

THIS INSTRUMENT PREPARED BY:  
Charles Patterson  
Attorney at Law  
1023 Old Humboldt Road  
Jackson, TN 38305

**PARK PLACE WEST DEVELOPMENT**  
**DECLARATION OF COVENANTS, CONDITIONS,**  
**RESTRICTIONS, AND EASEMENTS**

THIS DECLARATION made and entered into on the date hereinafter set forth by Michael Steve Burton d/b/a MS Burton Development ("Declarant").

**RECITALS:**

A. Declarant, along with his spouse who has joined in this Declaration, is the owner of certain land located in Madison County, Tennessee, which is more particularly described as a portion of the 29.5 acres, more or less, in Deed Book 679 at page 792 in the Register's Office of Madison County, Tennessee, that portion to be known as Park Place West Development and to be designated as that Development on subsequent Plats to be filed. This Development is hereinafter referred to as the "Property" commonly known as "Park Place West".

B. Declarant desires to insure the proper development and use of the Property and to prevent use of any portion of the Property in a manner which would decrease the value of the remaining portions thereof.

C. Declarant desires to subject the Property to the covenants, conditions, restrictions, and easements of this Declaration to provide for the orderly development of the Property, to assure quality standards for the enjoyment of the Property, and to promote attractive and desirable commercial retail development of the Property.

NOW, THEREFORE, Declarant hereby declares that all of the Property described herein that is platted in subsequent plats as a portion of Park Place West Development shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, and easements, which for the purposes of protecting the value and desirability of and which shall run with the land for the Property and be binding upon all parties having any right, title, or interest in the Property, or any portion thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner. It is expressly understood that the Declaration shall apply only to lots subsequently platted as a part of Park Place West and the Declarant reserves the right to apply the Declaration only to lots that are platted and developed as a part of Park Place West Development.

**ARTICLE 1**  
**DEFINITIONS**

1.1. **Architectural Plan.** Architectural Plan means all items on the Architectural Plan Checklist which is available from the Declarant.

1.2. **Commercial Building.** Commercial Building means any commercial or retail building constructed on or within any Parcel. A Parcel shall be deemed unimproved until all improvements being constructed thereon are substantially complete.

1.3. **Declaration.** Declaration means these Park Place West Declaration Of Covenants, Conditions, Restrictions, And Easements.

1.4. **Development.** Development means Park Place West as reflected on any recorded Plat, filed by the Declarant, in the Register's Office of Madison County, Tennessee, which designates the lot platted as a part of Park Place West.

1.5. **Owner.** Owner means and refers to the record owner, whether one or more persons or entities, of fee simple title to any Parcel, but excluding those having such interest in a Parcel merely as security for the performance of an obligation (i.e., a Trustee under a Deed Of Trust).

1.6. **Parcel.** Parcel means and refers to land identified as a lot or parcel on the Plat and being a site for a Commercial Building shown on the Plat.

1.7. **Plat.** Plat shall mean the recorded final plat of all or any portion of the Property, as further amended and replatted from time to time and recorded in the Madison County Register's Office, and designated by the Declarant, as a part of Park Place West.

1.8. **Property.** Property means the real property described on any Plat filed by the Declarant and designated as a part of Park Place West.

1.9. **Proposed Improvements.** Proposed Improvements shall have the meaning set forth in Section 3.1.

1.10. **Site Plan.** Site Plan means all items on the Site Plan Checklist available from the Declarant. Where paving on a lot is to be adjacent to a side property line, a minimum of five (5) feet of landscaping shall be provided along the side property line between such side property line and the paving unless waived in writing by Declarant.

1.11. **Zoning Ordinance.** Zoning Ordinance means the Zoning Ordinance adopted by the Jackson Regional Planning Commission, as from time to time amended and revised.

1.12. **Other Definitions.** Other terms defined in these Declaration Of Covenants, Conditions, Restrictions, And Easements shall have the meaning as so set forth herein.

## **ARTICLE 2** **RESTRICTIONS ON USE OF PROPERTY**

2.1. **Land Use.** Subject to the prohibitions provided in Section 2.2, every Parcel shall be used only for those purposes permitted under Section C of Zoning Ordinance "SC-1 Planned Unit Commercial Development" of the Jackson Regional Planning Commission.

2.2. **Prohibited Uses Within Development.** No Parcel or any portion of the Property shall be allowed to be used as a tavern, night club, bar, discotheque, liquor store, or any other establishment selling alcoholic beverages for on premises consumption (provided, however, the foregoing shall not prohibit the operation of a restaurant where the sale of alcoholic beverages therein comprises less than fifty percent (50%) of such restaurant's gross revenue), adult book store, massage parlor, mortuary, mobile home center, flea market, trailer court, land fill, garbage dump, bingo, lotto, or all track betting hall, tattoo parlor, any business which would constitute "Adult Entertainment Establishment" as described in the Zoning Ordinance, or any other business that principally features sexually explicit products or drug paraphernalia. There shall be no sleeping quarters allowed in any Commercial Building or otherwise on any Parcel, except hotel and motel rooms in an established hotel or motel on a Parcel.

2.3. **Nuisances.** No activity may be undertaken on any Parcel which would constitute a nuisance or any annoyance to the community. Included within what is considered a nuisance without limitation is loud or lewd music. Only music at a volume approved by the Declarant shall be allowed at any business on any Parcel.

2.4. **No Dividing A Parcel.** No Parcel may be subdivided from the size as reflected on the Plat, unless approved in writing by Declarant.

## **ARTICLE 3** **ARCHITECTURAL CONTROL**

3.1. **General Provisions.** No construction or renovations of a Commercial Building or any other improvements, no clearing, tree removal, grading, filling, water retention facilities, drainage facilities, water, sewer, electrical, telephone, cable, or other utility facilities, construction, modification, alteration, or improvement of any nature whatsoever (except internal alterations not affecting the external structure or appearance of any Commercial Building or other improvement), shall be undertaken on or adjacent to any Parcel unless and until the Site Plan and the Architectural Plan for the Parcel and the Proposed Improvements have been approved by the Declarant. The

purpose of approval by the Declarant is to assure quality of materials and workmanship, harmony of external design with other improvements in the Development, and location with respect to topography and finish grade elevations. Declarant's approval of the Site Plan and Architect Plan shall not impose any liability on Declarant for such approval.

Improvements or modifications which are specifically subject to architectural approval include all items on the Architectural Plan Checklist and all items on the Site Plan Checklist, which are both available from the Declarant. All such items shall be referred to collectively as the "**Proposed Improvements**". No Owner may submit, cause or permit to be submitted any plans, sketches, or other information to any state, federal, or local government agency or official without first obtaining Declarant's approval of the item to be submitted. No approval by Declarant shall relieve any Owner from obtaining all necessary permits and complying with all governmental regulations.

**3.2. Changes.** Any changes to the final approval documents for the Architectural Plan and Site Plan for a Parcel shall be submitted to the Declarant in writing. Construction with respect to such changes shall not commence until Declarant's prior written approval.

**3.3 Enforcement Of Architectural Control.** Declarant shall have the right to inspect site preparation work on any Parcel and the Proposed Improvements on any Parcel to assure compliance by Owner with the approved Architectural Plan and approved Site Plan. If any construction is not being done in accordance with the approved Architectural Plan and approved Site Plan, the Declarant shall have the rights set forth in Article 13 to require such compliance.

#### **ARTICLE 4** **PROCEDURE FOR APPROVAL OF ARCHITECTURAL PLAN AND SITE PLAN**

Each Owner shall submit to the Declarant such number of the Architectural Plan and Site Plan (with all required dimensions for the Commercial Building site, both prepared by qualified, registered architects for the specific Commercial Building site) as the Declarant shall require as to the Proposed Improvements for a Parcel. No work on any Parcel shall be commenced until the approval process by the Declarant set forth in this Declaration is completed. The Declarant shall approve or disapprove the preliminary and final application for Proposed Improvements within fifteen (15) days after the Architectural Plan and Site Plan have been submitted to it in proper form, together with all supporting information. If the Architectural Plan and Site Plan have not been approved within such period, they shall be deemed disapproved. Pre-design meetings can be scheduled with the Declarant for the purposes of reviewing and explaining architectural guidelines.

**ARTICLE 5**  
**CONSTRUCTION PERIOD**

**5.1. Diligence in Completing Construction.** Once commenced, construction of the Proposed Improvements must be completed within eighteen (18) months of beginning, except where such completion is impossible due to strikes, fires, natural emergencies or natural disasters, or unless waived in writing by the Declarant.

**5.2. Maintenance Of Construction Site.** During construction of the Proposed Improvements, the Owner shall be required to maintain the Parcel in a clean condition, providing for trash and rubbish reciprocals and disposal and silt fencing to prevent erosion and to keep silt and mud run off from the Parcel. Construction debris and maintenance debris shall not be permitted to remain upon any Parcel, and it shall not be burned. The Declarant may, at its option, establish reasonable hours for construction activities so as to minimize disturbance of owners of adjacent Parcels. Any damage caused by destruction to any adjacent Parcel or roadways is the responsibility of the Owner that is doing the construction. Mud or debris on any roadways or adjacent Parcels caused by construction must be cleaned with reasonable promptness by the Owner that is doing the construction. In the event an Owner does not properly maintain a construction site of a Parcel as requested by Owner and such non-action as to maintenance by such Owner continues for three (3) days after written or verbal notice by Declarant to Owner, then Declarant shall have the right, but not the obligation, to conduct such clean up to the Owner's Parcel and any adjoining area, and to charge such Owner for the cost of clean up, plus a fee of 10% of the cost of clean up as a Parcel Assessment, which shall be due by Owner immediately to Declarant.

**ARTICLE 6**  
**USE RESTRICTIONS AND MAINTENANCE OBLIGATIONS FOR PARCELS**

In order to provide for the congenial occupancy of the Development and for the protection and the value of the Parcels, the use of the Parcels shall be in accordance with the following restrictions and conditions:

**6.1. Parcel Coverage.** The Parcel coverage of any Commercial Building shall comply with the City Of Jackson Zoning Ordinance and with the building setback lines shown on the recorded plat for the Development. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as part of a Commercial Building.

**6.2. Commercial Building Height For Proposed Lots 1, 2, 3, 8, and 9.** For Proposed Lots 1,2,3,8 and 9, no Commercial Building may exceed 24 feet from floor finish elevation, except for ornamental structures that may be attached, which shall not exceed 25% of the gross area of the building. For all other Parcels on the Plat, height requirements shall be required to meet the height requirements of the Zoning Ordinance.

**6.3. Parking.** There should be a minimum of fourteen (14) parking spaces per 1,000 square feet of gross floor area for any Parcel use as a restaurant business. There shall be a minimum of five (5) parking spaces per 1,000 square feet of gross floor area for any Parcel that is used for retail business. Each owner shall ensure that its parcel meets and satisfies all rules and regulations for parking and land use, made by the City of Jackson or any other appropriate authority.

**6.4. No Repair Of Vehicles Or Parking Of Vehicles.** No inoperative vehicle shall be parked on any portion of the Property. No vehicle shall be parked on any street or common road. No vehicle repair shall be performed on any Parcel. Boats, trailers, campers, and motor homes are prohibited from being parked on any Parcel, except those in inventory of an Owner who is in the business of retail sales of the same, and in accordance with the conditions approved in writing by Declarant. No "For Sale" signs or other advertisements shall be displayed on or from any vehicle parked on any Parcel except those in inventory of an Owner who is in the business of retail sales of the same, and in accordance with the conditions approved in writing by Declarant.

**6.5. No Antennas And Other Devices.** No exterior radio or television antenna, satellite dish, or other receiving or transmitting device, antenna or aerial solar panel, or other solar collector, windmill, or similar exterior structure shall be placed or erected on any Parcel or affixed in any manner to the exterior of any improvement on such Parcel; provided, however, that satellite receptor dishes shall be allowed subject to Declarant's approval.

**6.6. No Fences.** No fences shall be allowed on any Parcel without prior written approval of the Declarant as to all aspects of the proposed fencing.

**6.7. Signage.** Unless Declarant otherwise provides his written waiver as to signage requirements, all signage must comply with the following requirements:

(a) Signage shall be allowed for the business on each Parcel up to 150 square feet and up to 25 feet in height, all subject to approval by the Declarant under the provisions of Article 3. Any signage must also meet and satisfy the appropriate rules and regulations of the City of Jackson and any other appropriate governmental authority.

(b) Signage on the Commercial Building on each Parcel shall be as approved by the Declarant in Article 3.

(c) No sign or advertisement or notice of any type or nature whatsoever shall be placed or displayed on any mailbox or window. Signs and advertising shall not be constructed or erected within the streets or the right-of-way of the common area, and no sign shall be in conflict with any traffic control sign that is hazardous, misleading, confusing, or detrimental to the safety of the public.

- (d) The following signs shall be prohibited:
- (1) Beacons, bench signs, billboards, changeable copy signs, mobile signs, and roof signs.
  - (2) Signs which in any way simulate any emergency vehicles, traffic control signals, directional information, and warning signs.
  - (3) Any signs containing statements, words, or pictures of an obscene or pornographic nature.
  - (4) Any sign which obstructs the view in any direction of an intersection of a road or common area.

(e) All permitted signs and sign structures shall be maintained in a safe and attractive condition by the Owner. Signs which no longer serve the purpose for which they were intended or which have been abandoned shall be removed immediately. All signs which have not been maintained shall either be removed, repaired, or replaced. The Owner of a Parcel on which such sign exists shall take corrective action to remove, repair, or replace said sign within seventy-two (72) hours of written notice of the violation from the Declarant. In the event an Owner fails to comply with the signage requirements in this paragraph 6.6, the Declarant shall have the right, but not the obligation, to remove or maintain any Owner's sign, and in the event the Owner fails to do so, such cost incurred by the Declarant in removing or maintaining any Owner's sign shall be treated as a Parcel Assessment and shall be due by Owner immediately to Declarant.

**6.8. Garbage Disposal.** Every Parcel shall be required to have an enclosed dumpster on a concrete dumpster pad with the enclosure materials being masonry or dryvit to conceal visibility of the dumpster. No wood or chain link fences shall be installed as part of the dumpster fencing and all equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Trash, garbage, and other waste shall not be kept in any location other than in the dumpster.

**6.9. Lawful Use.** No improper, offensive, or unlawful use shall be made of any Parcel. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Parcel shall be observed and complied with by the owner.

**6.10. Water Supply, Sanitary Sewer, Storm Water, and Underground Utilities.** No individual well or septic tank will be permitted on any Parcel. No Owner shall obstruct or make any modification or alteration to or connect to any master storm drainage or utility systems without the prior approval of the Declarant. The Declarant will provide storm water, sanitary sewer, water, and underground electrical hookups which shall be located at the boundary of each Parcel. The Owner shall be required to

connect to the storm water hook up at the Parcel boundary line, per the Master Storm Water Drainage Plan, which plan is available from the Declarant. Note: The Underground utilities, including electrical, may run with each owner's utility easements to service adjoining owner's tracts. Utility easements may be for joint and mutual benefit of various owners and the developer and/or the Development as a whole.

**6.11. No Fuel Storage Tanks.** No fuel or gas storage tanks shall be permitted on any Parcel, unless specification and details of location and installation have been approved in writing by Declarant.

**6.12. Setback Lines.** No improvements shall be constructed on any Parcel in violation of the setback lines established on the Plat. Also location of improvements must comply with the Zoning Ordinance.

**6.13. Maintenance Of Parcels.** Each Owner shall maintain his/her Parcel, including any improvements thereon, (including replacing and caring for roofs, gutters, downspouts, exterior Commercial Building structures, and other exterior improvements), parking areas, driveways, lighting, landscaping, sidewalks in good order and repair, including but not limited to seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery, the painting, or other appropriate external care of any buildings, and the paving, striping, and repair of all parking areas and driveways, all in a manner and with such frequency as is consistent with good property management. The underground utilities including electrical may run with each owner's utility easements to service adjoining owner tracts. Utility easements may be for joint and mutual benefit of various owners and the developer and/or the Development as a whole.

**6.14. Sod And Landscape Of Parcels.** Each Owner will be required to install meyer zoshia sod in all grassed areas, and mulch all landscape beds with dark black mulch or pine nettles mulch. No other colored mulch will be allowed unless approved by Declarant.

**6.15. Failure Of Owner To Maintain Parcel.** In the event any Owner fails or refuses to keep his Parcel free of refuse piles, debris, or other unsightly growth or objects, or in the event any Owner fails to keep any Commercial Building or other improvements on his Parcel in a good and workmanlike state of repair, or in a neat and clean appearance, after not less than five (5) days written notice to such Owner by the Declarant, then the Declarant may authorize its agents to enter upon such Parcel, perform any necessary maintenance at the expense of owner, which expense shall be deemed a Parcel Assessment. Such entry shall not be deemed a trespass. During construction of a Commercial Building or other improvements, each Owner will be required to maintain his Parcel in a clean condition, providing for trash and rubbish reciprocals and disposal. Construction debris shall not be permitted to remain on any Parcel.



**ARTICLE 7**  
**LIGHTING**

Only approved lighting fixtures shall be erected at a maximum height of thirty (30) feet on any Parcel. The specifications for the lighting fixture and location for the lighting fixture on the Parcel shall be as approved by the Declarant as a portion of the Site Plan for the Parcel, and the lighting fixture shown on the Parking Lot Light and Pole Specifications, which are available from the Declarant, must be used on all Parcels for exterior lighting applications. No lighting fixtures can be used on any Parcel unless such fixture is in accord with the design shown on the specifications, or unless otherwise approved in writing by Declarant. All exterior lighting will be put on a photo cell sensor pointed west. All lights shall be on from sun down to sun rise. All burnt out bulbs will be replaced in a timely manner by each parcel Owner. The intent of this Article 7 is to utilize the double fixture to serve as parking lot lighting and street lighting; therefore location of all light fixtures will be approved and determined by Declarant.

**ARTICLE 8**  
**DAMAGE, DESTRUCTION, OR CONDEMNATION OF PARCEL**

In the event of any substantial damage, or destruction by fire or other casualty, or condemnation of all or a portion of a Parcel, which renders improvements on a Parcel unusable, the Owner shall clear the debris and have the Parcel leveled within thirty (30) days from the date of destruction or damage. The Owner thereafter shall maintain the Parcel in a clean and sanitary condition until commencement of the repair or restoration of the improvements on the Parcel. If the Owner chooses to rebuild or restore the improvements on the Parcel, the repairs and/or restoration of any improvements on a Parcel must be substantially commenced no later than the earlier of:

- (i) one hundred eighty (180) days after the date of said casualty, destruction, or condemnation; or
- (ii) sixty (60) days after receipt of any insurance proceeds or condemnation proceeds.

Any such rebuilding and reconstruction shall be subject to the approvals for the Architectural Plans and the Site Plan as set forth in Article 3 by the Declarant.

**ARTICLE 9**  
**PROPERTY AND CASUALTY INSURANCE**

Each Owner shall obtain and maintain in force and effect a policy of fire and extended coverage insurance and coverage adequate to cover the full replacement

costs of any repair or reconstruction of improvements on any Parcel, unless otherwise waived in writing by the Declarant.

## **ARTICLE 10** **EASEMENTS**

**10.1. Utility Easements.** Declarant hereby reserves for itself, its successors and assigns, a non-exclusive perpetual alienable easement, as shown on the Plat, as may be amended from time to time, for the benefit of all Property upon, across, over, through, and under all Parcels for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and service systems, public and private, including but not limited to water, sewer, drainage, irrigation systems, telephones, electricity, television cable or communication lines, and systems and police powers and services supplied by local, state, and federal governments. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, hues, cables, or other improvements installed on or within such easements. No Commercial Building or other structures shall be erected or constructed upon or over said easements, except structures necessary for public utilities.

**10.2. Private Drive Easement.** A general ingress, egress, and access easement shall exist on the private drive identified on the Plat, which shall be non-exclusive and perpetual, for general ingress, egress, and passage, for the benefit of all Parcels, their owners, guests, and invitees to the Development. Such ingress, egress, and access easement is granted for vehicular and pedestrian use to promote commercial vitality of the businesses within the Development. At no time shall any parcel owner block the driveway or private drive, and traffic flow shall be maintained at all times with the exception of construction or service on utilities of private drive.

**10.3. Maintenance Of Private Drive.** A private drive is identified on the Plat (the "Private Drive"). The Private Drive shall be maintained as the Declarant transfers ownership of the Private Drive to the Parcels, at which time the responsibility for maintenance of the Private Drive shall be shared by the Owners of Parcels abutting the private drive on a prorata basis. The cost of maintaining the Private Drive shall be as provided in paragraph 11.2, outlined herein

**10.4. Mutual Access Drive Agreement.** One or more of the Parcels in the Development will have shared mutual access drives and/or common curb cuts. The two adjacent Parcel Owners shall equally share the access drive and curb cuts for non-exclusive mutual ingress and egress. Neither such Parcel Owner shall close, block, or inhibit access to the mutual access drive or curb cut. The two such Parcel Owners shall share equally all future maintenance and repair costs and obligations for the mutual access drive and curb cuts.

For the Parcel Owner who makes the first improvements on his/its Parcel and builds the access drive at the curb cut, the adjacent Parcel Owner sharing the mutual access drive and curb cut shall reimburse the first Owner one-half of the costs of

constructing the Mutual Access Drive when he/it begins construction on his/its Parcel. The Mutual Access Drive and curb cuts shall allow for a mutual, non-exclusive ingress and egress easements to both Parcels and to the public for access to any public or private roadways.

## **ARTICLE 11** **ASSESSMENTS**

**11.1. Pre-Construction Parcel Maintenance Assessment.** For purposes of maintaining Parcels before an Owner begins construction on the Parcel, for the period of time prior to an Owner beginning construction of Proposed Improvements on a Parcel, the Owner shall pay a pre-construction maintenance Parcel assessment on the basis of \$60.00 per acre per year for his/her Parcel (prorated up or down for the number of acres in a Parcel) for yard maintenance and cutting ("Parcel Maintenance Fee") for fifteen (15) times per year, with such assessments to be paid on an annual basis of \$900.00 per year. The Parcel Maintenance Fee will be paid in advance annually on the first day of the year. For the year in which the Owner begins construction of improvements on its Parcel, the Declarant will refund a prorata portion of the annual Parcel Maintenance Fee. The Declarant will use the Parcel Maintenance Fee for yard maintenance and cutting at the Declarant's determination for appropriate yard maintenance.

**11.2. Private Drive Maintenance Assessment.** For purposes of maintaining the Private Drive within the Development, the Owner of every Parcel abutting the Private Drive (being Lot Numbers to be determined) will pay to the Declarant a private drive maintenance assessment (the "Private Drive Maintenance Assessment") beginning for the year 2007 in the amount of \$500.00 per acre per year, prorated to the size of each Parcel, in advance on the first day of the year, with such Private Drive Maintenance Assessment to increase on an annual basis by four percent (4%) over the amount for the previous year. The Declarant will use the Private Drive Maintenance Assessment from time to time at the Declarant's determination for appropriate maintenance and repair to the Private Drive in the Development. The private drive is projected to be repaved on or before May of 2013.

**11.3. Retention Pond/Entry Signage Assessment.** For purposes of maintaining the Retention Pond as defined in Article 12 within the Development, and for maintaining the PARK PLACE WEST DEVELOPMENT entry signage and fencing associated with the development located on Ridgecrest Drive, the Owner of every Parcel will pay to the Declarant a retention pond/sign assessment (the "Retention Pond Assessment") beginning for the year 2007 in the amount of \$500.00 per acre per year, prorated to the size of each Parcel, in advance on the first day of the year, with such Retention Pond Assessment to increase on an annual basis by four percent (4%) over the amount for the previous year. The Declarant will use the Retention Pond Assessment from time to time, at the Declarant's determination, for appropriate

maintenance and repair to the Retention Pond in the Development located on Ridgecrest Drive.

**11.4. Creation Of Lien And Personal Obligation Of Assessments.** Each Owner of a Parcel by acceptance of a Deed therefor, whether or not it is so expressed in such Deed, is deemed to covenant and agree to pay to the Declarant all assessments set forth in this Declaration, and any other assessments general or special, which shall be necessary in the sole opinion of the Developer; or thereafter required by a vote of the Parcel Owners Association and deemed necessary for the mutual benefit of the Development, to protect and ensure the desirability and value of the Development for the various parcel owners. All assessments, together with interest as provided in paragraph 11.5, costs, and reasonable attorney's fees, shall be a charge against each Parcel and shall be a continuing lien upon the Parcel against which each such assessment is made. Each such assessment, together with interest as provided in paragraph 11.5, costs, and reasonable attorney's fees, shall also be the personal obligation of the person or entity who is the owner of such Parcel at the time when the assessment fell due.

**11.5. Effect Of Non-Payment Of Assessments.** Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the lower of the highest rate of interest permitted by law or eighteen (18%) per annum. The Declarant may bring an action at law or in equity against the Owner personally obligated to pay the same. The Declarant may record a claim of lien of record in the Madison County Register's Office and thereafter foreclose the claim of lien against the Parcel. No Owner may waive or otherwise escape liability to the Declarant provided for herein by non-use of the Parcel or abandonment of the Parcel. Any assessment not paid when due will also incur a late charge of 5% per month of the amount of the assessment due. Provided, however, that the cumulative late fees shall in no event exceed twenty-five percent (25%) of the amount past due.

**11.6. Subordination Of Lien To Mortgages.** The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage deed of trust held by a mortgagee.

## **ARTICLE 12** **RETENTION POND**

Declarant shall construct a retention pond (the "Retention Pond") upon the Property as reflected on the Plat and maintain the Retention Pond (such as cleaning out any debris and cutting and trimming the grass).

**ARTICLE 13**  
**ENFORCEMENT OF COVENANTS**

The Declarant and/or any Parcel Owner shall have the right to enforce the covenants, restrictions, easements, and other provisions contained herein by a proceeding at law or in equity against any person, persons, or entities violating or attempting to violate any such provisions herein, either to restrain such violation, or to recover damages therefore, or both.

Failure by the Declarant or any Parcel Owner to enforce any covenant, restriction, or other provision contained herein shall not be deemed a waiver of the right to do so thereafter. Neither the Declarant, nor any officer, director, agent, or shareholder of the Declarant shall have any liability for failure to enforce any restrictions, conditions, or other provisions contained herein. Any action by the Declarant or Owner to enforce the provisions herein against another Owner violating the provisions herein shall be entitled to recover reasonable attorney's fees and costs incurred in such suit and enforcement of its rights against the Owner violating the provisions herein.

**ARTICLE 14**  
**PARCEL OWNERS' ASSOCIATION**

At the time the Developer desires to relinquish responsibility for the day to day management of the Development, the maintenance of the private drives, the mutual access drives, the retention ponds, and any other common areas of the Development, the Developer shall have the right to first turnover and assign to Gary Taylor the rights and responsibilities of the Developer, including the right to make assessments and to collect funds, as outlined in the previous Articles. If Gary Taylor accepts that assignment, then he shall have the same rights and authority as the Developer and shall specifically have the right to make assessments and manage the common areas as outlined in the previous articles. If Gary Taylor declines to accept an assignment of those rights and funds then the Developer shall notify the individual parcel owners of his intent to turn over those rights and responsibilities to the Parcel Owners Association.

If the Developer determines to relinquish responsibility for the day to day management of the common areas to the Parcel Owners Association, he shall notify the individual parcel owners of his intent to turn over all that responsibility and any funds on hand to the Parcel Owners Association. The Parcel Owners thereafter shall have the responsibility to form a Parcel Owners Association. The Parcel Owners Association shall have the authority to take any reasonable action necessary to maintain enhance the common areas and to promote the common interests of the individual parcel owners. The Association shall elect a Chief Executive Officer and/or a Board at an annual meeting and the Association may operate as an unincorporated association or as a non-profit corporation or LLC. The Association may adopt rules and regulations and By-Laws by majority vote as defined below. Votes will be determined as follows: each parcel owner will have votes equal to its lot size multiplied divided by one acre.

For example, a 1.3 acre lot shall have 1.3 votes, a 2.5 acre lot shall 2.5 votes and a 10.5 acre lot will have 10.5 votes. Majority vote shall be defined, thereafter, as the 50.1% or more of the total votes available to be cast. Votes may be voted by written proxy at any meeting assessments for common area maintenance shall also be made on a prorate basis, based on lot size.

Once the Association is properly formed it shall have the authority to collect assessments for maintenance of the common areas as outlined above and shall be responsible for those items. At the time the Developer relinquishes this responsibility he shall have no responsibility for any further items or maintenance, except in the event he remains a parcel owner(s) in the Development. In such case he will be considered simply a parcel owner(s) and have the same rights and responsibilities as the other individual parcel owners as set out in the By-Laws.

## **ARTICLE 15** **GENERAL PROVISIONS**

**15.1. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**15.2. Term.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless a termination thereof is approved by the Owners of ninety percent (90%) of the Parcels.

**15.3. Amendment.** Declarant reserves the right without consent or joinder of any Owner or Mortgagee to (a) amend this Declaration, provided that such amendments shall conform to the general purposes and standards of the covenants and restrictions, herein contained; (b) amend this Declaration for the purposes of curing any ambiguity in or inconsistency between the provisions herein contained; (c) include any supplemental declaration or other instrument hereafter made any additional covenants, restrictions and easements applicable to the Property which do not lower the standards of the covenants, restrictions and easements herein contained; (d) release any Parcel from any part of the covenants and restrictions which have been violated, if Declarant, in its sole judgment determines such violation to be a minor or insubstantial violation. Any amendment to this Declaration must be recorded. Any amendment to this Declaration by the Declarant shall be binding on the entire Development, it is expressly agreed and understood that the Declarant shall apply the Declaration to respective lots in Park Place West Development, by filing a plat of the Lots in the Register's Office of Madison County, Tennessee and designating those lots to be a part of Park Place West Development. The Declarant applies only to property that the Declarant designates as a part of Park Place West Development, in a recorded plat and the Declarant has the

express right to exempt any real property from this Declaration in the event in his sole judgment the Declaration should not apply to that portion of the property.

**15.4. Notices.** Any notice required to be sent to the Owner of any Parcel under the provisions of this Declaration shall be deemed to have been properly sent and given when mailed, postage prepaid, or hand-delivered to the Parcel and to the last known address of the person who appears as Owner of such Parcel.

**15.5. Interpretation; Headings.** The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of the Property. All headings are for convenience only and shall not be used to interpret or construe the provisions of the Declaration.

**15.6. Gender and Number.** The use of the masculine gender herein shall be deemed to include the feminine or neuter gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

**15.7. Legal Fees.** All attorneys' fees and court costs which may be incurred by the Declarant in the enforcement of any of the provisions of this Declaration, regardless of whether such enforcement requires judicial action, shall be assessed against and collectible from the Owner against whom such action was taken and shall be a lien against such Owner's Parcel in favor of the Association.

**15.8. Governing Law.** This Declaration shall be construed in accordance with the laws of the State of Tennessee, both substantive and procedural.

**15.9. Assignments.** The rights of the Declaration herein, or either of them, may be assigned to each other, or to any third party, by an instrument executed with the same formalities as is this instrument.

#### **ARTICLE 16** **OWNERS AND DECLARANT**

The record title holder of the property is Michael Steve Burton and wife, Linda Kay Burton. They have designated Michael Steve Burton d/b/a MS Burton Development, as the Declarant and as owners they consent to the filing of this Declaration and affirm each and every item stated in the foregoing Declaration. Also, in the event of the death or disability of Michael Steve Burton, prior to the completion of this Development, Linda Kay Burton reserves the option of acting as Declarant until the completion of the Development. This provision giving Linda Kay Burton this option shall control and supersede any provisions of Article 14 or the Declaration as a whole. It is the Owners intent that the property be bound by this Declaration and that the Declarant have all of the authority outlined in the foregoing Declaration.

IN WITNESS WHEREOF, the undersigned Declarant has set his hand this 3  
day of APRIL, 2007.

DECLARANT AND OWNER:

Michael Steve Burton  
Michael Steve Burton d/b/a  
MS Burton Development

OWNER: Linda Kay Burton  
Linda Kay Burton

STATE OF TENNESSEE :  
COUNTY OF MADISON :

Personally appeared before me, Michael Steve Burton and wife, Linda Kay Burton, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS MY HAND, at office, this 3 day of April, 2007.

James E. Edwards  
NOTARY PUBLIC  
STATE OF TENNESSEE  
NOTARY PUBLIC  
DYER COUNTY

MY COMMISSION EXPIRES: June 21, 2009  
My Commission Expires: \_\_\_\_\_

BK/PG:T1794/1224-1239

07005731

16 PGS : AL - RESTRICTIONS	
PARCEL BATCH: 47188	
04/04/2007 - 11:25 AM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	80.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	82.00

STATE OF TENNESSEE, MADISON COUNTY  
LINDA WALDON  
REGISTER OF DEEDS



THIS INSTRUMENT PREPARED BY:  
RAINEY, KIZER, REVIERE & BELL, P.L.C.  
105 South Highland Avenue  
Jackson, TN 38301

**RECIPROCAL ACCESS AND ROAD AGREEMENT**

THIS RECIPROCAL ACCESS AND ROAD AGREEMENT (the "Agreement") made and entered into this 10<sup>th</sup> day of September, 2009, by and between GARY TAYLOR ("Taylor") and MICHAEL STEVE BURTON and wife, LINDA BURTON ("Burtons").

**RECITALS:**

A. Taylor is the owner of certain property known as Park Place West and identified on **Exhibit A**, and is generally the northern part of Park Place West.

B. Burtons is the owner of certain property known as Park Place West and identified on **Exhibit A**, and is generally the southern part of Park Place West.

C. Burtons and Taylor each have roads and will develop additional roads throughout their respective developments, some of which may be public, and some of which may be private.

D. In order to provide for their mutual benefit and maximum flexibility and use of property and development, Burtons and Taylor agree to provide and allow for reciprocal and mutual access and road use for ingress and egress for the benefit of both of their properties.

NOW, THEREFORE, in consideration of the recitals herein and the mutual covenants and obligations of the parties hereinafter set forth, it is agreed as follows:

1. **Reciprocal Access And Road Use.** Taylor and Burtons agree, one with the other, that all platted public and private roads, drives, roadways, and ingress and egress points both now existing and to be platted in the future (collectively "Access Drives") on their respective properties, being described on **Exhibit A**, shall be available for and allow for reciprocal access, reciprocal ingress and egress, reciprocal passage, and use of such as necessary for public access, ingress and egress.

Taylor and Burtons agree that they shall not take any action with any of the Access Drives on their respective properties that would limit or inhibit public access near one property to the other as shown on **Exhibit A** attached hereto.

2. **Covenant Running With The Land.** Taylor and Burtons agree that this Reciprocal Access and Road Agreement and rights established herein shall run with the land for the Access Drives on the property described on **Exhibit A**, and shall be binding upon Taylor, upon the Burtons, and all parties having any right, title, and interest to the

4

6

property described in the exhibits hereto. The use and benefit of this Agreement shall inure for the benefit of Taylor, the Burtons, their heirs, successors, and assigns. The use and benefit of this Agreement shall be binding upon Taylor, Burtons, their heirs, successors, and assigns.

3. **Private Drive Maintenance Assessment.** Burtons agree to release Taylor from any Private Drive Maintenance Assessment as set forth in the Declaration Of Covenants, Conditions, Restrictions, And Easements recorded in Book T1794, page 1224, in the Register's Office of Madison County, Tennessee for the 2.02 Acres. Taylor agrees to pay Burtons a \$500.00 per year Private Drive Maintenance Assessment for the .75 Acre Lot No. 10B as shown on Exhibit A beginning January 1, 2010.

4. **Miscellaneous.** This Agreement constitutes the entire agreement among the parties, and no provision hereof may be omitted or modified except in writing signed by the parties. Any prior agreement related to the provisions in this Agreement, whether oral or written, covering the subject matter of this Agreement are hereby revoked and cancelled in all respects. If any parts of this Agreement are found to be void, prohibited by, unlawful, or unenforceable under any applicable law, the remaining provisions of this Agreement shall nevertheless be binding with the same effect as though the voided parts were deleted. Should the provisions of this Agreement require judicial interpretation, it is agreed that the judicial body interpreting or construing the same shall not apply the assumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against party who has, or through his agents, prepared the same. It is agreed that the agents of all parties have participated in the preparation hereof equally and/or that the parties have had an opportunity to consult with their own attorneys.

IN WITNESS WHEREOF, the parties have hereunto set their hands on this the 10<sup>th</sup> day of September, 2009.

SEPARATE SIGNATURE PAGES

SIGNATURE PAGE 1 OF 2

TAYLOR:

*Gary A. Taylor*  
GARY TAYLOR

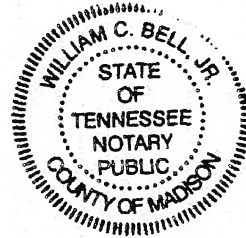
STATE OF TENNESSEE :  
COUNTY OF MADISON :

Personally appeared before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, GARY TAYLOR, with whom I am personally acquainted, who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this the 10<sup>th</sup> day of September, 2009.

*William C. Bell Jr.*  
Notary Public

My Commission Expires: 2/6/2013.



SIGNATURE PAGE 2 OF 2

BURTONS:

*Michael Steve Burton*

MICHAEL STEVE BURTON

*Linda Kay Burton*

LINDA KAY BURTON

STATE OF TENNESSEE :  
COUNTY OF MADISON :

Personally appeared before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, MICHAEL STEVE BURTON and wife, LINDA KAY BURTON, with whom I am personally acquainted, who acknowledged that they executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this the 16<sup>th</sup> day of September, 2009.

*William C. Bell Jr.*  
Notary Public

My Commission Expires: 7/6/2013



09012424

5 PGS : AL - AGREEMENT	
SHARLA BATES: 79540	
09/10/2009 - 04:10 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	25.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	27.00

STATE OF TENNESSEE, HADISON COUNTY

LINDA WALDOW  
REGISTER OF DEEDS

--To Memphis  
To Nashville--

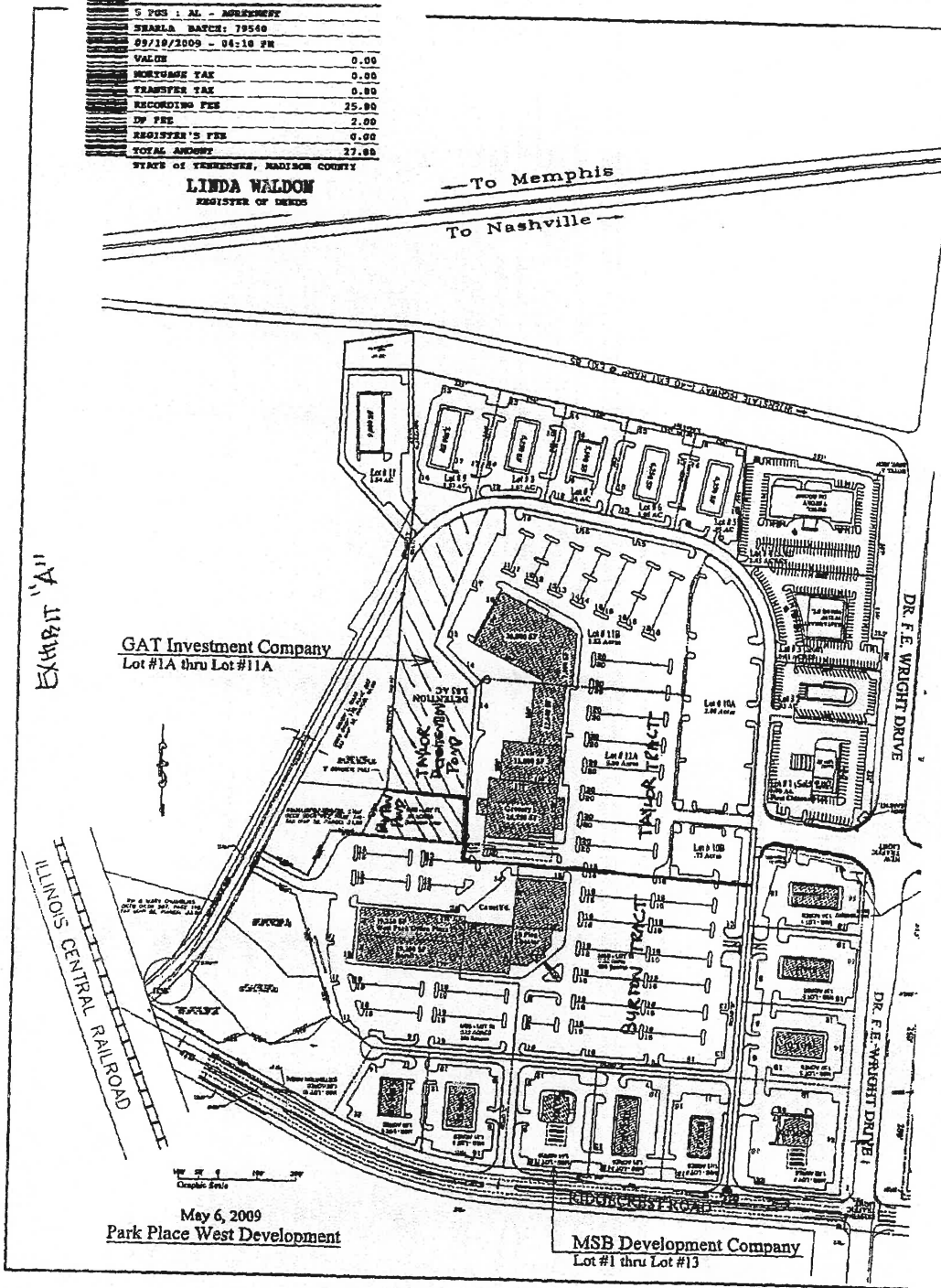


EXHIBIT "A"

May 6, 2009  
Park Place West Development

MSB Development Company  
Lot #1 thru Lot #13



**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I, (WE) HEREBY CERTIFY THAT I AM (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON AS RECORDED IN DEED OFFICE OF THE REGISTER OF MADISON COUNTY, TENNESSEE, AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) FREE CONSENT, EXPRESS THE ANNUAL BUILDING RESTRICTION LINES, AND DEVOTE ALL RIGHTS AND INTERESTS AND OTHER OTHER SPACES TO PUBLIC USE OR TO PRIVATE USE AS NOTED.

3-4-08  
 DATE  
 Michael S. Burton  
 MICHAEL S. BURTON  
 3/4/08  
 DATE  
 Linda Kay Burkett  
 LINDA KAY BURKETT

**ACKNOWLEDGEMENT OF OWNER'S SIGNATURE**

STATE OF TENNESSEE:  
 COUNTY OF MADISON:  
 PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR THE STATE AND COUNTY AFORESAID, MICHAEL S. BURTON AND LINDA KAY BURKETT, WHOSE NAMES WITH WHOM I AM PERSONALLY ACCOUNTED AND WHO ACKNOWLEDGED THAT HE/SHE EXECUTED THE FOREGOING AND ATTACHED INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED, AND THE INSTRUMENT BEING DATED THIS 4th DAY OF MARCH, 2008.

NOTARY PUBLIC  
 My Commission Expires  
 APR 23, 2009  
 Michael S. Burton  
 STATE OF TENNESSEE  
 COUNTY OF MADISON

**CERTIFICATE OF APPROVAL FOR RECORDING**

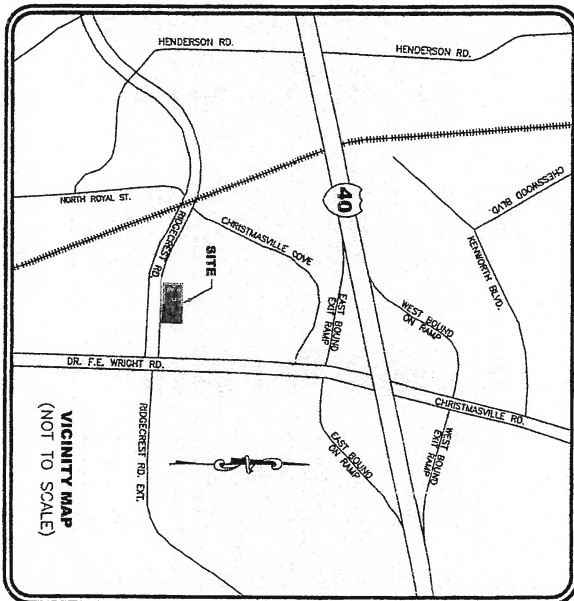
I, HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS FOR THE JACKSON, TENNESSEE PLANNING REGION WITH THE EXCEPTIONS FOR THE JACKSON, TENNESSEE PLANNING REGION AND THE EXCEPTIONS FOR THE JACKSON, TENNESSEE PLANNING REGION AND THE EXCEPTIONS FOR RECORDING IN THE OFFICE OF THE COUNTY REGISTER.

3/4/08  
 DATE  
 J. A. Coyle  
 J. A. COYLE  
 AUTHORIZED REPRESENTATIVE OF THE  
 JACKSON MUNICIPAL REGIONAL PLANNING  
 COMMISSION

**CERTIFICATE OF ACCURACY OF SURVEY**

I, HEREBY CERTIFY BY PLACING MY SEAL AND SIGNATURE ON THIS PLAT THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE STANDARDS AND REQUIREMENTS OF THE JACKSON MUNICIPAL REGIONAL PLANNING COMMISSION AND THAT THE ACCURACY OF THE SURVEY UPON WHICH THIS PLAT IS BASED IS AS STATED ON THE PLAT. I AM A MEMBER OF THE BOARD OF EXAMINERS FOR LAND SURVEYORS FOR A CATEGORY "T" SURVEY.

3-4-2008  
 DATE  
 J. A. Coyle  
 J. A. COYLE  
 REGISTERED LAND SURVEYOR, No. 969



APPROVED BY JACKSON  
 PLANNING COMMISSION  
 DATE 3/4/08 ETC

**CERTIFICATE OF STREET NAME AND NUMBERING**

I HEREBY CERTIFY THAT THE STREET NAMES AND NUMBERS HAVE BEEN APPROVED BY THE DISTRICT:

3/4/08  
 DATE  
 Michael S. Burton  
 DISTRICT REPRESENTATIVE

**CERTIFICATE OF APPROVAL OF WASTE WATER COLLECTION SYSTEM**

I HEREBY CERTIFY THAT THE SANITARY SEWERAGE SYSTEM INSTALLED OR PROPOSED FOR INSTALLATION FULLY MEETS THE REQUIREMENTS OF THE JACKSON ENERGY AUTHORITY.

3/4/08  
 DATE  
 Michael S. Burton  
 JACKSON ENERGY AUTHORITY

**CERTIFICATE OF APPROVAL OF WATER SYSTEM**

I HEREBY CERTIFY THAT THE WATER SYSTEM INSTALLED OR PROPOSED FOR INSTALLATION FULLY MEETS THE REQUIREMENTS OF THE JACKSON ENERGY AUTHORITY.

3/4/08  
 DATE  
 Michael S. Burton  
 JACKSON ENERGY AUTHORITY

**CERTIFICATE OF RECOGNITION OF EXISTING STREETS AND RIGHTS-OF-WAY**

I HEREBY CERTIFY THAT STREETS ON THE SUBDIVISION PLAT SHOWN HEREON ARE SHOWN AND PRESERVED AND NO NEW STREETS ARE NEEDED.

3/4/08  
 DATE  
 Michael S. Burton  
 CITY ENGINEER OF MADISON COUNTY CONSULTING ENGINEER

FINAL PLAT  
 OF  
 PARK PLACE WEST, SECTION 4  
 IN THE SIXTH CIVIL DISTRICT  
 OF THE CITY OF JACKSON  
 MADISON COUNTY, TENNESSEE

FOR  
 MICHAEL S. BURTON  
 2310 NORTH HIGHLAND AVE  
 JACKSON, TENNESSEE 38305



Professional Land Services  
 LAND SURVEYING - MAPPING - PLANNING  
 118 Miller Avenue  
 Jackson, Tennessee 38305  
 Phone: (731) 666-7171 Fax: (731) 666-0775

FW Date: N/A  
 Drawn By: JG  
 Date Drawn: 02-18-08  
 Checked By: CEM

Job #: 08024  
 DWG File #: 08024  
 Scale: 1"=40'  
 Sht. 1 of 2

THIS INSTRUMENT PREPARED BY:  
RAINEY, KIZER, REVIERE & BELL, P.L.C.  
105 South Highland Avenue  
Jackson, TN 38301

**RETENTION POND AGREEMENT**

THIS RETENTION POND AGREEMENT (the "Agreement") made and entered into this 10<sup>th</sup> day of September, 2009, by and between GARY TAYLOR ("Taylor"), and MICHAEL STEVE BURTON and wife, LINDA KAY BURTON ("Burtons").

**RECITALS:**

- A. Taylor has constructed a retention pond on the property described on Exhibit A, known as Park Place West.
- B. Burtons own the property also identified on Exhibit A (Burton Property).
- C. Taylor has constructed an expansion of the existing retention pond to service the Burton Property, and the Burtons desire to utilize Taylor's retention pond for the purposes of the Burton Property.
- D. Taylor is desirous of allowing Burtons and the Burton Property to use the Taylor retention pond upon the terms and conditions set forth in this Agreement, and the same as set forth in the Park Place Development West Declaration of Covenants, Conditions, Restrictions, and Easements recorded in Book T1810, page 109, in the Register's Office of Madison County, Tennessee ("Covenants").

NOW, THEREFORE, in consideration of the recitals herein and the mutual covenants and obligations of the parties herein, it is agreed as follows:

1. **Burtons' Use Of Taylor's Retention Pond.** Taylor hereby agrees to allow Burtons to use Taylor's retention pond for the Burton Property up to the amount of water calculated by Mickey Evans, Civil Engineer. Taylor also gives Burton a 20 foot drainage easement to access Taylor's pond in the event work is required on the storm drainage system.
2. **Retention Pond Maintenance.** Burton and Taylor hereby agree to maintain the area of the retention pond as described in the attached Site Plan identified on Exhibit B. Burton and Taylor agree to grow and maintain the grass in and around the pond on his property at least four (4) times a year or as required by the City of Jackson.
3. **Miscellaneous.** This Agreement constitutes the entire agreement among the parties, and no provision hereof may be omitted or modified except in writing signed by the parties. Any prior agreement related to restrictions on the use of Burtons

3

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property, whether oral or written, covering the subject matter of this Agreement are hereby revoked and cancelled in all respects. If any parts of this Agreement are found to be void, prohibited by, unlawful, or unenforceable under any applicable law, the remaining provisions of this Agreement shall nevertheless be binding with the same effect as though the voided parts were deleted. Should the provisions of this Agreement require *judicial interpretation*, it is agreed that the judicial body interpreting or construing the same shall not apply the assumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against party who has, or through his agents, prepared the same. It is agreed that the agents of all parties have participated in the preparation hereof equally and/or that the parties have had an opportunity to consult with their own attorneys.

IN WITNESS WHEREOF, the parties have hereunto set their hands on this the 10<sup>th</sup> day of September, 2009.

**SEPARATE SIGNATURE PAGES**

SIGNATURE PAGE 1 OF 2

TAYLOR:

*Gary Taylor*  
GARY TAYLOR

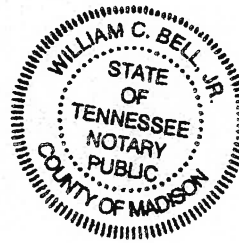
STATE OF TENNESSEE :  
COUNTY OF MADISON :

Personally appeared before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, GARY TAYLOR, with whom I am personally acquainted, who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this the 1<sup>st</sup> day of September, 2009.

*William C. Bell, Jr.*  
Notary Public

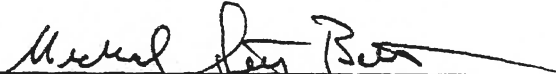
My Commission Expires: 7/6/2013

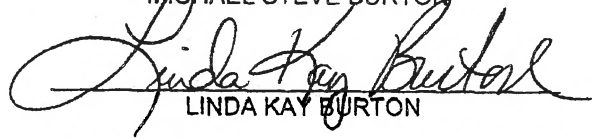


7

SIGNATURE PAGE 2 OF 2

BURTONS:

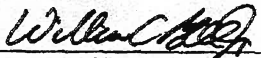
  
 MICHAEL STEVE BURTON

  
 LINDA KAY BURTON

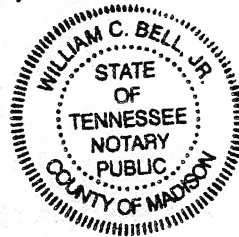
STATE OF TENNESSEE :  
COUNTY OF MADISON :

Personally appeared before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, MICHAEL STEVE BURTON and wife, LINDA KAY BURTON, with whom I am personally acquainted, who acknowledged that they executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this the 10<sup>th</sup> day of September, 2009.

  
 Notary Public

My Commission Expires: 9/6/2013



09012423

S FOR : AL - AGREEMENT	
AMALIA BATCH: 79560	
09/10/2009 - 04:10 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	25.00
DP FEE	2.00
REGISTER'S FEE	0.80
TOTAL AMOUNT	27.00

STATE OF TENNESSEE, MADISON COUNTY

LINDA WALDON  
REGISTER OF DEEDS

To Memphis  
To Nashville

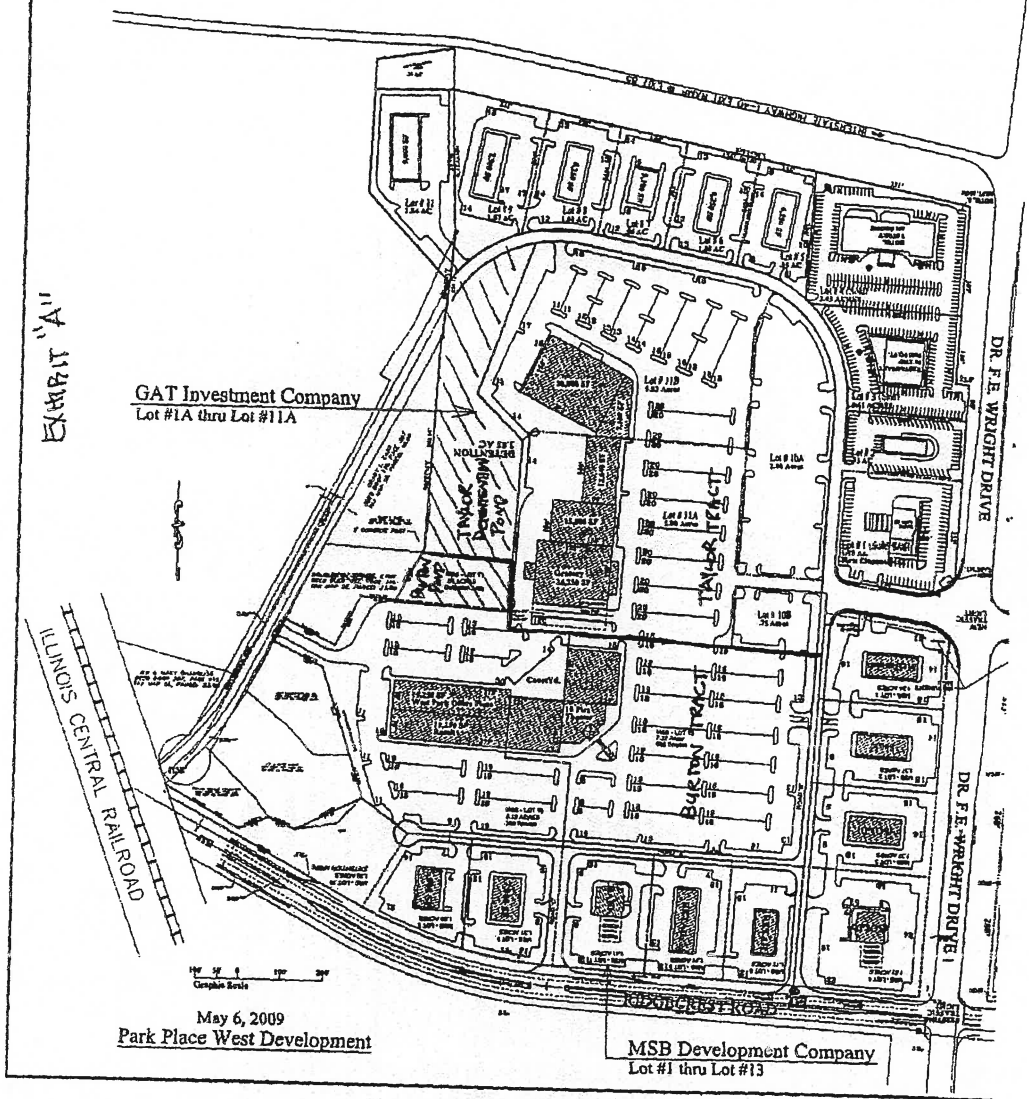


EXHIBIT "A"

GAT Investment Company  
Lot #1A thru Lot #11A

ILLINOIS CENTRAL RAILROAD

100' 0" 100' 0" 100' 0"  
Graphic Scale

May 6, 2009  
Park Place West Development

MSB Development Company  
Lot #1 thru Lot #13

THIS INSTRUMENT PREPARED BY:  
RAINEY, KIZER, REVIERE & BELL, P.L.C.  
105 South Highland Avenue  
Jackson, TN 38301

**AGREEMENT RESTRICTING FUTURE USE OF PROPERTY**

THIS AGREEMENT RESTRICTING FUTURE USE OF PROPERTY (the "Agreement") made and entered into this 10<sup>th</sup> day of September, 2009, by and between GARY TAYLOR ("Taylor"), and MICHAEL STEVE BURTON and wife, LINDA KAY BURTON, the owners of the property described on the attached **Exhibit A** and depicted on **Exhibit B** ("Burtons").

**RECITALS:**

A. Burtons are the owners of Park Place West Development identified of record in Deed in Book D679, page 792, in the Register's Office of Madison County, Tennessee, and also shown on Plat Book 10, page 459, Plat Book 10, page 510, and Plat Book 10, page 571, in the Register's Office of Madison County, Tennessee.

B. Burtons have sold certain lots in Park Place West Development and still retain ownership of the property described on **Exhibit A** and depicted on **Exhibit B**.

C. Burtons and Taylor have entered into an Agreement whereby Burtons will sell 2.77 acres in Park Place West Development to Taylor for purposes of Taylor constructing and developing the 2.77 acres, along with property he already owns, for a grocery store.

D. One of the conditions by Taylor for purchasing the 2.77 acres from Burtons is that the Burtons agree that the property they own in Park Place West Development will not be used, developed, sold to, or in any way used as a Grocery Store (as hereinafter defined).

E. Taylor and Burton desire to enter into this Agreement restricting Burtons' use of the portion of Park Place West Development described on **Exhibit A** and depicted on **Exhibit B** from use as a Grocery Store.

NOW, THEREFORE, in consideration of the recitals herein and the mutual covenants and obligations of the parties hereinafter set forth, it is agreed as follows:

1. **Grocery Store Definition.** For purposes of this Agreement, "Grocery Store" is defined as a store that sells food products and other products customarily and commonly sold in a full service grocery store and a store that exceeds 5,000 square feet in size. The intent of the parties is that the definition of "Grocery Store" shall have the broadest and most expansive meaning possible. For purposes of clarification, a convenience store that sells food products on a limited basis, such as snacks and

(2)

convenience items, along with soft drinks, beer, and gasoline shall not be considered a Grocery Store for this definition.

2. **Restriction On Grocery Store.** For and in consideration of Taylor purchasing the 2.77 acres from Burtons, Burtons agree to restrict and limit the property described on **Exhibit A** and diagramed and depicted on the plat attached as **Exhibit B** from being used as, developed, sold to, or in any way as a Grocery Store or in any way associated with a Grocery Store.

3. **Covenant Running With The Land.** The owners of the subject property described on exhibits hereto agree that this restriction on future use shall run with the land and be binding upon the owners of such property and all parties having any right, title, and interest to the property described on **Exhibit A** and depicted on **Exhibit B** or any portion thereof, their heirs, successors, and assigns.

4. **Miscellaneous.** This Agreement constitutes the entire agreement among the parties, and no provision hereof may be omitted or modified except in writing signed by the parties. Any prior agreement related to restrictions on the use of Burtons property, whether oral or written, covering the subject matter of this Agreement are hereby revoked and cancelled in all respects. If any parts of this Agreement are found to be void, prohibited by, unlawful, or unenforceable under any applicable law, the remaining provisions of this Agreement shall nevertheless be binding with the same effect as though the voided parts were deleted. Should the provisions of this Agreement require judicial interpretation, it is agreed that the judicial body interpreting or construing the same shall not apply the assumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against party who has, or through his agents, prepared the same. It is agreed that the agents of all parties have participated in the preparation hereof equally and/or that the parties have had an opportunity to consult with their own attorneys.

IN WITNESS WHEREOF, the parties have hereunto set their hands on this the 10<sup>th</sup> day of September, 2009.

SEPARATE SIGNATURE PAGES

SIGNATURE PAGE 1 OF 2

TAYLOR:

*Gary Taylor*  
GARY TAYLOR

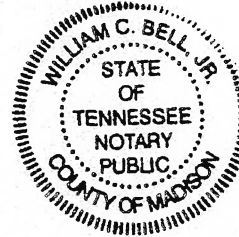
STATE OF TENNESSEE :  
COUNTY OF MADISON :

Personally appeared before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, GARY TAYLOR, with whom I am personally acquainted, who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this the 10th day of September, 2009.

*William C. Bell Jr.*  
Notary Public

My Commission Expires: 7/6/2013.



SIGNATURE PAGE 2 OF 2

BURTONS:

Michael Steve Burton  
 MICHAEL STEVE BURTON

Linda Kay Burton  
 LINDA KAY BURTON

STATE OF TENNESSEE :  
 COUNTY OF MADISON :

Personally appeared before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, MICHAEL STEVE BURTON and wife, LINDA KAY BURTON, with whom I am personally acquainted, who acknowledged that they executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this the 10<sup>th</sup> day of September, 2009.

William C. Bell, Jr.  
 Notary Public

My Commission Expires: 7/6/2013





## EXHIBIT A

Lying and being in the Sixth Civil District of Madison County, Tennessee, to-wit:

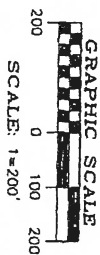
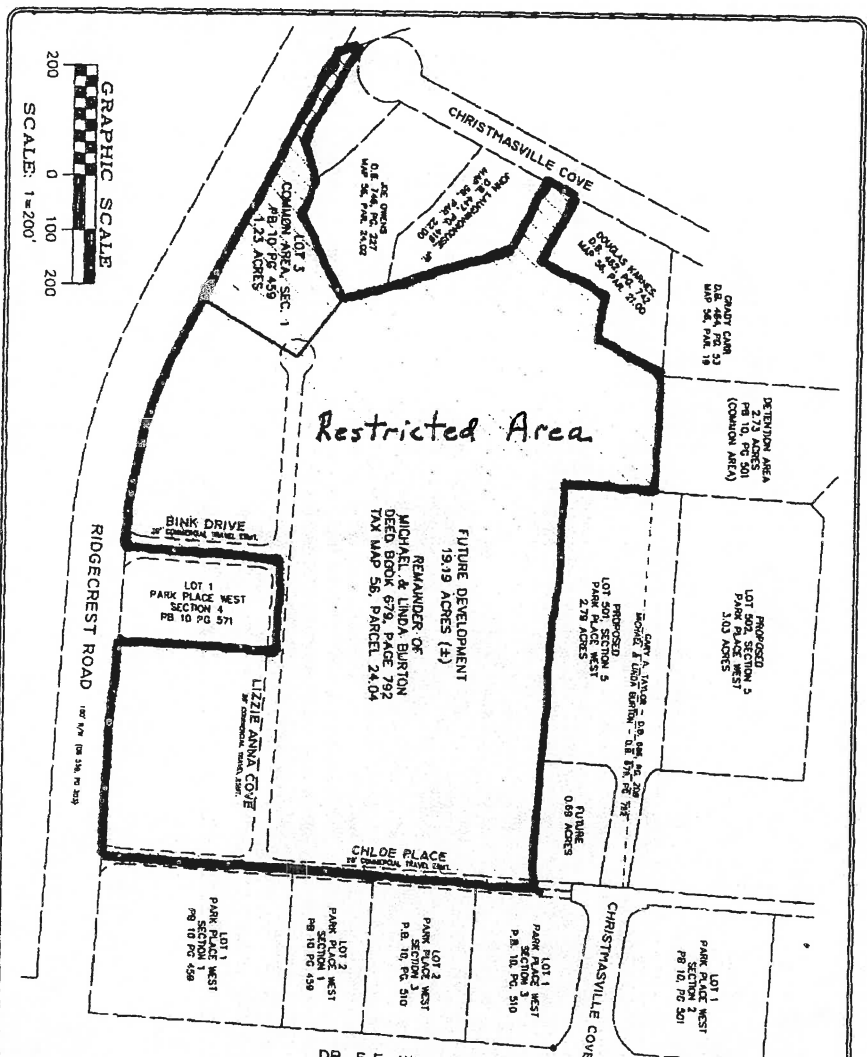
Beginning on an iron rod in the west right-of-way of Dr. F. E. Wright Drive and being 150 feet from the center (according to the highway plan) and being in the north right-of-way of Ridgecrest Road and being 50 feet from the center, said beginning point being the intersection rights-of-way of Ridgecrest Road and Dr. F. E. Wright Drive; thence with the right-of-way of Dr. F. E. Wright Drive North 3 degrees 34 minutes 56 seconds East a distance of 856.94 feet to an iron rod; thence North 16 degrees 55 minutes 11 seconds East a distance of 108.37 feet to an iron rod being 125 feet from the center of said right-of-way and being the southeast corner of Christmasville Investment Company; thence with said investment co. and Grady L. Carr North 86 degrees 27 minutes 31 seconds West a distance of 1220.80 feet to an iron pipe in a fence and being the northeast corner of Douglas Karnes; thence with Karnes South 27 degrees 16 minutes West a distance of 131.26 feet to an iron pipe; thence North 84 degrees 49 minutes 14 seconds West a distance of 80.63 feet to an iron pipe; thence South 27 degrees 05 minutes 15 seconds West a distance of 130.72 feet to an iron pipe; thence North 62 degrees 54 minutes 24 seconds West a distance of 129.75 feet to an iron rod in the eastern right-of-way of Christmasville Road and being 30 feet from the center; thence with said road South 27 degrees 05 minutes 15 seconds West a distance of 60 feet to an iron pipe being the northwest corner of John Laughinghouse; thence with Laughinghouse South 62 degrees 54 minutes 24 seconds East a distance of 129.75 feet to an iron rod; thence with Laughinghouse and Joe D. Owens South 17 degrees 36 minutes 28 seconds East a distance of 328.56 feet to an iron rod; thence with Owens South 42 degrees 31 minutes 52 seconds West a distance of 85 feet to an iron post; thence South 80 degrees 20 minutes 56 seconds West a distance of 100 feet to an iron post; thence North 65 degrees 56 minutes 02 seconds West a distance of 69 feet to an iron post and being a corner of Finance Venture Assoc.; thence with said Assoc. South 67 degrees 02 minutes 32 seconds West a distance of 75 feet to an iron rod; thence North 59 degrees 26 minutes 37 seconds West a distance of 201.84 feet to an iron rod in the right-of-way of Christmasville Road and being in the eastern right-of-way of Illinois Central Rail Road and being 100 feet from center of said rail road; thence with rail road South 19 degrees 39 minutes 49 seconds East a distance of 32.45 feet to an iron rod and being in the north right-of-way of Ridgecrest Road; thence with said road South 61 degrees 12 minutes 27 seconds East a distance of 509.94 feet to a point; thence with the arc of a curve to the left having a radius of 1096.02 feet a distance of 489.60 feet (chord=S 73 degrees 35 minutes 01 seconds East, 485.54 feet) to a point; thence South 86 degrees 22 minutes 20 seconds East a distance of 801.23 feet to the point of beginning and containing 29.5 acres more or less.

Description taken from BookD679, page 792. No opinion is rendered as to the accuracy of the legal description.

INCLUDED IN THE ABOVE DESCRIBED TRACT BUT EXPRESSLY EXCLUDED are the following lots previously conveyed by deeds all recorded in the Register's Office of Madison County, Tennessee, and described as follows:

- 1) Lot Number 1, Section 1, Park Place West, Plat Book 10, page 459, recorded in Book D687, page 617
- 2) Lot Number 2, Section 1, Park Place West, Plat Book 10, page 459, recorded in Book D687, page 1630 and corrected in Book D697, page 592.
- 3) Lot Number 2, Section 3, Park Place West, Plat Book 10, page 510, recorded in Book D691, page 1039.
- 4) Lot Number 1, Section 4, Park Place West, Plat Book 10, page 571, recorded in Book D692, page 1324.
- 5) Lot 1, Section 3, Park Place West, Plat Book 10, page 510, recorded in Book D694, page 1304.

Map 56 Parcel 24.04



Restricted Area

FUTURE DEVELOPMENT  
19.19 ACRES (±)  
REMAINDER OF  
MICHAEL & LINDA BURTON  
DEED BOOK 679, PAGE 792  
TAX MAP 58, PARCEL 24.04

LOT 1  
PARK PLACE WEST  
SECTION 1  
PB 10 PG 571  
3.03 ACRES

RESTRICTION AREA  
2.73 ACRES  
P.B. 10, PG. 501  
(COMMON AREA)

PROPOSED  
LOT 500  
PARK PLACE WEST  
2.79 ACRES

LOT 500  
SECTION 5  
PARK PLACE WEST  
2.79 ACRES

FUTURE  
0.89 ACRES

LIZZIE ANNAT COVE  
BY COMMON LAW, 1891

CHILDE PLACE  
BY COMMON LAW, 1891

LOT 1  
PARK PLACE WEST  
PB 10, PG 501  
3.03 ACRES

LOT 1  
PARK PLACE WEST  
P.B. 10, PG. 510  
3.03 ACRES

LOT 2  
PARK PLACE WEST  
P.B. 10, PG. 510  
3.03 ACRES

LOT 3  
PARK PLACE WEST  
P.B. 10, PG. 510  
3.03 ACRES

LOT 4  
PARK PLACE WEST  
P.B. 10, PG. 510  
3.03 ACRES

DR. F.E. WRIGHT DRIVE

BK/PG:D700/1235-1240

09012422

S P M - AGREEMENT	
MARLA BACH: 79540	
08/18/2007 - 08:10 PM	
WALVE	0.00
GRID	
TOPCS-WADS	
MORTGAGE TAX	0.00
TRANSFER TAX	0.08
RECORDING FEE	10.99
DP FEE	2.00
REGISTER'S FEE	0.30
TOTAL AMOUNT	12.38
STATE OF TENNESSEE, MADISON COUNTY	

THIS PLAT WAS PREPARED FOR EXHIBIT PURPOSES ONLY. IT IS NOT TO BE RECORDED AS REFERENCED HEREON FOR EASEMENTS, SETBACK LINES, AND OTHER MATTERS AFFECTING THIS PROPERTY.

TOTAL REMAINING BURTON PROPERTY, FUTURE DEVELOPMENT - 19.19 ACRES. TOTAL REMAINING BURTON PROPERTY, LOT 3, SECTION 1 - 12.42 ACRES.

EXHIBIT DRAWING OF THE REMAINING BURTON PROPERTY PARK PLACE WEST IN THE CITY OF JACKSON MADISON COUNTY, TENNESSEE	FOR CAT INVESTMENT CO.	Professional Land Services LAW SERVICES - SURVEY - PLANNING 118 HIGHT AVENUE JACKSON, TENNESSEE 39208 PHONE: (662) 426-7999 FAX: (662) 426-8796	TV Date: n/a Drawn By: ASD Date Drawn: 08/02/09 Checked By: ASD
	SHEET 1 OF 1		SHEET 1 OF 1

EXHIBIT B