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646205**DUNN COUNTY, WI
REGISTER OF DEEDS
HEATHER M. KUHN****RECORDED ON
10/06/2020 01:32 PM****REC FEE: 30.00****FEE EXEMPT #:****PAGES: 4**

**FIRST AMENDMENT TO DECLARATION OF COVENANTS
AND RESTRICTIONS OF PORTIONS OF WHISPER RIDGE
NORTH**

THIS SPACE RESERVED FOR RECORDING DATA

Return to:
Christopher B. Gierhart
Weld Riley, S.C.
P.O. Box 1030
Eau Claire, WI 54702-1030

See Exhibit "A"
Parcel Identification Numbers

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF PORTIONS OF WHISPER RIDGE NORTH (this "*First Declaration Amendment*") is made on October 2nd, 2020 (the "*Effective Date*") by Whisper Ridge Townhomes, LLC, a Wisconsin limited liability company ("*Developer*").

WHEREAS, Developer executed the Declaration of Covenants and Restrictions of Portions of Whisper Ridge North, recorded December 21, 2016 in the office of Register of Deeds for Dunn County, Wisconsin as Document No. 619503 (the "*Declaration*"); and

WHEREAS, Developer collectively owns the real property described on Exhibit A attached hereto and incorporated herein and desires to submit and subject such real property to the easements, covenants, conditions, reservations, and restrictions of the Declaration;

WHEREAS, the Developer's power to modify, amend, alter and grant variances to the Declaration without the consent of any Owner or any other party, as stated in Section 7.3 of the Declaration, remains effective, and therefore Developer is authorized to amend the Declaration.

NOW, THEREFORE, Developer hereby amends the Declaration and declares, as applicable, as follows:

1. **Whisper Ridge North II.** Developer declares that the real property described in Exhibit A will and shall be sold, transferred and conveyed subject to the covenants, conditions, reservations, and restrictions of the Declaration. The below-described real property is added as to Whisper Ridge North:
 - a. Lots 68 – 87, inclusive, of the recorded plat of Whisper Ridge North II, as recorded in Volume 9 of Plats, Page 38, as Document No. 645469, in the City of Menomonie, Dunn County, Wisconsin are hereafter added as Lots subject to and encumbered by the Declaration, and the Owners of such Lots shall abide by the terms of the Declaration, as may be amended from time to time.
2. In all other respects, the Declaration shall remain in full force and effect as not otherwise modified by this First Amendment.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has executed this First Amendment to Declaration of Covenants and Restrictions of Portions of Whisper Ridge North as of the date set forth below.

Dated this 2 day of October, 2020

DEVELOPER:

Whisper Ridge Townhomes, LLC, a
Wisconsin limited liability company

William L. Albright
William L. Albright, Authorized Representative

STATE OF WISCONSIN)
) ss.
COUNTY OF CHIPPEWA)

This document was acknowledged before me on October 2nd, 2020, by William L. Albright, as Authorized Representative of Whisper Ridge Townhomes, LLC, a Wisconsin limited liability company, who is personally known to me and acknowledged that such person executed the same as such officer, by his authority for the purposes therein contained.

Dated: 10/2/2020

By: Jeannene L. Smiskey
Print Name: Jeannene L Smiskey
Notary Public
My commission expires: 11-22-2023

[AFFIX SEAL HERE]

This instrument Drafted by:

Attorney Christopher B. Gierhart
Weld Riley, S.C.
3624 Oakwood Hills Parkway
PO Box 1030
Eau Claire, WI 54702-1030



[Signature Page]

EXHIBIT A

Legal Description:

Lots 68 to 87, inclusive, of the recorded plat of Whisper Ridge North II, recorded in Volume 9 of Plats, Page 38, as Document No. 645469, all in the City of Menomonie, Dunn County, Wisconsin

Parcel Identification Numbers:

Not required per Wis. Stat. § 59.43(2m)(a)5.c.

[Exhibit B]



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Tx:4035274

619503

**DUNN COUNTY, WI
REGISTER OF DEEDS
HEATHER M. KUHN**

**RECORDED ON
12/21/2016 1:20 PM**

**REC FEE: 30.00
PAGES: 11**

**DECLARATION OF COVENANTS AND RESTRICTIONS
OF PORTIONS OF WHISPER RIDGE NORTH**

THIS SPACE RESERVED FOR RECORDING DATA

Return to:
Grant A. Beardsley
Weld Riley, S.C.
P.O. Box 1030
Eau Claire, WI 54702-1030

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made on December _____, 2016 ("Effective Date") by **WHISPER RIDGE TOWNHOMES, LLC**, a Wisconsin limited liability company ("Developer").

WHEREAS, Developer desires to subject the real property described on Exhibit A attached hereto and incorporated herein by reference ("Twinhome Site") to the covenants, conditions, reservations, and restrictions contained in this Declaration; and

WHEREAS, Developer has developed a general plan for the improvement and development of the Twinhome Site, and wishes to hereby establish the covenants, conditions, reservations, and restrictions upon which, and subject to which all Lots (as defined below) and portions of such Lots of the Twinhome Site shall be improved or sold and conveyed; and

WHEREAS, the required written consents and approvals from all the Owners (as defined below) of the Lots (as defined below) have been attained.

NOW, THEREFORE, Developer declares that all Lots (as defined below) in the Twinhome Site described on Exhibit A are and shall be held, transferred, sold, conveyed, and occupied subject to the provisions set forth below.

ARTICLE 1 - PURPOSE OF DECLARATION

Each and every one of the covenants, conditions, reservations, and restrictions contained in this Declaration is for the benefit of each present and future Owner (as defined below) of a Lot (as defined below) in the Twinhome Site, and shall bind the respective successors in interest of the present Owner thereof. These covenants, conditions, reservations, and restrictions are and each thereof is imposed upon such Lots (as defined below), all of which are to be construed as restrictive covenants running with the title in such Lots and with each and every Lot thereof, for the Twinhome Site.

ARTICLE 2 – DEFINITIONS

“Lot” shall mean each separate lot of the Twinhome Site listed on Exhibit A, upon which one-half of a single family residential twinhome unit (“Twinhome”) may be constructed.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot.

ARTICLE 3 - APPROVAL OF PLANS

Section 3.1 **Prior Approval by Developer.** All plans for the construction of private roads and driveways and all building plans for any building, fence, wall, or structure to be erected upon any Lot, and the proposed location thereof (collectively, “Site Plans”) upon any Lot, and any changes after approval thereof, any exterior remodeling, reconstruction, alteration, or addition to any building, road, driveway, or other structure upon any Lot shall require prior written approval by Developer.

Section 3.2 **Approval Process.** Any Owner desiring to erect, construct, or modify any of the items listed in Section 3.1 above shall submit to Developer a complete set of Site Plans. No construction work shall commence prior to Developer approving the Site Plans in writing. Developer or its assigns must approve all exterior materials, colors, rooflines, and all Lot line setbacks. If Developer fails to serve notice of disapproval of such Site Plans within thirty (30) days after Developer’s receipt of the Site Plans, the Site Plans shall be deemed approved. Service of notice shall be by United States Mail at the address furnished by the Owner(s) seeking approval.

Section 3.3 **No Liability for Site Plans.** Developer shall not be responsible for any structural defects in the Site Plan(s) of any building or structure erected according to such Site Plan(s).

ARTICLE 4 - RESTRICTIONS AND CONDITIONS

Section 4.1 **Building.**

(a) Twinhomes. Only one (1) Twinhome may be constructed on each of the paired Lots that adjoin each other in the Twinhome Site. Each Twinhome shall be a single family

dwelling with a one, two, or three car attached garage per Lot, constructed contemporaneously with the Twinhome. No exterior solar panels, antennae, or large satellite dishes may be used or attached without Developer's prior written approval. No mobile or manufactured home construction is permitted in the Twinhome Site.

(b) Outbuildings. Only one (1) outbuilding (detached garage, storage shed, or the like) may be erected and maintained on each Lot in addition to the portion of the Twinhome located on each Lot. Such outbuilding shall conform to the external appearance of the Twinhome on the Lot and shall not be used for residential purposes. The size of the outbuilding shall not be larger than one hundred fifty (150) square feet. No outbuildings may be built without Developer's prior written approval.

(c) Supports. Any Twinhome erected on any Lot must have a full foundation or slab, or a combination of both. Deck and porch supports, if any, and similar exposed structural members must conform in design and appearance to the Twinhome and be approved by Developer.

(d) Utilities. All Lots are required to utilize utilities and water supplied by the municipality. No buried fuel oil tanks are permitted.

Section 4.2 Affirmative Covenants. Each Owner shall be responsible for the following with respect to the Owner's Lot and any improvements situated thereon:

(a) Lawn Care. Owner shall mow, maintain, and care for all lawn and grass areas on the Owner's Lot; obey any "no-cut zone(s)" for existing trees that may be established by the Developer in the Twinhome Site; and care for, spray, trim, protect, plant, and replant trees and shrubbery on the Owner's Lot.

(b) Driveway and Sidewalks. Owner shall keep in good repair the sidewalks and the driveway area on the Owner's Lot. Driveways shall be paved with cement, blacktop, or similar material approved by Developer.

(c) Trash. Owner shall provide for the collection and disposal of rubbish and trash when adequate services are not available from any public source. All trash receptacles shall be kept in the Owner's garage, and shall only remain in the driveway on the day of trash collection.

(d) Snow Removal. Owner shall provide for snow removal from any sidewalks and driveway on Owner's Lot.

(e) Exterior Lighting. Owner shall provide and maintain reasonable exterior lighting around the Twinhome, garage, and outbuildings, if any.

(f) Sewer Lines. Owner shall repair and maintain all sanitary sewer lines and water service lines from the Owner's Twinhome to the point where the lines become the responsibility of the City of Menomonie, according to the Code of Ordinances for the City of Menomonie.

(g) Electrical Lines. Owner shall repair and maintain electrical service lines from the Owner's Twinhome to the point where the same connect with the meter set and junction box.

(h) Repairs. Owner shall make all major exterior repairs, and repaint or repair or otherwise refurbish the portion of the exterior of the Owner's Twinhome; and Owner shall keep the roof area of Owner's Twinhome in good repair. Expenses for exterior or roof repairs that affect both of the adjoining Twinhomes shall be shared equally by the Owners of the adjoining Lots, unless otherwise agreed in writing by said Owners.

(i) Insurance Proceeds. Owner shall utilize any insurance proceeds received by the Owner due to loss or damage to the Owner's Twinhome for purposes of reconstruction and/or repair so as to restore the Owner's Twinhome to substantially the same condition as before such loss or damage.

(j) Mailboxes. All mail and delivery boxes shall conform to the design of the area and be approved in writing by Developer.

Section 4.3 **Access**. Each Owner, or Owner's agent, is hereby granted the right of ingress and egress over and across all portions of the adjoining Lot for the purpose of carrying out the foregoing powers and duties.

Section 4.4 **Negative Covenants**.

(a) Drainage Patterns. The natural surface drainage patterns of any Lot shall not be changed by grading, damming, filling, or installing conduits without the express written permission of Developer or its assigns.

(b) Hazardous Activity and/or Materials. Owners shall commit no act which could reasonably be determined to be hazardous to or weakening to the structure of any Twinhome. Owners shall refrain from engaging in any hazardous activity or maintaining any hazardous substance on the Lot which could have the effect of nullifying any insurance in effect thereon.

(c) Dumping. No part of any Lot shall be used for dumping garbage, trash, lawn waste, or refuse of any kind. Debris may be temporarily present in connection with construction work, but must be secured to prevent such debris from being blown throughout the Twinhome Site. Refuse shall not be burned.

(d) Parking. Parking of unlicensed vehicles or any boats, campers, motor homes, mobile homes, or recreational vehicles (such as snowmobiles and four wheelers, etc.) on any Lot or on the street in front of any Lot is prohibited, unless such items are parked inside a garage or shielded from street view.

(e) Animals and Pets. No animal shall be kept or maintained on any Lot, except for usual domestic pets, and, in such cases, pets shall be so kept and maintained as not to become an unreasonable annoyance or nuisance to other residents in the Twinhome Site by reason of

movement, noise, odor, or otherwise. All outdoor kennels shall be approved by the Developer in writing, and said kennels may not be visible from the street. In no case shall an Owner have more than a total of two (2) domestic pets (dogs or cats).

(f) Signs. No signs other than a sign identifying the Owner or a "For Sale" sign shall be displayed on any Lot. However, Developer may construct a sign identifying the Twinhome Site on one or more Lots.

(g) Commercial Activities. No commercial or business activities shall be permitted upon a Lot, except as authorized as a home occupation by applicable zoning.

(h) Fences. Boundary fences on Lots are prohibited. Small privacy fences shall be approved in writing by the Developer or its assigns.

ARTICLE 5 - PARTY WALL AGREEMENT

Section 5.1 **Defined**. "Party Wall" is hereby defined as the dividing wall in a Twinhome that physically separates one Owner's portion of the Twinhome from the other Owner's portion of the Twinhome, including, without limitation, that portion of the wall dividing each Owner's respective garage and any other exterior portions of the Twinhome.

Section 5.2 Maintenance or Repair of Party Wall.

(a) General Repairs. The cost of maintaining the Party Wall shall be borne equally by the Owners of the Twinhome connected by the Party Wall.

(b) Damage or Destruction. In the event of damage or destruction to the Party Wall, from a cause other than an act, omission, or the negligence of either Owner, the Owners of the adjoining portions of the Twinhome shall repair or rebuild the Party Wall. The cost of such repair or rebuilding shall be borne equally by each Owner. If either Owner's act, omission, or negligence shall cause damage to or destruction of the Party Wall, such Owner shall bear the entire cost of repair or reconstruction. All repairs to or rebuilding of the Party Wall shall be made using the same or similar materials as used prior to the occurrence of the damage or destruction.

(c) Failure to Pay. If either Owner neglects or refuses to pay his or her share, or all such costs in the case of damage caused by an Owner's act, omission, or negligence, the other Owner may have the Party Wall repaired or restored and shall be entitled to have a construction lien on the Lot of the Owner so failing to pay, for the amount of such defaulting Owner's share of the repair or replacement costs together with interest at the maximum rate allowable. The Owner having such common structure repaired shall, in addition to the construction lien, be entitled to recover attorneys' fees and shall be entitled to all other remedies provided herein or by law. The construction lien granted herein is effective only if properly filed in the Dunn County Clerk of Court's judgment and lien docket.

(d) No Alterations. Neither Owner shall alter or change the Party Wall in any manner, non-structural interior decoration excepted, and the Party Wall shall remain in the same location as when originally erected. Each adjoining Owner to the Party Wall shall have a perpetual easement in that part of the premises of the other Owner on which the Party Wall is located, for the purposes of the Party Wall and any other additional area necessary to repair, replace, and maintain the same.

(e) Roof Over Party Wall. Each Owner shall maintain the roof over his or her portion of the Twinhome in good condition and in such manner so as not to damage the adjacent Owner's portion of the Twinhome. Each Owner shall share equally in the costs to repair or maintain the roof over the Party Wall due to normal wear or physical damage. If a roofline is joined and both roofs must be replaced, replacement will be coordinated between the Owners pursuant to Section 5.2(b) above.

Section 5.3 **Party Wall Easement.**

(a) General. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee, and other person having an interest in said Lot, or any part or portion thereof.

(b) Creation of Easement. In the event that, by reason of the construction, settlement, or shifting of the building, any part of the previously designed Party Wall or roof encroaches or shall hereafter encroach upon any part of the adjoining Twinhome, or any part of any Twinhome encroaches or shall hereafter encroach upon any part of the Party Wall or roof, or if by reason of the design or construction of any Twinhome, it shall be necessary or advantageous to an Owner to use or occupy, for normal uses and purposes, any portion of said Party Wall, roof, electrical or plumbing, consisting of unoccupied space within the building and adjoining his or her Twinhome, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Owner and the common elements, as the case may be, so long as all or any part of the building containing such Twinhome shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment occurred due to the willful conduct of said Owner.

ARTICLE 6 - COMMON ELEMENTS

Each Owner will have an undivided interest in the common elements of the Twinhome which include the following: all central and appurtenant installations for services such as power, light, telephone, gas, hot and cold water, heating, refrigeration, air condition and incinerating (including all pipes, ducts, wires, cable and conduits used in connection therewith) and all other mechanical equipment spaces necessary for the maintenance of said Twinhome; however, the aforementioned shall be considered common elements only in the event said apparatus and installations existing are for the common use or necessary or convenient to the existence maintenance or safety of the Owner of said Twinhome.

ARTICLE 7 - TERM AND AMENDMENT

Section 7.1 **Term.** The covenants and restrictions contained herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by any Owner, Developer, or the assigns, successors or heirs of Developer, for a period of twenty-five (25) years from date of the recording of this Declaration with the Dunn County Register of Deeds ("Initial Term"). If Developer ceases to exist as a registered entity, the rights and duties of Developer for enforcing or approving covenants and restriction shall pass to a committee elected by a majority vote of the Owners.

Section 7.2 **Renewal.** After the expiration of the Initial Term, the covenants and restrictions shall be extended for successive periods of ten (10) years (each, a "Renewal Term"), unless an instrument signed by the Owners of two-thirds of the Lots has been recorded, agreeing to modify or terminate this Declaration. However, no such agreement to modify shall be effective unless made and recorded sixty (60) days in advance of the effective date of such termination or modification, and unless written notice of the proposed agreement is sent to all Owners at least ninety (90) days in advance of any action taken. If any Lot is owned by more than one Owner, service upon any such Owner shall be deemed notice to all Owners of such Lot, and notice may be given by United States mail to the Owners' addresses as set forth in the records of the real estate taxing authority.

Section 7.3 **Developer's Amendment Rights.** Developer retains the right to amend this Declaration until such time as one hundred percent (100%) of the Lots are sold. After the sale of the last Lot by Developer, authority to amend this Declaration shall pass to the Owners per Section 7.4 below. Developer shall proceed in good faith to sell all of the remaining unsold Lots.

Section 7.4 **Amendment by Owners.** After Developer sells the last Lot owned by Developer, this Declaration may be amended by an instrument signed by the Owners of two-thirds of the Lots ("Declaration Amendment"). The Declaration Amendment must be recorded with the Resister of Deeds for Dunn County to become effective.

ARTICLE 8 - RIGHT OF FIRST REFUSAL

Developer shall have a continuing right of first refusal to repurchase any Lot upon which no Twinhome has been constructed. If an Owner other than Developer obtains a bona fide, good faith offer to purchase a vacant Lot, on terms and conditions acceptable to such Owner, the Owner shall give written notice to Developer, including the terms of the offer, and Developer shall have ten (10) days thereafter to give the Owner written notice of Developer's intent to match the offer, and close the transaction within thirty (30) days.

ARTICLE 9 - MISCELLANEOUS

Section 9.1 **Enforcement.** Enforcement of the provisions of this Declaration shall be by any proceeding at law or in equity against any person violating or attempting to violate any of the provisions of this Declaration, to restrain violation, or to recover damages, or both, and against the

land to enforce any lien created by this Declaration. Failure to enforce any covenant or restriction on any occasion shall not be deemed a waiver of the right to do so thereafter if any party commencing enforcement action is the prevailing party, such party shall be entitled to recover, in addition to any other remedy granted by the court, costs including reasonable attorneys' fees.

Section 9.2 Severability. Invalidation of any one of the provisions of this Declaration shall in no way affect any other provision which shall remain in full force and effect.

Section 9.3 Assignment. Developer may, in its sole discretion, assign its rights and duties under this Declaration to the Owners at such time as the Developer no longer has an interest in the Twinhome Site. At such time, the rights and duties of Developer shall pass to the Owners and the mechanism for enforcing or approving this Declaration shall be by majority vote or by a committee elected by a majority vote of the Owners. Developer may also appoint an Architectural and Environmental Control Committee, which shall have the powers and functions conferred upon Developer in this Declaration, as well as such other powers and functions as Developer deems necessary. An assignment of powers shall be binding upon all Owners when such assignment is recorded with the Register of Deeds for Dunn County.

Section 9.4 Attorneys' Fees and Costs. The prevailing party in any dispute arising out of this Declaration shall be entitled to reasonable attorneys' fees and actual out-of-pocket costs and expenses.

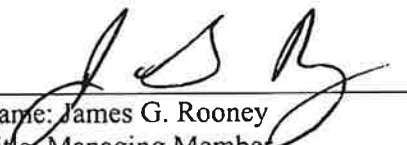
Section 9.5 Venue. The venue for any dispute arising out of this Declaration shall be the Circuit Court of Dunn County, Wisconsin.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned executed this Declaration of Covenants and Restrictions as of the Effective Date.

DEVELOPER:

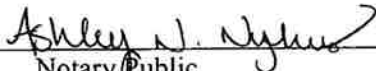
Whisper Ridge Townhomes, LLC, a Wisconsin limited liability company


Name: James G. Rooney
Title: Managing Member

STATE OF WISCONSIN)
)
COUNTY OF Chippewa)

On this date, this document was acknowledged before me by James G. Rooney, as Managing Member of Whisper Ridge Townhomes, LLC, a Wisconsin limited liability company, who: ☒ is personally known to me / ☐ produced _____ as identification.

Dated: 12/20/2016

By: 
Notary Public
Name:
My commission expires: 03/13/2020

[AFFIX SEAL HERE]



This instrument Drafted by:

Attorney Grant A. Beardsley
Weld Riley, S.C.
3624 Oakwood Hills Parkway
PO Box 1030
Eau Claire, WI 54702-1030

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OWNER CONSENT

The undersigned Owner of Lots 64 and 65 of Whisper Ridge North approves and consents to the foregoing Declaration of Covenants and Restrictions of Portions of Whisper Ridge North.

CMJM Properties, LLC, a Wisconsin limited liability company,

By: _____

Name: Cody J. Filipczak
Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF Jan Claire)

On this date, this document was acknowledged before me by Cody J. Filipczak, as president of CMJM Properties, LLC, a Wisconsin limited liability company, who: ☒ is personally known to me / ☐ produced _____ as identification.

Dated: _____

12/20/16

By: _____

Jean M. Ritchie
Notary Public
Name: Jean M. Ritchie
My Commission Expires: 2/14/20

[AFFIX SEAL HERE]

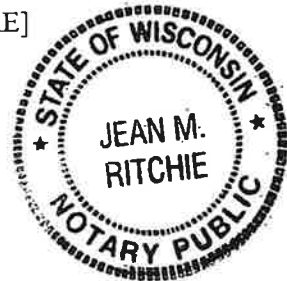


EXHIBIT A

Twinhome Site

Legal Description:

Lots 38 to 51 and Lots 64 to 67, inclusive, of the recorded plat of Whisper Ridge North, recorded at Volume 9 of Plats, Page 14, Dunn County, Wisconsin.

Dunn County Parcel Identification Numbers:

- 17251-2-281230-340-0004;
- 17251-2-281230-340-0005;
- 17251-2-281230-340-0006;
- 17251-2-281230-340-0007;
- 17251-2-281230-340-0008;
- 17251-2-281230-340-0009;
- 17251-2-281230-340-0010;
- 17251-2-281230-340-0011;
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- 17251-2-281230-340-0014;
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- 17251-2-281230-330-0014;
- 17251-2-281230-330-0015;
- 17251-2-281230-330-0016; and
- 17251-2-281230-330-0017.