "Metro"), and Heritage Creek Homeowners Association, Inc. property owner (herein referred to as Grantor).

WHEREAS, Metro recognizes the increasing benefit of protecting open spaces within the Metropolitan Government area; and

WHEREAS, greenways provide the general public with recreational opportunities in natural areas, preserve, and protect native plant and animal species and their habitat, and provide low-impact transportation routes for pedestrian and bicycle traffic; and

WHEREAS, Metro, by Ordinance No. 091-13, created a Greenways Commission to assist Metro in the development of a system of open space greenways; and

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Davidson County, Tennessee, more particularly described in Exhibit A and Exhibit B attached hereto and incorporated by this reference (herein referred to as "the Property"); and

WHEREAS, the Property possesses natural, open space, and recreational values (collectively, "conservation values") of great importance to Grantor and the people of Nashville and Davidson County; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and made more accessible for public enjoyment by the anticipated

incorporation and maintenance of the property as part of the Metro greenways system; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Metro the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Metro has the authority to accept this grant pursuant to Tennessee Code Annotated, Section 66-9-305(d), and Section 11.1002 of the Metropolitan Charter; and

WHEREAS, Metro agrees by accepting this grant to honor the intentions of Grantor stated herein, and to preserve and protect, in perpetuity, the conservation values of the Property for the benefit of the people of Tennessee and the public-at-large.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby voluntarily grants and conveys to Metro, its successors and assigns, an easement in perpetuity over the Property of the Grantor (herein referred to as "the Easement") to be located as more particularly shown on Exhibit A and Exhibit B attached hereto and incorporated by this reference.

1. Purpose. It is the purpose of this grant to allow Metro to utilize the Easement area for one or more of the following: a pathway for pedestrian or bicycle travel, nature trail, and/or natural area. Metro, at its discretion, shall design, construct, and maintain any pathway or physical structure in a manner that best preserves the open and natural condition of the Property. It is the intention of the parties hereby expressed that the granting of the Easement will not significantly interfere with the conservation values of the Property. Grantor intends that the Easement will confine the use of the Property to such activities as are consistent with the purpose of the Easement.

2. Rights of Metro. To accomplish the purpose of the Easement, the following rights are conveyed to Metro by this grant:

- a. To preserve and protect the conservation values of the Property;
- and
- b. To construct and maintain a pathway to be located on the Easement, including, at the discretion of Metro, necessary trailheads, signage, benches, and other improvements consistent with the recreational and educational uses of the pathway and other conservation values; and
 - c. To prevent any activity on or use of the Property that is inconsistent with the purpose of the Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Metro Covenants. Metro, by accepting this grant, covenants and agrees, on behalf of itself, its successors and assigns, that the following shall constitute real covenants that shall attach to and run with the easement hereby granted and shall be binding upon anyone who may hereafter come into ownership of such Easement, whether by purchase, devise, descent, or succession, or to be authorized to use said Easement area:

- a. It will make the Easement area available for use by all members of the general public without distinction or illegal discrimination on the grounds of race, color, national origin, handicap, or age.
- b. It will adopt rules and regulations governing the use of the Easement area so as not to permit or suffer any use of the Easement by Grantor or others in violation of such rules and regulations. At a minimum, the rules and regulations will provide as follows:
 - i. That the hours of public access of the Easement shall be from sunrise to sunset.
 - ii. That all persons utilizing the Easement area must remain on the pathway.
 - iii. That all pets of persons utilizing the pathway must be on a leash at all times.

- iv. That the following activities shall be strictly prohibited:
1. consumption or possession of alcoholic beverages;
 2. horseback riding;
 3. unauthorized motor vehicles; ebikes are permitted as defined under applicable state law;
 4. collecting or distributing plants, animals or other natural features;
 5. littering or dumping;
 6. hunting;
 7. playing of radios, musical instruments or other devices in a manner that might disturb others;
 8. vending or other concessions without proper permits;
 9. advertising or posting of bills;
 10. trespassing on adjacent property of Grantor;
 11. any unlawful activities.

4. Other Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of the Easement is prohibited. The aforementioned express prohibitions shall not limit the generality of this paragraph.

5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of the Easement. Further, Grantor reserves the right to maintain the subject property consistent with the purposes herein set forth and will maintain it in accordance with all local laws until improvements are made by Metro.

6. Metro's Remedies. If Metro determines that Grantor is in violation of the terms of this Agreement or that a violation is threatened, Metro shall give written notice to Grantor of such violation and demand corrective action sufficient

to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of the Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Metro or, under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to continue diligently to cure such violation until finally cured, Metro may bring an action in a court of competent jurisdiction to enforce the terms of this Agreement to enjoin the violation by temporary or permanent injunction, and to recover any damages to which it may be entitled for violation of the terms of this Agreement or for injury to any conservation values protected by the Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. If Metro, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Metro may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the expiration of the period provided for cure. Metro's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Agreement. Metro's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. Metro's Discretion. Enforcement of the terms of this Agreement shall be at the discretion of Metro, and any forbearance by Metro to exercise its rights under this Agreement in the event of any breach of any terms of this Agreement by Grantor shall not be deemed or construed to be a waiver by Metro of such term, or of any subsequent breach of the same, or any other term of this Agreement, or of any of Metro's rights under this Agreement. No delay or omission by Metro in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

9. Acts Beyond Grantor's Control. Nothing contained in this Agreement shall be construed to entitle Metro to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

10. Amendment. If circumstances arise under which an amendment to or modification of this Agreement is appropriate, the Grantor, or the then current owner of the Property, and Metro are free to jointly amend this Agreement without prior notice to any other party; provided that any amendment shall be in writing; shall be consistent with the purpose of the Easement; shall not affect its perpetual duration; and shall have the unanimous consent of the Metro Greenways Commission.

11. Extinguishment. If circumstances arise in the future that render the purpose of the Easement impossible to accomplish, the Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction.

12. Assignment. The Easement is transferable, but Metro may assign its rights and obligations under this Agreement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended, and the applicable regulations promulgated thereunder and authorized to acquire and hold conservation easements. As a condition of such transfer, Metro shall require that the conservation purposes which this grant is intended to advance continue to be carried out.

13. Subsequent Transfers. Grantor agrees to incorporate the terms of this Agreement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, a

leasehold interest. Grantor further agrees to give written notice to Metro of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of the Easement or limit its enforceability in any way.

14. General Provisions.

a. Controlling Law. The interpretation and performance of this Agreement shall be governed by the laws of the State of Tennessee.

b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Agreement shall be liberally construed in favor of the grant to effect the purpose of the Easement and the policy and purpose of Tenn. Code Ann. §§ 66-9-301 to 309. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of the Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If any provision of this Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

d. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with paragraph ten (10).

e. Successors. The covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

TO HAVE AND TO HOLD said Easement unto Metro, its successors, and assigns, forever.

IN WITNESS WHEREOF, we have caused this instrument to be executed as of this _____ day of _____, 20__.

GRANTOR:
Heritage Creek Homeowners Association, Inc.

Shay Menges

ACCEPTED:
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

George Gordon Adams
DIRECTOR, PARKS AND RECREATION

STATE OF Tennessee)
COUNTY OF Sumner)

On this the 10th day of October, 2023, before me personally appeared SHAY MENGES, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Jo L. Collins
NOTARY PUBLIC



My Commission Expires: March 2, 2027

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

On this the 18th day of January, 2024, before me personally appeared Monique Helen Odum, who acknowledged himself to be the Director of the Metropolitan Government Department of Parks and Recreation, and that he, as such Director, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Larecia Travis
NOTARY PUBLIC

My Commission Expires: 7/6/26

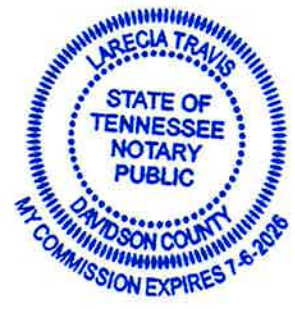


Exhibit A
Heritage Creek
Phase 1
Conservation Greenway Easement

Being a Conservation Greenway Easement on a certain tract of land in Third Council District in Metropolitan Nashville, Davidson County, Tennessee. Said tract being the same property conveyed to Clayton Properties Group, Inc., by Special Warranty Deed of record as Instrument Number 20200131-0011678, R.O.D.C.T., (Register's office for Davidson County, Tennessee). Said property is bound on the North by Julio Molina and Teresa Ortega, by Special Warranty Deed of record as Instrument Number 20211008-135713, R.O.D.C.T., on the East by Preston Evans, by Warranty Deed of record as Instrument Number 20210414-0049693, R.O.D.C.T., on the South by Open Space 3 of Heritage Creek Phase 1B, of record as Instrument Number 20220512-0055047, R.O.D.C.T. and Heritage Creek Homeowners Association, Inc., of record as Instrument Number 20221207-0127630, R.O.D.C.T., and on the West by Open Space 1 of Heritage Creek Phase 2, of record as Instrument Number 20230510-0034999, R.O.D.C.T., and Clayton Properties Group, Inc., of record as Instrument Number 20200131-0011678, R.O.D.C.T., and being more particularly described as follows:

Beginning at an Iron Rod (Old), with a cap stamped, Ragan Smith & Associates, said point being the Northeasterly corner of said Heritage Creek Homeowners Association, Inc. property, and having coordinates of N: 711332.4 and E: 1745153.5, and being the Northeasterly corner of herein described Conservation Easement;

Thence, along the common line of said Preston Evans property and Heritage Creek Homeowners Association, Inc. property, South 14 Degrees 46 Minutes 24 Seconds East, 112.85 feet to a point;

Thence, crossing said Heritage Creek Homeowners Association, Inc. property for the next five (5) calls;

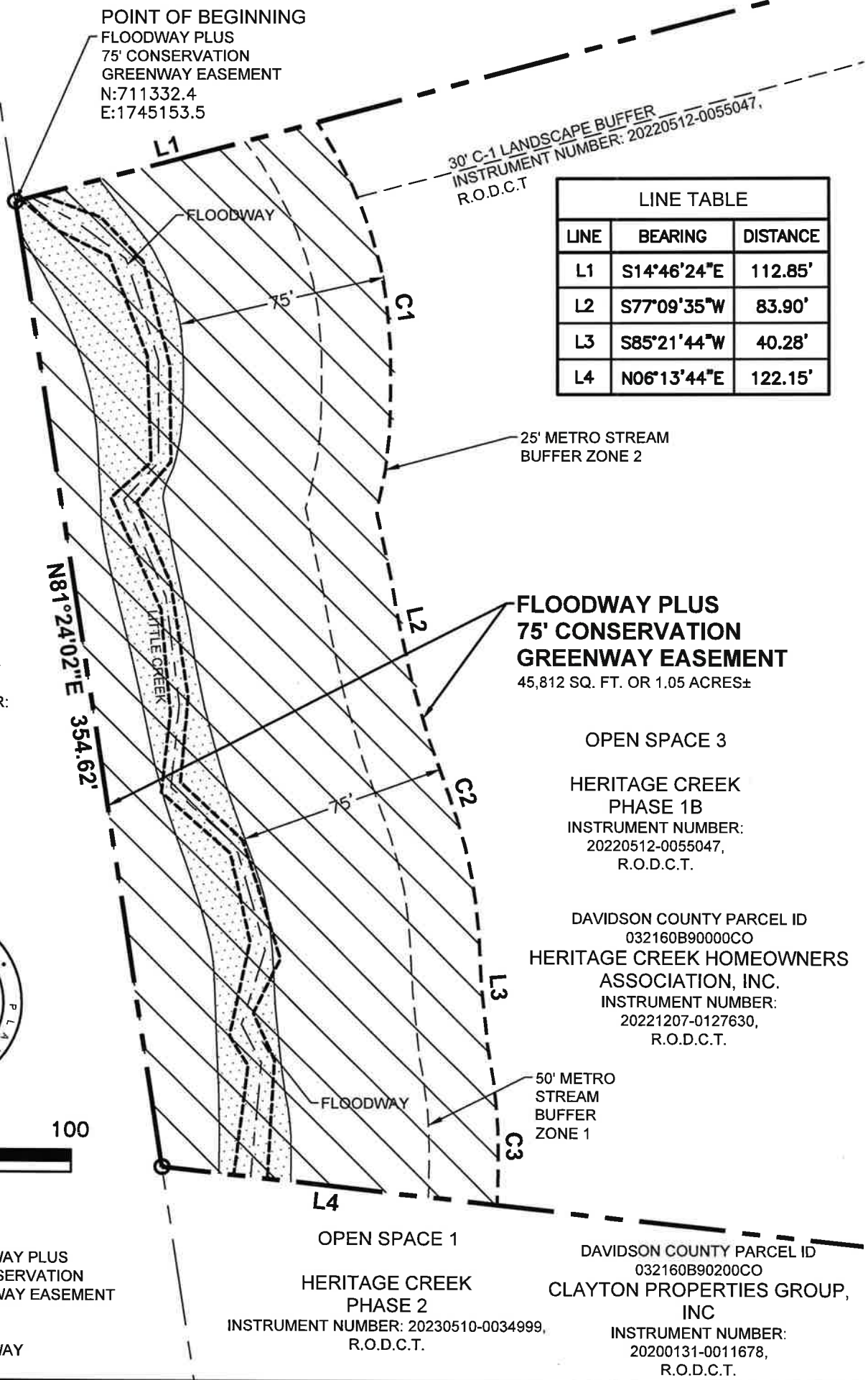
1. With a curve to the right, having a Radius of 171.76, an Arc length 147.16 feet, a Delta Angle of 49 Degrees 05 Minutes 23 Seconds, a Tangent of 78.44, a Chord Bearing and Distance of South 81 Degrees 26 Minutes 01 Seconds West, 142.70 feet, to a point;
2. South 77 Degrees 09 Minutes 35 Seconds West, 83.90 feet, to a point;
3. With a curve to the right having a Radius of 224.53 feet, an Arc Length of 73.58 feet, a Delta Angle of 18 Degrees 46 Minutes 37 Seconds, a Tangent of 37.12, a Chord Bearing and Distance of South 75 Degrees 20 Minutes 35 Seconds West, 73.25 feet, to a point;
4. South 85 Degrees 21 Minutes 44 Seconds West, 40.28 feet, to a point;
5. With a curve to the right, having a Radius of 230.03 feet, an Arc Length of 59.02 feet, a Delta Angle of 14 Degrees 42 Minutes 02 Seconds, a Tangent of 29.67, a Chord Bearing and Distance of South 86 Degrees 27 Minutes 20 Seconds West, 58.86 feet, to a point in the common line of said Heritage Creek Homeowners Association, Inc. and Clayton Properties Group, Inc property;

Thence, with said common line, North 06 Degrees 13 Minutes 44 Seconds East, 122.15 feet to a point, and being the Northwesterly corner of said Heritage Creek Homeowners Association, Inc.;

Thence, leaving the Clayton Properties Group, Inc property and along the common line of said Julio Molina and Teresa Ortega and Heritage Creek Homeowners Association, Inc. properties, North 81 Degrees 24 Minutes 02 Seconds East, 354.62 feet to the point of beginning and containing 45,812 sq. ft. or 1.05 acres more or less.

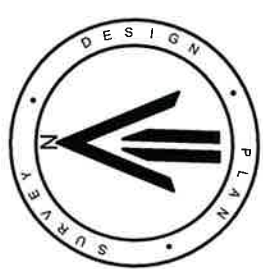
CURVE TABLE						
CURVE	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHD BRG
C1	171.76'	147.16'	49°05'23"	78.44	142.70'	S81°26'01"W
C2	224.53'	73.58'	18°46'37"	37.12	73.25'	S75°20'35"W
C3	230.03'	59.02'	14°42'02"	29.67	58.86'	S86°27'20"W

MAP 32, PARCEL 104
 PRESTON EVANS
 INSTRUMENT NUMBER:
 20210414-0049693,
 R.O.D.C.T.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S14°46'24"E	112.85'
L2	S77°09'35"W	83.90'
L3	S85°21'44"W	40.28'
L4	N06°13'44"E	122.15'

MAP 32, PARCEL 208
 JULIO & ORTEGA
 TERESA MOLINA
 INSTRUMENT NUMBER:
 20211008-135713,
 R.O.D.C.T.



LEGEND

	FLOODWAY PLUS 75' CONSERVATION GREENWAY EASEMENT
	FLOODWAY

Scale: SCALE= 1" = 50'

Date: September 19, 2023

Approved By: T.J.S.

Drawn by: J.R.H.

EXHIBIT B

**CONSERVATION GREENWAY
 EASEMENT DEDICATION
 HERITAGE CREEK - PHASE 1**

CREEKLAND VIEW BOULEVARD, THIRD COUNCIL DISTRICT,
 METROPOLITAN NASHVILLE, DAVIDSON COUNTY, TENNESSEE



RaganSmith

315 Woodland Street, Nashville,
 Tennessee 37206
 615.244.8591; lstevenson@ragansmith.com
 Ted Stevenson

APPOINTMENT OF BOARD OF DIRECTORS

THIS APPOINTMENT OF BOARD OF DIRECTORS (the "Appointment") is made and entered into as of the 30th day of September, 2022, by Clayton Properties Group, Inc., d/b/a Goodall Homes ("Goodall").

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Heritage Creek recorded in Instrument No. 20211221-0168178, Register's Office of Davidson County, Tennessee (the "Declaration"), provides in Article III, Section 2(b), that during the Class B Control Period, the Declarant, as Class B Member, shall be entitled, in its sole discretion, to appoint the Board of Directors of the Association; and

WHEREAS, Goodall is the Declarant and Class B Member; and

NOW, THEREFORE, pursuant to the foregoing, Goodall, as Class B Member, hereby removes Meghann Owen and appoints the following to the Board of Directors for Heritage Creek Homeowners Association, Inc.:

- Shay Menges - President**
- Kathryn Hill - Secretary**
- Craig Neal - Director**

IN WITNESS WHEREOF, Goodall has executed this Appointment effective as of SEPTEMBER 30th 2022.

Clayton Properties Group, Inc., a Tennessee corporation, d/b/a Goodall Homes

By: Keith Porterfield
VICE PRESIDENT

Its: _____

STATE OF TENNESSEE)
COUNTY OF SUMNER)

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared KEITH PORTERFIELD with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged him/herself to be the VICE PRESIDENT of Clayton Properties Group, Inc., a Tennessee corporation, d/b/a Goodall Homes the within named bargainer, and that he/she, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by him/herself as VICE PRESIDENT.

Witness my hand and seal at office in GALLATIN Tennessee, this 30th day of September, 2022.



Jo L. Collins
Notary Public
My Commission Expires: 3/2/27

Certificate Of Completion

Envelope Id: C99E3B0738B746609ED71EF2905056EE	Status: Completed
Subject: Complete with DocuSign: Legislative Tracking Form - 0 Asher Ct. (N0588147xD719A).pdf, 0 Asher C...	
Source Envelope:	
Document Pages: 17	Signatures: 4
Certificate Pages: 15	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Ronald Colter
Time Zone: (UTC-06:00) Central Time (US & Canada)	730 2nd Ave. South 1st Floor
	Nashville, TN 37219
	Ronald.colter@nashville.gov
	IP Address: 170.190.198.185

Record Tracking

Status: Original 2/3/2024 11:21:05 AM	Holder: Ronald Colter Ronald.colter@nashville.gov	Location: DocuSign
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Metropolitan Government of Nashville and Davidson County	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
Abraham Wescott abraham.wescott@nashville.gov Security Level: Email, Account Authentication (None)	<i>Abraham Wescott</i> Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185	Sent: 2/3/2024 11:28:49 AM Viewed: 2/5/2024 7:43:54 AM Signed: 2/5/2024 7:45:23 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Monique Odom monique.odom@nashville.gov Monique Horton Odom Security Level: Email, Account Authentication (None)	<i>Monique Odom</i> Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.68	Sent: 2/5/2024 7:45:24 AM Viewed: 2/5/2024 8:04:00 AM Signed: 2/5/2024 8:04:14 AM
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Electronic Record and Signature Disclosure:
Accepted: 2/5/2024 8:04:00 AM
ID: f2036684-32c5-4c47-9199-944572bdb6ec

Kevin Crumbo/mjw maryjo.wiggins@nashville.gov Security Level: Email, Account Authentication (None)	<i>Kevin Crumbo/mjw</i> Signature Adoption: Pre-selected Style Using IP Address: 174.212.166.36 Signed using mobile	Sent: 2/5/2024 8:04:15 AM Resent: 2/6/2024 1:04:19 PM Resent: 2/6/2024 1:38:38 PM Resent: 2/6/2024 1:39:27 PM Viewed: 2/6/2024 1:39:53 PM Signed: 2/6/2024 1:40:33 PM
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Electronic Record and Signature Disclosure:
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ID: be431f49-419e-4fc2-a9bf-ca7b52f4b643

Macy Amos macy.amos@nashville.gov Security Level: Email, Account Authentication (None)	<i>Macy Amos</i> Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.100	Sent: 2/6/2024 1:40:35 PM Viewed: 2/6/2024 7:02:37 PM Signed: 2/6/2024 7:02:46 PM
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Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
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In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	2/6/2024 1:39:27 PM
Certified Delivered	Security Checked	2/6/2024 7:02:37 PM
Signing Complete	Security Checked	2/6/2024 7:02:46 PM
Completed	Security Checked	2/6/2024 7:02:46 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
