

COPY

IN THE CHANCERY COURT FOR JOHNSON COUNTY
at MOUNTAIN CITY, TENNESSEE

Tim Cox, Jr.,

Civil Action No: 2022-CV-0049

Petitioner,

vs.

Robin Cooper, Pat Goyne, Sharon Shaw,
Roger Shaw, Anthony Shaw, and
Unknown Heirs of Nancy E. Slimp Davis,
Wiley Thomas Davis, Margaret Marie Greer,
William Arthur Greer, Daniel M Matherson,
Charles T. Milhorn, Fitzhugh L. Milhorn,
Queen Milhorn Shaw, Barbara Evaline
Matheson Slimp, David Slimp, and any
Unknown Decedents buried at
the properties East of Neva View Lane,
Mountain City, Tennessee 37683
Portions of Tax Map 68 Parcel ID 22.01
in the Property Assessor's Office for
Johnson County, Tennessee,

Filed this 21st day of May at 11:29
o'clock A. M.
Sherrie Fenner
Clerk and Master
Chancery Court

Respondents.

**PETITION FOR TERMINATING USE OF LAND AS BURIAL GROUND AND FOR
DISINTERMENT AND REINTERMENT OF UNKNOWN DECEDENTS**

I, Tim Cox, Jr. (hereinafter "Petitioner"), after being duly sworn according to law, would state to the Court as follows:

1. Tim Cox, Jr. is a citizen and resident of Johnson County, Tennessee with an address of 5500 Roan Creek Road, Mountain City, TN 37683.
2. This Court has jurisdiction over the parties and of the subject matter in this petition.
3. Tim Cox, Jr. is the current owner of record of an approximately 0.518 acre tract more or less located East of Neva View Lane of record in Deed Book 221, Page 804, Register's Office of Johnson County, Tennessee. A portion of Johnson County Tax Assessors Map 68, Parcel Number 22.01. Said deed attached hereto as Exhibit A.
4. Tim Cox, Jr. is the current owner of record of approximately 4.805 acres located East of Neva View Lane of record in Deed Book 220, Page 841, Register's Office of Johnson

County, Tennessee. A portion of Johnson County Tax Assessors Map 69, Parcel Number 22.01. Said deed attached hereto as Exhibit B.

5. Both tracts of land ("hereinafter cumulatively referred to as "the Property") described above are shown on the Plat/Survey attached to Deed Book 221, Page 804 at Page 807, Johnson County Registry. The Property is the subject of this action and is situate in Johnson County, Tennessee. Venue is proper in Johnson County, Tennessee
6. The vesting deeds and previous vesting deeds of the Property described above do not contain any reference to a cemetery or family burial site thereon and therefore Petitioner was unaware of any such site at the time of purchase(s).
7. On or about October 2021 Petitioner was having topsoil stripped in preparation of building on the Property and discovered old broken headstones that had been grown over by weeds and natural flora located near a fence line between the properties as shown on picture attached hereto as Exhibit C.
8. Upon further inspection, it was also discovered that there were additional broken and scattered headstones on additional areas of the Property owned by Petitioner as well as intact headstones which are shown on pictures attached hereto as Exhibit D.
9. Based upon the names legible and internet research, Petitioner believes the burial ground is likely a private family cemetery commonly known as the "Sлимп Cemetery" and the following people may be buried upon the Petitioner's land:
 - a. Nancy E. Slimp Davis (1860-1932)
 - b. Wiley Thomas Davis (1860-1950)
 - c. Margaret Marie Greer (1920-1926)
 - d. William Arthur Greer (1925-1925)
 - e. Daniel M Matherson (1842-1898)
 - f. Charles T. Milhorn (1932-1935)
 - g. Fitzhugh L. Milhorn (1902-1935)
 - h. Queen Milhorn Shaw (1894-1936)
 - i. Barbara Evaline Matheson Slimp (1828-1902)
 - j. David Slimp (Birth: 1816)
10. Upon information and belief, the burial site spanning the Property has been abandoned for over 60 (sixty) years.
11. This land appears to have been used as pastureland for cattle and growing of hay. Several of the headstones are broken into pieces and the headstones which are in better condition appear to have been moved from their original locations at a fairly recent time. It has also

been suggested by previous owners that over time these gravestones have been moved from the actual interment sites for farming and cow pasture usage.

12. Petitioner respectfully petitions this Court, pursuant to Tenn. Code Ann. § 46-4-101 et. seq., to terminate the use of the abandoned gravesites on the Property as a burial ground.
13. Petitioner also respectfully petitions this Court, pursuant to Tenn. Code Ann. § 46-4-101 et. seq., to authorize and approve the disinterment and relocation of the gravesites and remains thereon pursuant to the specifications set forth herein.
14. The identity and addresses of all heirs to the decedent(s) are unknown. The names and addresses of the known heirs are:
 - a. Roger Shaw (grandson of Queen Milhorn Shaw)
180 Bill Lewis Road
Elizabethton, TN 37643
 - b. Pat Goyne
149 Oakwood Court
Erwin, TN 37650
 - c. Robin Cooper
149 Oakwood Court
Erwin, TN 37650
 - d. Sharon Shaw
70 Mountain View Road, #4
Marion, NC 28752
 - e. Anthony Shaw
707 Shaw Ward Road
Butler, TN 37640

15. Tennessee Code Annotated § 46-4-101 applies to:

Any burial ground in the State of Tennessee...which the court to which jurisdiction is given by this chapter finds, for any of the reasons hereinafter stated, is unsuitable for its use as such and as a resting place for the dead whose remains are buried therein, or the further use of which for such purposes the court finds, for any of such reasons, is inconsistent with due and proper reverence or respect for the memory of the dead or otherwise unsuitable for such purposes, the reason being:

- 1) The burial ground having been abandoned; or
- 2) The burial ground being in a neglected or abandoned position; or

- 3) The existence of any conditions or activities about or near the burial ground which the court finds render the further use of same for the purposes aforementioned inconsistent with due and proper reverence or respect for the memory of the dead, or for any other reason unsuitable for such purposes.
16. Upon reasonable inquiry, Petitioner is not aware of any use being made of the burial site for use as a cemetery or family burial ground and believes the burial site to be abandoned and due to the disturbance and damage to the headstones, not only abandoned, but also neglected.
17. The residential construction which Petitioner has planned to occur on the Property requires that he make use of the land where the headstones are currently located, therefore the current location for the burial ground is unsuitable, and the remains should be relocated out of due and proper reverence and for the memory of the decedent(s).
18. Petitioner would remove and relocate the remains in accordance with all the applicable laws and regulations with the assistance of Mountain City Funeral Home to another site on the Property which would be better protected and more easily accessed should any descendants wish to visit in the future. Petitioner plans to erect an appropriate memorial, plaque, or the like to commemorate the decedent(s). The new site will be surrounded by natural landscape, in order to separate it and protect it from disrepair.
19. Tennessee Code Annotated § 46-4-101(a)(1) provides that only "interested persons" may bring an action for disinterment and relocation in the court "of the county in which any such burial ground is situated...to have the remains of all deceased persons buried in such ground removed therefrom and reburied in a suitable repository to be obtained for that purpose before their removal from such burial ground".
20. Tennessee Code Annotated § 46-4-102 defines "interested persons" as "any and all persons who have any right or easement or other right in, or incident or appurtenant to, a burial ground as such, including the surviving spouse and children, or if no surviving spouse or children, the nearest relative or relatives by consanguinity of any (1) or more deceased persons whose remains are buried in any burial ground."
21. Petitioner, as the owner of the Property, qualifies as an interested person under Tenn. Code Ann. § 46-4-102, and files this Petition in that capacity.
22. Tenn. Code Ann. § 46-4-103(b) provides that "in any such suit, all interested persons who are not complainants shall be made defendants...". Based upon the gravesites being disturbed, broken and scattered, the identity of some of the remains are unknown and so, all the heirs of the decedent(s) also unknown. The known heirs have been added to this action as defendants

23. Petitioner has made a diligent search for any ascertainable descendants of the decedent(s) whose names are legible upon the headstones. This search has included various online databases, research of public records, and phone calls and emails to persons who might have knowledge of possible descendants.
24. Tenn. Code Ann. § 46-4-103(b) provides, in relevant part, that nonresident and unknown defendants may be proceeded against by publication, in the manner provided by law. Accordingly, for unknown interested persons, Petitioner requests that the Clerk and Master cause notice to be made to all unknown interested persons by publication in a newspaper of general circulation in Johnson County, Tennessee, once a week for four (4) consecutive weeks.
25. In addition, pursuant to Tenn. Code Ann. § 46-4-103(c), contemporaneous with the filing of this Petition, the requisite notice has been provided to the Tennessee Historical Commission, along with a copy of this Petition.
26. Petitioner, upon obtaining the necessary authorization from this Court intend to relocate the decedent(s) to another location upon Petitioner's property. This process will include removing the decedent(s) from the Property by Mountain City Funeral Home and relocation also handled by Mountain City Funeral Home.
27. Petitioner has contacted Mountain City Funeral Home and will make all appropriate arrangements under Tenn. Code Ann. § 46-4-104 prior to any relocation taking place and Petitioner will pay the costs of the same.
28. Petitioner shall follow all public health rules and regulations set forth under Tenn. Code. Ann. § 64-4-110 regarding the disinterment of the decedent(s).
29. Petitioner shall cover any and all costs related to disinterment, removal, and relocation.

WHEREFORE, the Petitioner respectfully requests that this Honorable Court grant the following relief:

1. In accordance with Tenn. Code Ann. § 21-1-204 and 46-4-103, the Clerk and Master of this Court authorize and publish notice to all unknown interested parties by publication in a newspaper of general circulation in Johnson County, Tennessee, once a week for four (4) consecutive weeks;
2. That this Court issue proper service upon all known interested persons as named herein;

3. That this Court terminate the use of the Property as a burial ground in its current location, including all rights and easements to use said burial ground, and all rights to ingress and egress relative to said burial ground;
4. That this Court find disinterment and relocation of the decedent(s) appropriate under Tenn. Code Ann. § 46-4-101 et. seq. due to the residential development of the Property rendering the graves unsuitable for the site and inconsistent with due and proper reverence for the decedent(s) as well as the burial ground being in a state of neglect and abandoned condition pursuant to Tenn. Code. Ann. § 46-4-101;
5. This Court approve disinterment, removal, and relocation of the decedent(s) pursuant to Tenn. Code Ann. § 46-4-101 et. seq. and authorize Petitioner to take all necessary actions to do so; and
6. For such other relief as the Court deems the Petitioner to be justly entitled.

This is 26th date of MAY, 2022.

Respectfully Submitted:



Anné C. Wright, BPR# 036494
Walker & Wright Attorneys at Law
Attorney for Petitioner
118 West Main Street, Suite A
Mountain City, TN 37683
(423) 727-0207 - phone
awright@walkertitletn.com

VERIFICATION

STATE OF Tennessee

COUNTY OF Johnson

This day Tim Cox, Jr., personally appeared before the undersigned Notary Public, in and for said County and State, who, first being duly sworn, says:

That he has read the foregoing document and the same is true of his own knowledge and belief.



TIM COX, JR.

Subscribed and sworn to before me, this 25 day of May, 2022.



Notary Public: Rebecca Hoover

My Commission Expires: 1/24/2026



EXHIBIT

A

BK/PG: 221/804-807

22001107

4 PGS:AL-WARRANTY DEED	
FREIDA BATCH: 51908	
04/19/2022 - 10:17:05 AM	
VALUE	5000.00
MORTGAGE TAX	0.00
TRANSFER TAX	18.50
RECORDING FEE	20.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	41.50

STATE OF TENNESSEE, JOHNSON COUNTY
FREIDA MAY GWINN
 REGISTER OF DEEDS

Filed this 26 day of May 2022 at 11:29 a.m.
 Sherrie Fenner
 Clerk and Master
 Chancery Court

Parcel Identification Number: Map 68, Portion of Parcel 22.01

Prepared by and Return to: Walker & Wright, Attorney at Law
 118A West Main Street
 Mountain City, TN 37683
 423-727-0207

Brief Description for Index: 0.518 acres

GENERAL WARRANTY DEED

This DEED, made this 19th day of April, 2022, by and between:

GRANTOR

LARRY WOODWARD, single

GRANTEE

TIM COX, JR.
 5500 Roan Creek Road
 Mountain City, TN 37683

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, THAT the Grantor, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars cash in hand delivered by the hereinabove named Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the said Grantees in fee simple, all that certain lot or parcel of land situated in the Fourth Civil District, Johnson County, Tennessee, more particularly described as follows:

BEING all of that approximately 0.518 acre tract as shown on survey or plat entitled "Property of Tim Cox, Jr; Lot 2, Farmhouse Acres—Phase I, Plat Cabinet 9, Slide 156" prepared by Rick Snyder and dated March 22, 2022 and attached hereto and incorporated herein by reference for a more full and complete description.

BEING a portion of the property conveyed to Larry Woodward by Deed of record in Deed Book 170, Page 225, in the Register's Office of Johnson County, Tennessee.

THIS DOCUMENT HAS BEEN PREPARED WITHOUT THE BENEFIT OF TITLE EXAMINATION.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to Grantees in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

PROPERTY OWNER:

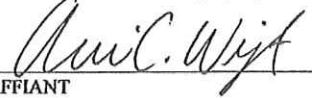
NAME: TIM COX, JR.

ADDRESS: 5500 Roan Creek Road
Mountain City, TN 37683

PERSON OR AGENCY RESPONSIBLE FOR TAXES:

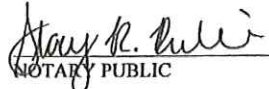
TIM COX, JR.

I, or we, hereby swear or affirm that the actual consideration for this transfer, or value of the property transferred, whichever is greater, is \$5,000.00, which amount is equal to or greater than the amount which the property transferred would command at a fair voluntary sale.


AFFIANT

Subscribed and Sworn to before me, this the 19th day of April, 2022.




NOTARY PUBLIC

My Commission Expires: 01/24/2026

Signatures on following pages

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal the day and year first above written.

GRANTOR:


LARRY WOODWARD

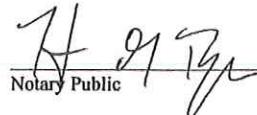
STATE OF TENNESSEE

COUNTY OF JOHNSON

I, Hunter G. Baughman a Notary Public of said County and State, do hereby certify that LARRY WOODWARD personally appeared before me this day and acknowledged the voluntary execution of the foregoing instrument for the purposes therein expressed.

This 9 day of April, 2022.



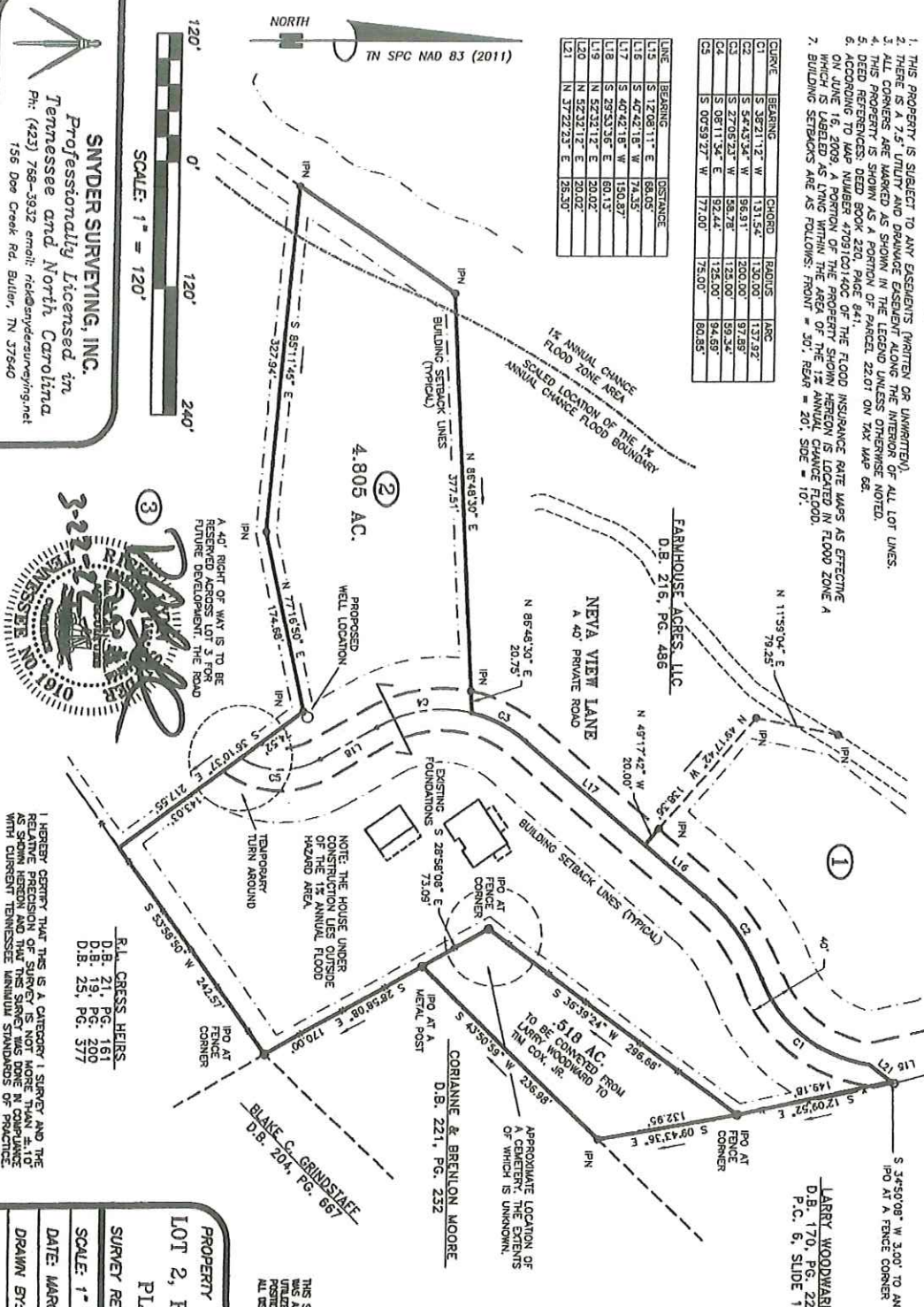
 (SEAL)
Notary Public
My commission expires: 5/26/2025

NOTES

1. THIS PROPERTY IS SUBJECT TO ANY EASEMENTS (WRITTEN OR UNWRITTEN).
2. THERE IS A 7.5' UTILITY AND DRAINAGE EASEMENT ALONG THE INTERIOR OF ALL LOT LINES.
3. THIS PROPERTY IS SHOWN AS A PORTION OF PARCEL 22.01 ON TAX MAP 68.
4. THIS PROPERTY IS SHOWN AS A PORTION OF PARCEL 22.01 ON TAX MAP 68.
5. DEED REFERENCES: DEED 170, PG. 225; DEED 170, PG. 225; DEED 170, PG. 225.
6. ACCORDING TO MAP NUMBER 409, SLIDE 641, THE FLOOD INSURANCE RATE MAPS AS EFFECTIVE ON JUNE 16, 2009, A PORTION OF THE PROPERTY IS LOCATED IN FLOOD ZONE A WHICH IS LABELED AS LYING WITHIN THE AREA OF THE 1% ANNUAL CHANCE FLOOD.
7. BUILDING SETBACKS ARE AS FOLLOWS: FRONT = 30', REAR = 20', SIDE = 10'.

CURVE	BEARING	CHORD	RADIUS	ARC
C1	S 28°11'12" W	131.54'	130.00'	137.92'
C2	S 42°42'18" W	96.91'	200.00'	97.89'
C3	S 27°08'24" W	98.78'	123.00'	99.34'
C4	S 08°11'54" E	92.44'	123.00'	94.69'
C5	S 07°59'27" W	77.00'	80.85'	80.85'

LINE	BEARING	DISTANCE
L15	S 12°08'11" E	68.05'
L16	S 42°42'18" W	74.35'
L17	S 40°42'18" W	150.87'
L18	S 29°53'36" E	60.13'
L19	S 52°32'12" E	20.02'
L20	N 52°32'12" E	20.02'
L21	N 37°22'23" E	28.30'



SNYDER SURVEYING, INC.
 Professionally Licensed in
 Tennessee and North Carolina
 Ph: (423) 758-3832 email: rick@snydersurveying.net
 156 Doe Creek Rd., Butler, TN 37640



I HEREBY CERTIFY THAT THIS IS A CATEGORY 1 SURVEY AND THE
 RELATIVE PRECISION OF SURVEY IS NOT MORE THAN 1:10
 AS SHOWN HEREON AND THAT THIS SURVEY WAS DONE IN COMPLIANCE
 WITH CURRENT TENNESSEE MINIMUM STANDARDS OF PRACTICE.

PROPERTY OF: TIM COX, JR.
 LOT 2, FARMHOUSE ACRES -- PHASE 1
 PLAT CABINET 9, SLIDE 156
 SURVEY REQUESTED BY: TIM COX, JR.
 SCALE: 1" = 120'
 DATE: MARCH 22, 2022
 DRAWN BY: RICK SNYDER
 4TH CIVIL DISTRICT, JOHNSON COUNTY, TENNESSEE

GLOBAL POSITIONING SYSTEM (GPS) CERTIFICATE
 THIS SURVEY WAS PERFORMED USING GPS EQUIPMENT. THE RECEIVER USED
 WAS A SONY NETWORK SOLUTION FOR REAL TIME POSITIONING. THE SURVEY
 POSITIONAL ACCURACY IS REPORTED FOR THE SURVEY IS NOT MORE THAN 1:10.
 ALL MEASUREMENTS ARE HORIZONTAL. GROUND DISTANCE (US FT) UNLESS OTHERWISE NOTED.

EXHIBIT

B

BK/PG: 220/841-842

22000271

2 PGS:AL-QUIT CLAIM DEED

FREIDA BATCH. 51038

02/03/2022 - 01:00:58 PM

VALUE

0.00

MORTGAGE TAX

0.00

TRANSFER TAX

0.00

RECORDING FEE

10.00

DP FEE

2.00

REGISTER'S FEE

0.00

TOTAL AMOUNT

12.00

STATE OF TENNESSEE, JOHNSON COUNTY

FREIDA MAY GWINN

REGISTER OF DEEDS

Prepared by and return to: Walker & Wright, Attorneys at Law
118A West Main Street
Mountain City, TN 37683
(423) 727-0207

STATE OF TENNESSEE
COUNTY OF JOHNSON

Quit Claim Deed

This Deed, made and entered into this 3rd day of February, 2022, by and between:

GRANTOR

Farmhouse Acres, LLC, a
Tennessee limited liability company

GRANTEES, OWNERS AND INDIVIDUALS
RESPONSIBLE FOR PROPERTY TAX:

Tim Cox, Jr.
5500 Roan Creek Road
Mountain City, TN 37683

Johnson County Tax Assessor's Map 068, Parcel 022.01

WITNESSETH:

That said Grantor, for and in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt of which is hereby acknowledged, has remised and released and by these presents does remise, release and forever quitclaim without warranty unto the Grantee, his heirs and/or successors and assigns, all right, title claim and interest of the Grantor in and to a certain lot or parcel of land lying and being in Johnson County, FOURTH Civil District, Tennessee, and more particularly described as follows:

BEING all of that certain tract designated as "2" containing approximately 4.805 acres as shown on plat or survey entitled "Farmhouse Acres-Phase I" dated November 25, 2021 as prepared by Snyder Surveying, Inc. and recorded at Plat Cabinet 9, Slide 154 records of the Johnson County, Tennessee Register of Deeds, incorporated herein by reference for a more full and complete description.

The real property described herein is subject to and conveyed with a non-exclusive right of way easement over and across the 40' private road shown as "Neva View Lane" on the above described plat. Grantor also reserves the right to extend Neva View Lane further across Lot 3 as indicated on said plat.

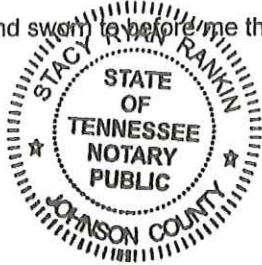
Being all of the tract or parcel of land which was conveyed to Grantor by deed in the Register's Office for Johnson County, Tennessee, in Deed Book 216, Page 486 and Deed Book 219, Page 888.

THIS DOCUMENT HAS BEEN PREPARED WITHOUT THE BENEFIT OF TITLE EXAMINATION.

I do hereby certify, pursuant to T.C.A. 67-4-409 (a) (4), that the consideration in the amount of \$-0-, is the true, correct and full consideration paid for the property herein conveyed.

Pamela C. Wright
Affiant

Subscribed and sworn to before me this the 3rd day of February, 2022.



Stacy R. Rankin
Notary Public
My commission expires: 02/21/2022

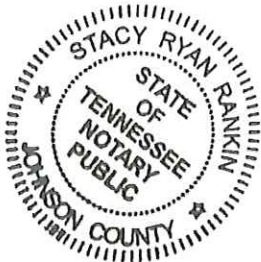
IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal the day and year first above written.

GRANTOR:

Paul Young
Paul Young, Sole Member-Manager of
Farmhouse Acres, LLC, a Tennessee limited
liability company

STATE OF TENNESSEE
COUNTY OF JOHNSON

I, STACY R. RANKIN, a Notary Public of said County and State, so hereby certify that Paul Young, sole Member-Manager of Farmhouse Acres, LLC, a Tennessee limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument in said capacity for said company. WITNESS my hand and Notarial Seal, this 3rd day of February, 2022.



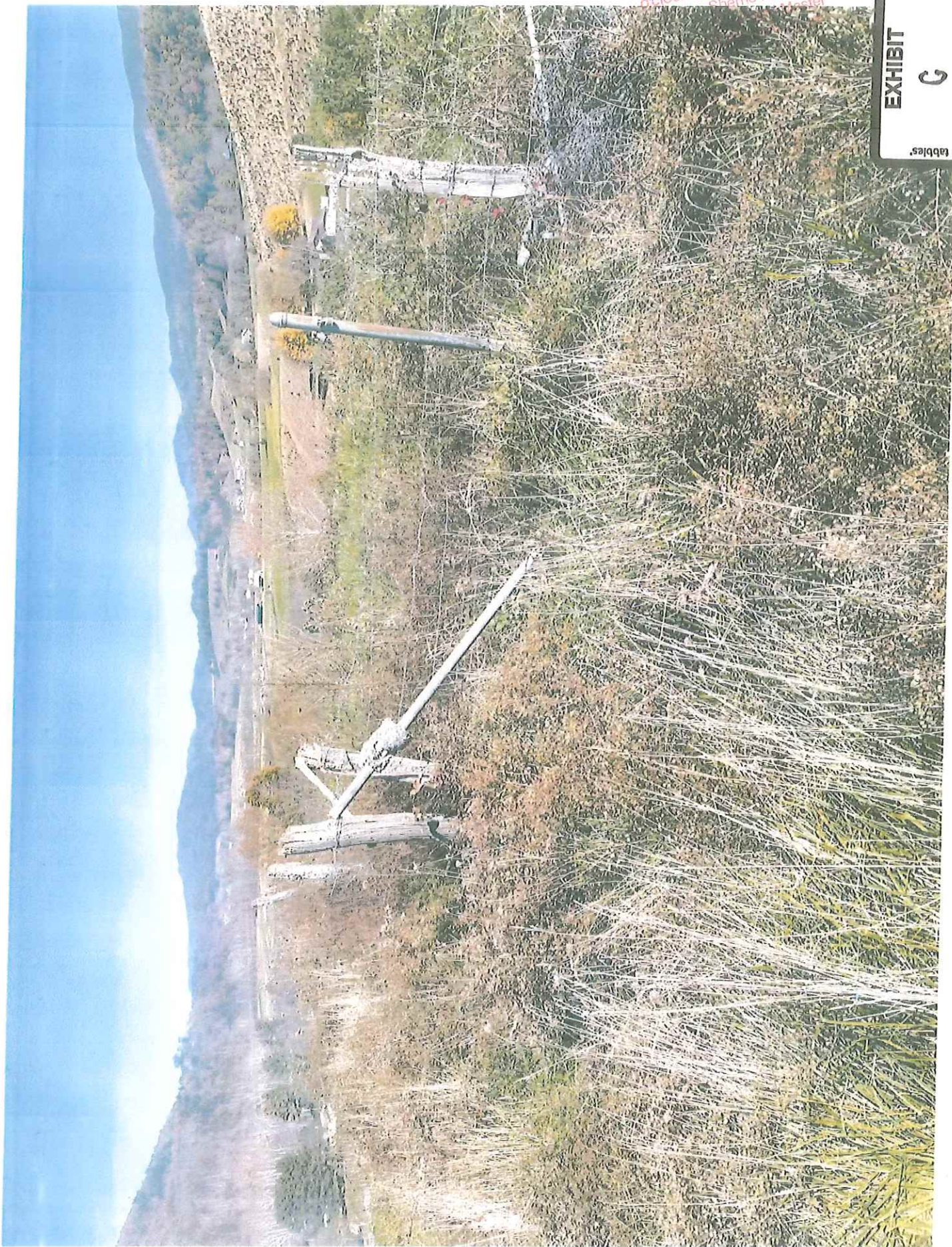
Notary Public

My Commission Expires:

Stacy R. Rankin
02/21/2022

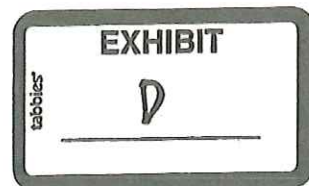
Filed this 21st day of May 2011 at 11:29
M. Sherrie Fenner
Clock Sherrie Fenner
Clock Sherrie Fenner

EXHIBIT
C
lablles





Filed this ⁴⁶26²⁷ day of May 2002 at 11:29 a.m.
Sherrie Fenner
Clerk and Master
Chancery Court







QUEEN M. SHAW

MARCH 13, 1894

MARCH 11, 1936



HUGH L. MILHORNE

JAN. 20. 1902

JAN. 28. 1935

