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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

HURSTBOURNE GREEN
JEFFERSON COUNTY, KENTUCKY

JULY 6, 1989

Plat annexed to this Deed
Recorded in ~~JEFFERSON COUNTY~~
Plat ~~and Right of Easement~~ Book
37 Page 51

5882 PAGE 96

INDEX

	<u>Page Number</u>
I. RECITALS	1-2
II. ARTICLE I - GENERAL PURPOSES OF DECLARATION	3
III. ARTICLE II - DEFINITION OF TERMS	4-7
IV. ARTICLE III - DESCRIPTION OF PROJECT, DIVISION OF PROPERTY	7-18
V. ARTICLE IV - BOARD OF REVIEW	19-21
VI. ARTICLE V - REGULATIONS OF OPERATIONS AND PROHIBITED USES	22-28
VII. ARTICLE VI - CONSTRUCTION OF IMPROVEMENTS	29-36
VIII. ARTICLE VII - DEVELOPMENT STANDARDS	36-53
IX. ARTICLE VIII - ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS	54-55
X. ARTICLE IX - DUTIES AND POWERS OF THE ASSOCIATION	55-62
XI. ARTICLE X - COVENANT FOR COMMON EXPENSE ASSESSMENTS	62-67
XII. ARTICLE XI - GENERAL PROVISIONS	67-76
XIII. SIGNATURES	76-77

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

HURSTBOURNE GREEN
JEFFERSON COUNTY, KENTUCKY

This DECLARATION, made this 6th day of July, 1989, by JEFFERSON COUNTY ECONOMIC DEVELOPMENT CORPORATION, hereinafter referred to as "Declarant," is made with reference to the following facts:

RECITALS

A. Declarant is the owner in fee simple of that certain real property in Jefferson County, Kentucky, described in Exhibit "A" attached hereto and by this reference incorporated herein, and known as Hurstbourne Green.

B. Hurstbourne Green is being developed as a planned professional, research, and office park. It is Declarant's desire and intention to impose on it mutually beneficial restrictions under a general plan or scheme of improvement for the benefit of the property described in Exhibit "A", or any lands subsequently annexed as provided in Section 3.1, and purchasers of lots in Hurstbourne Green.

C. It is the intention and desire of Declarant that the property described in Exhibit "A" be developed as a master planned and landscaped professional, research, and office park to provide employment opportunities and enterprise for the residents of Jefferson County and the surrounding areas, to enhance the tax base of the County and generally to expand economic development opportunities for all the residents of

Jefferson County, and that the property shall be developed, maintained and used in accordance with the terms and conditions stated herein.

D. It is intended that the covenants, conditions and restrictions bind and benefit not only purchasers and Declarant but also their respective successors, heirs, and assigns and that all lots in Hurstbourne Green should be held, used, leased, sold and conveyed subject to the covenants, conditions, and restrictions set forth in this Declaration. Said covenants, conditions, and restrictions are intended to enhance and protect the value, desirability, and attractiveness of all such lots to their mutual benefit.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, leased, conveyed, occupied, developed, and redeveloped subject to the following easements, restrictions, covenants, and conditions, as well as the Articles of Incorporation and the Bylaws of the Hurstbourne Green Owners' Association, Inc. and any restrictions established by the County of Jefferson or by the City of Lyndon or special permits for development which may be established by said City or County, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and sale of the lands described in Exhibit "A" and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of said property and every part thereof.

- 2 -

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ARTICLE I

GENERAL PURPOSES OF DECLARATION

The real property described in Exhibit "A" attached hereto is subject to the restrictions, conditions, covenants, and charges hereby declared to insure the best use and the development and improvement of each parcel; to protect the Owner of each parcel against such improper use of surrounding parcels as might depreciate the value of its property; to preserve and enhance, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to insure harmonious color schemes; to insure the highest and best use of said property; to encourage and require the erection of attractive structures at appropriate locations on each parcel to be developed; to prevent haphazard and inharmonious improvements of parcels; to establish and maintain proper setbacks from streets and adequate free spaces between structures; and in general to provide adequately for the improvement of the property, and thereby to enhance the values of investments made by purchasers of parcels and the Declarant, to provide opportunity for employment and enterprise to the residents of Jefferson County, and to expand the tax base of Jefferson County.

DEFINITION OF TERMS

Section 2.1. "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

Section 2.2. "Architectural Board of Review" or "Board of Review" shall mean and refer to the Architectural Board of Review described in Article IV hereof.

Section 2.3. "Assessment" shall mean the portion of the cost of maintaining, improving, repairing, operating and managing the Common Elements and the Association and its activities and endeavors which is to be paid by each lot owner as determined by the Board and any special charges, all as provided by Article X hereof.

Section 2.4. "Association" shall mean and refer to the Hurstbourne Green Owners' Association, Inc.

Section 2.5. "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

Section 2.6. "Building" shall mean any professional, research, or office building or any other approved structure on the property or underground.

Section 2.7. "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

Section 2.8. "Common Elements" shall mean and refer to the portions of the property (and all improvements thereon) owned by the Association, leased by the Association, or to which easements have been granted to the Association for the common use and enjoyment of the Owners. The Common Elements shall include, without limitation, the lake, open space, areas abutting public and private streets, sign easements, private streets, interior walkways, bikeways, jogging paths, and trails and their associated bridges and underpasses, and other parcels designated "Common Elements" on Exhibit "B," and shall include additional parcels which are dedicated or conveyed to the Association by Declarant after recordation of this Declaration. Attached as Exhibit "B" is a plat of the project as now proposed, including designated Common Elements presently proposed for inclusion in the Project.

Section 2.9. "Common Expenses" means and includes the actual and estimated expenses of operating the Common Elements and any reasonable reserve for such purposes as found and determined by the Board and all sums designated Common Expenses by or pursuant to this Declaration, the Articles or Bylaws.

Section 2.10. "Declarant" shall mean and refer to Jefferson County Economic Development Corporation of Jefferson County, Kentucky, a municipal corporation, and any of its successors and assigns designated "Declarant" by the previous Declarant, in a recorded amendment to this Declaration.

Section 2.11. "Declaration" shall mean and refer to this Declaration.

Section 2.12. "Greenbelt Easement Areas" shall mean and refer to areas within the lots, contiguous to Common Elements, designated "Greenbelt Easement Area" on the Map or Maps recorded from time to time, which areas are available for use by all owners as provided in Section 3.10.

Section 2.13. "Improvement" or "Improvements" shall mean buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures, installations, and landscaping of every type and kind, whether above or below the land surface.

Section 2.14. "Lot" shall mean the same as "Parcel."

Section 2.15. "Map" or "Maps" shall mean and refer to any or all of the Subdivision Maps and/or Parcel Maps referred to in Exhibit "A," and any subsequently recorded Maps which include property within the project.

Section 2.16. "Member" shall mean and refer to a person or entity entitled to membership in the Association as provided herein.

Section 2.17. "Mortgage" shall include a deed of trust as well as a mortgage.

Section 2.18. "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a mortgagee.

Section 2.19. "Mortgagor" shall include the trustor of a deed of a trust as well as a mortgagor.

Section 2.20. "Occupant" shall mean that entity or individual who leases or uses a Lot under an agreement with or permission from the Owner but is not the Owner.

Section 2.21. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Parcel which is a part of the Project, but excluding entities having an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the "Owner" so long as the purchaser remains in possession of the Lot and has not defaulted on his contract of sale.

Section 2.22. "Parcel" shall mean and refer to each of the parcels described in Exhibit "A" or upon any subsequently recorded map of the property or any portion thereof and excluding parcels dedicated to the City or any other governmental entity. If any such parcel is further subdivided or resubdivided, each of the parcels resulting from such subdivision or resubdivision shall be considered as a parcel as that term is used herein and these restrictions shall apply to such parcel so created. In the event of resubdivision of any parcel, the total votes granted to and the assessments charged to such parcel as provided in Exhibit "D" shall be recomputed and re-assigned among the subdivided parcels, in accordance with the formula set forth in Exhibit "D."

Section 2.23. "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 2.24. "Project" shall mean the same as Property.

Section 2.25. "Property" shall mean and refer to the real property above described in Exhibit "A" and all Improvements erected or to be erected thereon, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and all property, real, personal or mixed, intended for use in connection therewith.

Section 2.26. "Sign" shall mean any structure, device, or contrivance, electric or non-electric, upon or within which any poster, bill, bulletin, printing, lettering, painting, device, or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted or otherwise fastened or affixed.

Section 2.27. "Street" or "Streets" shall mean any street, highway, road, or thoroughfare within or adjacent to the subject property and shown on any recorded subdivision or parcel map or record of survey, whether designated thereon as street, boulevard, place, drive, road, court, terrace, way, lane, circle, or otherwise.

Section 2.28. "Visible From Neighboring Property" shall mean, with respect to any given object on a Lot, that such object is or would be visible to a person six (6) feet tall, standing on any part of any adjacent Lot or other property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE III

DESCRIPTION OF PROJECT, DIVISION OF PROPERTY

Section 3.1. Description of Project. The Project consists of the underlying real property described in Exhibit "A," including the Common Elements described above in Section 2.8 and any subsequently annexed property.

Section 3.2. Easements; Dedication of Common Elements. Each of the Parcels in the Project shall have appurtenant to it the right of easements over the Common Elements for ingress and egress, and for use, occupancy and enjoyment, and for the construction, maintenance, and operation of utilities, subject to the following provisions:

A. The right of the Association to discipline a Member for any period during which any assessment against his Lot remains unpaid, and for any infraction of the rules contained in the Declaration, Bylaws, Articles, or written rules and regulations in accordance with the provisions of Section 9.2 D hereof;

B. The right of the Association to dedicate, transfer or mortgage all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided,

that in the case of the borrowing of money and the mortgaging of its property as security therefor, the rights of such Mortgagee shall be subordinate to the rights of the Members of the Association. No such dedication, transfer, or mortgage shall be effective unless an instrument signed or approved by a majority of the total voting power of the Association agreeing to such dedication, transfer, or mortgage has been recorded;

C. The right of the Association to grant easements under, in, upon, across, over, above, or through any portion of the Common Elements for purposes of, including, by way of example and not by way of limitation, access, utilities, and parking, which are beneficial to the development of the Property in accordance with the general plan and intent established by this Declaration.

Section 3.3. Easements to Accompany Conveyance of Lot. The corresponding appurtenant easements described in Sections 3.2, 3.6 - 3.10, and 9.2, shall automatically accompany the conveyance of any Lot, even though the description in the instrument of conveyance may refer only to the fee title to the Lot.

Section 3.4. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, its right of enjoyment to and use of the Common Elements and facilities to its tenants or contract purchasers. Any rights so delegated shall terminate automatically upon transfer of Owner's title.

Section 3.5. Conveyance of Common Elements to Association and Obligation of Association. Declarant shall

deed the Common Elements to the Association from time to time to be held for the benefit of the Members of the Association. The Association shall accept all Common Elements property and/or easement, leasehold, or other property rights deeded or assigned to it by Declarant and shall continue to own, operate, maintain, repair, and manage it according to the provisions of this Declaration. This Section shall not be amended without the consent of Declarant so long as Declarant owns a Parcel(s) within the Project.

Section 3.6. Owners' Rights and Easements for Utilities. The rights and duties of the Owners of Lots within the Project with respect to sanitary sewer, drainage, water, electricity, gas, television, and telephone lines and facilities, shall be as follows:

A. Whenever sanitary sewer, drainage, water, electricity, gas, television, and telephone lines or connections, conduits, ducts or flues are installed within the Project, which connections or any portion thereof lie in or upon a Lot or Lots owned by other than the Owner of a Lot served by said connections, the Owners of any Lots served by said connections shall have the right, and are hereby granted an easement to the full extent necessary, to enter upon the Lots or to have the Association or utility companies enter upon the Lots in the Project in or upon which said connections, or any portion thereof, lie, to repair, to replace and generally maintain said connections as and when the same may be necessary.

B. Whenever sanitary sewer, drainage, water, electricity, gas, television, or telephone lines or connections, conduits, ducts, or flues are installed within the Project which connections serve more than one Lot, the Owner of each Lot served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as serve or provide service to its Lot.

C. In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration first by an arbitrator appointed by the Association and if the dispute is not resolved thereby, then to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the final Arbitrator(s) shall be final and conclusive on the parties. All costs of the arbitration shall be borne by the Owners and shall become Assessments due and payable by the Owners involved.

D. Easements.

(1) Easements for installation and maintenance of utilities, storage of water, and drainage facilities are or may be shown on subdivision or parcel maps of the Property or are of record, and the same are or shall be reserved for such use. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage

or interfere with the installation and maintenance of the utilities, or which may impede the retention of water in basins or change the direction of flow of drainage of water through the drainage channels, or retention basins in the easements. The easement area of each Parcel and all Improvements in it shall be maintained continuously by the Owner of the Parcel, except for those Improvements the maintenance for which a public authority or utility company is responsible or which are Common Elements and for which the Association is responsible.

(2) Easements over portions of certain Parcels which have been or are subsequently dedicated by map or recorded deed in favor of the City of Lyndon or County of Jefferson or Metropolitan Sewer District for drainage, water, recreation and other uses and controls, are reserved for such use and control by the City or the County or MSD, as the case may be.

(3) Easements over certain Parcels for access roads, particularly to Bellevoir Circle, are reserved for such use and control by Declarant and any Improvements thereon shall be constructed by Declarant and owned and maintained as a Common Element by the Association.

(4) The granting of easements for pedestrian and/or vehicular circulation within or between parcels may be required as a condition to Architectural Board of Review approval.

E. Utilities.

(1) Wires and conduits for the transmission of electricity, telephone and other purposes, public sewers, storm

drain pipes, water and gas mains, or pipes shall be placed beneath the surface of the ground, except that street light standards, and similar electrical equipment may be placed (or re-placed) upon the surface after the Architectural Board of Review has approved the design, location and, where needed, the proposed screening.

(2) Temporary poles used for the transmission of electricity, telephone and other purposes during the original construction period of buildings may not be erected, placed, installed or maintained on any Parcel or portion thereof without the consent and written approval of the Architectural Board of Review.

Section 3.7. Association Easements. The Association, its successor, and assigns, shall have the following perpetual easements with respect to the Property:

(1) A perpetual and exclusive easement for the maintenance of any Common Elements, which may presently or hereafter encroach upon a Lot; and

(2) The Association, through the Board or any manager or managing agent or its respective agents or employees shall have the perpetual and nonexclusive right of access to each Lot at reasonable times and intervals and in a manner which does not unreasonably interfere with the business activities of the Owner or Occupant (i) to inspect the Lot for the purpose of verifying conformance with this Declaration, the Bylaws, the

Articles of Incorporation, any Rules and Regulations of the Association for construction of Improvements on the Lot provided for in Article VI of this Declaration, (ii) to remedy any violations set forth in this Declaration, the Bylaws, or in any Rules and Regulations of the Association, and (iii) to perform any operations required in connection with the maintenance, repairs, or replacements of or to the Common Elements, or any equipment, facilities, or fixtures affecting or serving other Lot(s) or the Common Elements. In case of an emergency, such right of entry shall be immediate, whether the Owner is present at the time or not; and

(3) A perpetual, blanket, and nonexclusive easement in, upon, over, under, across, and through the Common Elements for the purpose of the installation, maintenance, repair, service, and replacement of all sewer, water, power, and telephone pipes, lines, mains, conduits, poles, transformers, meters, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility systems serving the Property and the Lots, which easements may be assigned to any Utility Company with any condition the Association deems necessary to protect and further the purpose of the Common Elements and shall be for the benefit of any governmental agency or utility company or other entity that requires same for the purpose of furnishing one or more of the foregoing services; and

(4) A blanket, perpetual, and nonexclusive easement of unobstructed ingress and egress in, upon, over, across, and through the Common Elements to the Association, its respective officers, agents, and employees (but not the public in general) and all police, fire, and ambulance personnel in the proper performance of their respective duties (including, but not limited to, emergency or other necessary repairs to the Lot the Owner has failed to perform) and for repair and maintenance of the Common Elements. Except in the event of emergencies, the rights accompanying the easements provided for in this subsection shall be exercised only during reasonable daylight hours and then, whenever practical, only after advance notice to and with permission of the Owner(s) directly affected thereby.

Section 3.8. Encroachment Easements. Each Lot is hereby declared to have an easement over set back areas and Common Elements for the purpose of accommodating any encroachment due to roof overhang and fences or walls which are built in accordance with the original design, plans and specifications of Declarant, or in accordance with the plan approved by the Declarant, or due to minor engineering errors, minor errors in original construction, settlement or shifting of the building, or similar causes. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, and settlement or

shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each adjoining Lot agree that minor encroachments over Common Elements shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

Section 3.9. Annexation or Removal. Except as limited by Section 3.12, the Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration and/or to remove therefrom additional commercial zoned properties, easements, leaseholds, service areas, water intake or discharge points, or other property interests except that the Declarant shall have the absolute right to annex any or all of said parcels described in Exhibit "F," without the consent of any other Owners being required, notwithstanding any language in Section 3.12 to the contrary. Such additions or removals shall be made by filing of record a Declaration of Annexation annexing said additional property to the Project and extending the application of the Declaration (including the obligations of the Association) thereto, or, in the case of removal of Property, by filing of record a declaration removing said Property from the application of the Declaration. Such

Declaration of Annexation or removal may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the provisions of this Declaration. This Section shall not be amended without the consent of Declarant so long as Declarant owns Parcel(s) within the Project. The only Properties that may be removed under this section are Parcels that are to be transferred to the City, the County, or to some other public agency and which will be used only for public use.

Section 3.10. Greenbelt Easement Areas. The areas designated on the Maps as "Greenbelt Easement Areas or "setback areas," are nonexclusive easements in gross, over the parcels burdened by such easements (as shown on the Maps), for the benefit of all of the Members of the Association. Said easements are permanent, and are for ingress, egress, and use of the said easement areas. The Board may establish and enforce from time to time rules concerning the use of said easement areas by the Members of the Association. The Owner of a "setback" or a Greenbelt Easement Area is responsible for the maintenance thereof, provided that in the event of the failure of the Owner to reasonably maintain the landscaping thereon, the Board may cause the maintenance to be done as provided in Section 7.22.

Section 3.11. Acquisition of Additional Common Elements. Except as limited by Section 3.12, in addition to the Common Elements described in Section 3.5, Declarant may convey additional Parcels or property interests relating to Parcels (including, without limitation, open space areas, easement areas, leaseholds, service areas, or water retention or intake or discharge points) located within the Property to the Association, which Parcels or property interests related thereto, upon conveyance or dedication to the Association, shall be accepted by the Association and thereafter be maintained by the Association, at its expense, for the benefit of all the Members. This Section shall not be amended without the consent of Declarant so long as Declarant owns Parcel(s) in the Project.

Section 3.12. Limitation on Power of Declarant to Annex Or Remove Property, or to Increase the Common Elements. Declarant's power to annex other property to the Project, or to remove property from the Project (as provided in Section 3.9), and Declarant's power to convey additional Parcels or areas to the Association (as provided in Section 3.11) ("Annexation, Removal or Conveyance") shall be limited as follows: The vote or written consent of a majority of the total voting power of the Association, including a majority of Owners other than Declarant, shall be required for any Annexation, Removal or Conveyance which is reasonably projected or estimated by Declarant at the time of Annexation, Removal or Conveyance to

result (an increase in the annual Assessment (computed on a per lot basis) in excess of twenty-five percent (25%) over the same Assessment for the previous fiscal year, or in excess of fifty percent (50%) measured cumulatively on a year by year basis (computed each year over the prior fiscal year) over the entire time that Declarant continues to own Parcel(s) within the Project. For example, if the Assessment for the fiscal year ending prior to the year in which the annexation occurs was One Hundred Dollars (\$100.00) per acre, Declarant may unilaterally annex property if the increase in the per acre Assessment, solely attributable to the Annexation, is reasonably projected by Declarant at the time of Annexation to be Fifteen Dollars (\$15.00), provided, however, that if two prior unilateral Annexations had previously increased the per acre Assessment by a cumulative total of forty percent (40%) (measuring each of the two increases separately) the proposed Annexation would require the approval (as stated above) of a majority of the total voting power of the Association, including a majority of Owners other than Declarant. The limitations contained herein are separate from those contained in Section 3.9, and nothing contained in this Section 3.12 shall be construed to act as a restriction upon the authority of the Board to increase Assessments as the increases might be necessitated as a result of actions taken under Section 3.9 or under Article IX.

ARTICLE IV

BOARD OF REVIEW

Section 4.1. Duties. The Architectural Board of Review shall be responsible for the orderly and expeditious review of all projects subject to the provisions of this Declaration. Except as otherwise specifically provided herein, it shall make recommendations to the Declarant as to the matters which come before it and shall advise Declarant of its recommendations.

Section 4.2. Members.

A. The Board of Review shall consist of a minimum of three members, who shall constitute the total membership thereof, and shall be appointed to perform the functions of the Architectural Board of Review set forth in this Declaration. The Jefferson County Economic Development Corporation shall appoint the initial members of the Board of Review and shall have the exclusive right to make all replacing appointments until such time as the Jefferson County Economic Development Corporation no longer owns Parcel(s) in the Project, including any property hereafter annexed thereto, except the Bellevoir

Mansion and surrounding grounds. Thereafter the Board of Review shall be appointed by the Board of the Directors of the Association.

B. Declarant may replace any member of the Board of Review at any time with or without cause. In the event of death or resignation of any member of the Board of Review, Declarant shall appoint a replacing member within ninety (90) days from such death or resignation. Pending the replacement of such deceased or resigned member, the remaining member or members of the Board of Review shall have full authority to act as the Board of Review under this Declaration.

C. At any time, in its sole discretion, Declarant may assign the right of appointing and replacing Board of Review members to the Association. Such an assignment may be on the condition that the Association remain in existence and actively supports and supervises the Board of Review.

Section 4.3. Assistance. The Board of Review shall assist and cooperate with Owners, architects and developers to facilitate the development of Hurstbourne Green for the protection of Owners and the Declarant.

Section 4.4. Submissions.

A. The Board of Review shall be responsible for determining the adequacy of submissions by Owners with respect to their compliance with the intent of these Covenants, Conditions and Restrictions. All plans, specifications,

requests for authority to remodel or alter or otherwise change the Improvements must be submitted to the Board of Review for review and consideration. No building, landscaping, or other Improvement which is inconsistent with the plans as approved shall be altered, placed, removed, or erected on any building site without a written recommendation from the Board of Review to the Declarant and written approval from the Declarant.

B. The Board of Review shall use its best judgment to see that the intent of these Covenants, Conditions and Restrictions is honored in the review of the external appearance of any project and will not unreasonably withhold its approval. The Owner shall be responsible for compliance with local building codes and ordinances.

Section 4.5. Non-Liability. Neither the Board of Review, the Declarant, nor any member, employee, or agent thereof shall be liable to any Owner or Occupant or to anyone submitting plans for approval or to any other party by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, disapproval, or failure to approve any such plans or for any other action in connection with its or their duties hereunder. Likewise, anyone so submitting plans to the Board of Review for approval, by submitting such plans, and any person when he or it becomes an Owner or Occupant, agrees that he or it will not bring any action or suit to recover any damages against the Board of Review, Declarant, or any member, employee, or agent of said Board of Review or Declarant.

ARTICLE V

REGULATIONS OF OPERATIONS AND
PROHIBITED USESSection 5.1. Permitted Uses.

A. Except as otherwise specifically prohibited herein, any professional, business or commercial use allowed by Section 7.1 of the Louisville and Jefferson County Zoning District Regulations "PRO-Planned Research/Office District" ¹ will be permitted upon a Lot, provided that Declarant specifically consents to such use in writing, except that industrial use shall be restricted to:

- ¹ The following provisions shall apply in the PRO District unless otherwise provided in these regulations.
- A. PERMITTED USES:
- All uses permitted in the M-1 Industrial District, all uses must be confined within a building, including storing Clubs, private, non-profit
 - Colleges, schools and institutions of learning
 - Day care centers, day nurseries, nursery schools and kindergartens
 - Dwellings only in connection with bona fide agricultural operations, or as living quarters for bona fide caretakers and/or watchmen and their families
 - Governmentally owned or operated buildings or uses
 - Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries; not for profit
 - Office buildings
 - Parks, playgrounds and community centers, not for profit
 - Trade and business schools, not objectionable due to noise, odor, dust, smoke, vibration, or other reasons
 - Retail sales and consumer service establishments (not including warehouse sales) dealing primarily with employees and visitors of establishments permitted as principal uses, provided that such commercial uses shall not occupy more than 5 percent of the land area of the District in which it is located.

- 22 -

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- (1) Pilot plants;
- (2) Production of prototype products;
- (3) Laboratories, research, experimental or testing, except combustion type motor testing;
- (4) Manufacturing uses permitted in the M-1 Industrial District provided such uses are related to research or prototype production and provided at least 75% of the floor area is devoted to other than manufacturing;
- (5) Manufacturing uses which are incidental to office, warehousing or wholesaling activities, and provided at least 75% of the floor is devoted to other than manufacturing.

IB continued: CONDITIONAL USES:

Certain uses may be permitted in this district, upon the granting of a Conditional Use Permit by the appropriate Board of Zoning Adjustment. Refer to Article 15 for further information and requirements that apply to specific uses.

Airports, heliports
 Aviaries and zoos
 Camping areas, public and private
 Cemeteries, mausoleums and crematories
 Clubs, private proprietary
 Excavation, minor

*Hospitals and institutions
 **Hospitals, institutions, nursing homes and homes for the infirmed and aged
 Kennels
 Lakes, commercial
 Marinas and boat rentals
 Oil, gas and hydrocarbon extraction
 Sewage plants
 *Social rehabilitation residences

- 23 -

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All uses will be subject to the zoning ordinances of the County of Jefferson or other municipal authority having jurisdiction over the Property.

B. Such approved use shall be performed and carried out entirely within a Building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance in the sole opinion of the Declarant to other Lots, such as, but not limited to, vibration, sound, electromechanical disturbances, electromagnetic disturbances, radiation, air or water pollution, dust, or emission of odorous, toxic or nontoxic matter, including steam. Certain activities that cannot be carried on within a Building may be permitted, provided Declarant specifically consents to such activity in writing and further provided such activity is screened so as not to be Visible From Neighboring Property and streets. All lighting is to be shielded so as not to be Visible From Neighboring Property.

Section 5.2. Prohibited Uses. The following operations and uses shall not be permitted on any Parcel subject to this Declaration:

- A. Residential use of any type other than a residence occupied by a caretaker or groundsman employed by Declarant; or
- B. Trailer courts or recreation vehicle campgrounds; or
- C. Jail or honor farm; or
- D. Labor or migrant worker camp; or

- E. Truck or boat or other motor vehicle storage, including house or boat trailers and automobiles or terminals (incidental truck usage is specifically permitted); or
- F. Raising, keeping or breeding of any animals, livestock, reptiles or poultry, except for laboratory use and only inside the Building; or
- G. Automobile, go-cart, motorcycle, or quartermidgait race tracks and other vehicle endurance or race tracks; or
- H. Distillation of bones; or
- I. New or used car sales lots; or
- J. Commercial parking lots or structures not directly supporting an otherwise approved building; or
- K. Dumping, disposal, incineration, reduction or treatment of garbage, sewage, offal, of rubbish or debris; or
- L. Fat rendering; or
- M. Refining of petroleum or its products; or
- N. Smelting of tin, iron, zinc or other ores; or
- O. Cemeteries, mausoleums, and crematories; or
- P. Excavation for stone, gravel, sand, dirt, earth minerals, oil, gas, or hydrocarbons, except for the construction of improvements, the plans and specifications for which have been approved by the Board of Review or as may be necessary to complete public improvements; or
- Q. Aerials for radio or television, antenna, tower, or transmitting or receiving aerials or the support thereof which are not within the enclosed portion of the individual Building or otherwise screened from view in a manner acceptable to Declarant and approved in writing by Declarant.

Section 5.3. Nuisances. No nuisance in the opinion of Declarant shall be permitted to exist or operate upon any Lot

so as to be offensive or detrimental to any other Lot or Property or to its occupants. A "nuisance" shall include, but not be limited to, any of the following conditions:

A. Any use, excluding reasonable construction activity, of the Lot that emits dust, sweepings, dirt, cinders, fumes, odors, radiation, gases or vapors into the atmosphere, or discharges liquid, solid wastes, or other harmful matter into the atmosphere or any lake, stream, river, or other waterway which may adversely affect the vegetation within the Project or the health, safety, comfort of, or intended use of their Lot(s) by Persons within the area. No waste nor any substance or materials of any kind shall be discharged into any public sewer serving the subject Property or any part thereof in violation of any regulation of any body having jurisdiction over such sewer.

B. The escape or discharge of any fumes, odors, gases, vapors, steam, acids or other substance into the atmosphere, which discharge, in the opinion of the Declarant, may be detrimental to the health, safety, or welfare of any Person or may interfere with the comfort of Persons within the area or may be harmful to property or vegetation.

C. The radiation or discharge of intense glare or heat, or atomic, electromagnetic, microwave, ultrasonic, laser, or other radiation. Any operation producing intense glare or heat or such other radiation shall be performed only within an enclosed screened area and then only in such manner that the

glare, heat, or radiation emitted will not be discernible from any point exterior to the Lot upon which the operation is conducted nor shall it create any hazard to any other Lot.

D. Sound pressure levels of any machine, device, or any combination of same, from any individual business or operation, which are in violation of any regulation of any public body having jurisdiction and noise objectionable because of its volume, duration, intermittent beat, frequency or shrillness.

E. Exterior loudspeakers and unshielded lights, unless such loudspeakers or lights are installed with permission of the Declarant.

F. Noxious or offensive activities carried on, in, or upon any Lot, and anything done therein willfully or negligently that may be or become an annoyance or nuisance to other Owners or shall unreasonably interfere with the peaceful and rightful possession of other Lots by their Owners.

G. Any unlawful use made of any Lot, including any violation of any valid laws, zoning ordinances, or regulations of all governmental bodies having jurisdiction thereover.

H. The result of every act or omission whereby any covenant, condition or restriction herein contained is violated in whole or in part.

Section 5.4. Subdivision. No Lot shall be subdivided, and no dedication of any part of a Lot for a public

road or its right-of-way, shall be made, without the prior written consent of Declarant. Any subdivision must adhere to the Subdivision Regulations of Louisville and Jefferson County.

Section 5.5. Use Variances. The Board shall have the exclusive right to grant variances from the requirements of Article V of this Declaration with respect to any given Lot, as the Board, in its sole discretion, shall determine is necessary for the successful development of the Project, provided that the variance does not adversely affect the Owners of adjoining Lots or their Occupants. Any variance granted hereunder shall be effective upon, and only upon, recordation of a Notice of Variance executed by the Board and the affected Owner, as the case requires.

Section 5.6. Other Operations and Uses. Other operations and uses that are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by Declarant in accordance with the procedures set forth in Article IV of this Declaration. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other Lots(s) subject to this Declaration or upon the Occupants thereof, and shall be granted in the sole discretion of Declarant.

ARTICLE VI

CONSTRUCTION OF IMPROVEMENTS

Section 1.1. Approval of Plans Required. No Improvements shall be erected, altered, maintained, or permitted to remain on any Lot by any Owner or Occupant until final plans and specifications shall have been submitted in duplicate over the authorized signature of the Owner or Occupant, or both, of the Lot or the authorized agent thereof and approval received by Owner in writing from Declarant. Such plans and specifications shall be in such form and shall contain such information as may be required by the Declarant, but shall in any event include the following:

A. A detailed and specific written description of the use to which the Lot will be put;

B. A site development plan of the Lot showing the type, grading scheme, kind, shape, composition, and location of all Improvements with respect to the particular Lot (including proposed front, rear, and side setback lines, and whether the Improvement is above or below ground level), and with respect to structures on adjoining Lots, and the number and location of all parking spaces and driveways on the Lot;

C. A landscaping plan for the Lot;

D. A plan for signs and lighting; and

E. A building elevation plan showing dimensions, materials, and exterior color scheme in detail sufficient to

allow evaluation by the Architectural Board for Review and in any event in no less detail than required by the appropriate governmental authority for the issuance of a building permit. Material changes in approved plans must be similarly submitted to and approved by Declarant.

F. Proposed phasing, if any, of the construction of the Improvements and the timing of the construction.

G. For initial construction on a Lot or for major construction or alteration, plans prepared, signed by and the work to be done being supervised by a design professional licensed in the State of Kentucky and with experience and academic training appropriate to the construction or alteration being proposed.

Section 6.2. Basis for Approval.

A. Approval shall be based, among other things, upon compliance with the Design Guidelines prepared for the subject property, including adequacy of site dimensions, conformity and harmony of landscaping with landscaping plan prepared by Declarant or with landscaping already approved, compatibility and harmony of external design with neighboring structures, effect of location and use of proposed Improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air-conditioning, or roof-top installations, and conformity of the plans and specifications to the purpose and general plan

and intent of this Declaration. No plans will be approved that do not provide for the underground installation of power, electrical, telephone, and other utility lines from the property line to Buildings.

B. Declarant shall not arbitrarily or unreasonably withhold its approval of any plans and specifications. Except as otherwise provided in this Declaration, Declarant shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:

(1) Failure to comply with any of the conditions, covenants or restrictions set forth in this Declaration;

(2) Failure to include information in such plans and specifications as may have been reasonably requested by the Declarant or the Board of Review;

(3) Objection to the exterior design, the appearance of materials, or materials employed in any proposed Improvement;

(4) Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other Lots in the vicinity of the subject Lot;

(5) Objection to the location of any proposed Improvement with reference to other Lots in the vicinity;

(6) Objection to the grading or landscaping plan for any Lot;

(7) Objection to the color scheme, finish,

proportions, style of architecture, height, bulk, or appropriateness of any Improvement;

(8) Objection to the number or size of parking spaces, or to the design of the parking area;

(9) Any other matter that, in the judgment of the Declarant, would render the proposed Improvements or use inharmonious with the general plan for improvement of the subject Lot or with Improvements located upon other Lots in the vicinity or with the general purposes and conditions set forth in Article I of this Declaration.

Section 6.3. Review Fee. An architectural fee shall be paid to Declarant at such time as plans and specifications are submitted to it, in an amount determined by Declarant so as to equal the cost of services to the Board of Review to review the plans submitted.

Section 6.4. Result of Inaction. If Declarant fails either to approve or disapprove plans and specifications submitted to it for approval within thirty (30) days after the same have been submitted, it shall be conclusively presumed that Declarant has disapproved said plans and specifications; provided, however, that if within the thirty (30)-day period, Declarant gives written notice of the fact that more time is required for the review of such plans and specifications, there shall be no presumption that the same are disapproved until the expiration of such reasonable period of time as is set forth in

the notice.

Section 6.5. Approval. Declarant may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same subject to specific conditions. Upon approval or conditional approval by Declarant of any plans and specifications submitted, a copy of such plans and specifications, together with any conditions, shall be deposited for permanent record with Declarant and a copy of such plans and specifications shall be returned to the applicant submitting the same.

Section 6.6. Proceeding with Work. Upon receipt of approval from Declarant pursuant to Section 6.5, the Owner, or Occupant, or both, to whom the approval is given, shall as soon as practicable, satisfy any and all conditions of such approval and shall diligently proceed with the commencement and completion of all approved excavation, construction, refinishing, and alterations. Notwithstanding the prior sentence, in all cases, work shall commence within one (1) year from the date of approval, and if work is not so commenced, approval shall be deemed revoked unless the Declarant, pursuant to written request made and received prior to the expiration of said one (1)-year period, extends the period of time within which work must be commenced.

Section 6.7. Completion of Work. Any Improvement commenced pursuant hereto shall be completed within two (2)

years from the date of Declarant's approval of the plans and specifications therefor, unless work on the Improvements is delayed because of strike, fire, national emergency, natural disaster, or other supervening force beyond the control of Owner or Occupant, in which case the Declarant may, upon written request made and received prior to the expiration of the two (2)-year period, extend the period of time within which work must be completed. Failure to comply with this Section 6.7 shall constitute a breach of this Declaration and subject the party in breach to the enforcement procedures set forth in Section 11.1.

Section 6.8. The Declarant, any member of the Board of Review or any authorized agent, representative or employee thereof, may from time to time at any reasonable hour or hours enter and inspect any portion of said Lot for the purpose of inspecting any Improvement or construction that requires or has received Declarant's approval under the Declaration.

Section 6.9. Declarant Not Liable. Declarant shall not be liable for any damages, loss, or prejudice suffered or claimed by any person on account of:

A. The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective; or

B. The construction or installation of any Improvement, or performance of any work, whether or not

pursuant to approved plans, drawings, and specifications; or

C. The development of any Lot within Hurstbourne Green.

Section 6.10. Construction without Approval. If any Improvement shall be erected, placed, or maintained upon any Lot, or any new use commenced upon any Lot, other than in accordance with the approval by the Declarant pursuant to the provisions of this Article VI, such alteration, erection, placement, maintenance, or use shall be deemed to have been undertaken in violation of this Declaration, and upon written notice from Declarant, any such Improvement so altered, erected, placed, maintained, or used upon any Lot in violation of this Declaration shall be removed or altered so as to conform to this Declaration and any such use shall cease or shall be amended so as to conform to this Declaration. Should such removal or alteration or cessation or amendment not be accomplished within thirty (30) days after receipt of such notice, then the party in breach of this Declaration shall be subject to the enforcement procedure set forth in Section 11.1.

Section 6.11. Amendments. Any plans or specifications approved by the Declarant may be amended with the approval of the Declarant and application of such amendment shall be processed by the Board of Review in the same time and manner at the same fee rates as herein provided for action by the Board of Review on the original plans and specifications.

Section 6.12. Guidelines. The Declarant or the Board of Review shall from time to time formulate physical development and design guidelines to be used to evaluate proposed features and facilities, and when guidelines are so formulated, they shall be reduced to writing and made available to all applicants, together with any amendments thereto. Initial Design Guidelines are attached hereto as Exhibit E; they may be amended at any time and in any manner by Declarant.

Section 6.13. Landscaping Plan. Declarant shall develop a landscaping plan which shall include an irrigation system for the Common Elements and shall cause it to be implemented either by the Owner of the Lot which includes the Common Element or by installing the landscaping itself.

ARTICLE VII

DEVELOPMENT STANDARDS

Section 7.1. Minimum Setback. No Improvements of any kind, and no part thereof, shall be placed closer than permitted by the applicable subdivision plat of record to any interior property line, except as otherwise provided in Section 7.2. "Interior property line" shall mean the boundary between any Lot within the Project and all other lots bordering upon said Lot. Except as permitted in Section 7.3, no Improvements

of any kind, and no part thereof, shall be placed closer than 100 feet from a property line fronting Hurstbourne Lane or Ormsby Station Road, 50 feet from a property line fronting all other dedicated roads, 30 feet from the center line of Bellevoir Circle, 30 feet from the property line on private access roads, 15 feet from the side or rear property line not fronting a public street or private access road, and 80 feet from the line of the easement of the lake as shown on the record plat for Lot 120. "Property line" shall mean the boundary of every Lot.

Section 7.2. Exceptions to Setback Requirements.

The following Improvements, or part of Improvements, are specifically excluded from the setback requirements set forth in Section 7.1:

A. Roof overhang, subject to approval in writing from Declarant, provided said overhang does not extend more than eighteen (18) inches into the setback area;

B. Steps and walkways, bike ways, jogging paths and trails;

C. Fences, subject to the requirements set forth in Section 7.6;

D. Landscaping and irrigation systems;

E. Planters, not to exceed three (3) feet in height, except that planters of greater height may be built within the setback area with the prior written approval of Declarant;

F. Business park identification signs, directional and parking signs, and signs identifying the Owner or Occupant of a Lot, subject to the prior written approval of Board;

G. Lighting facilities, subject to the prior written approval of Declarant; and

H. Underground utility facilities, sewers and irrigation systems.

Section 7.3. Access and Building Setbacks.

A. No direct access from Hurstbourne Lane or from Whipps Mill Road shall be provided to any Lot fronting on either road; and

B. No Building or part thereof shall be placed closer than permitted herein to a property line fronting the street or road or property named:

Hurstbourne Lane	150 feet
Ormsby Station Road	100 feet
Millbrook Road	50 feet on east side 80 feet on west side
Bellevoir Circle centerline	30 feet in lots 103, 104, 105 and 106, and 100 feet in lot 102
Dorsey Lane	100 feet
LaGrange Road	as designated on record plat
Whipps Mill Road	50 feet in lots 105 and 106 and 100 feet in lot 1
Any dedicated street or road not shown on record plat	50 feet

A.B. Sawyer Park

200 feet from lot 3 and
100 feet from lot 1, except
as shown on record plat

For side and rear yards, building setbacks shall be as designated on the record plat.

Section 7.4. Landscaping.

A. Within one hundred twenty (120) days following completion of construction, or by the date each building on the Lot is occupied, whichever shall occur first, unless an extension of time is approved in writing by Declarant solely to allow for the proper planting time, each Lot shall be landscaped in accordance with the plans and specifications approved by the Declarant. The area of each Lot between any street and any minimum setback line as set forth in Section 7.1 shall be landscaped by Owner with an attractive combination of trees, shrubs, and other ground cover, which shall be compatible in scale, type, materials, density, maturity and quality of plantings and grouping with the landscaping installed by Declarant or Owner in Common Elements and minimum setback areas described in Section 7.1, and provided for in Declarant's landscaping plan. Improved varieties of indigenous and hardy plants shall be selected with consideration for their size at maturity and ease of maintenance, particularly avoiding those which require excessive and artificial trimming. All portions of a Lot not fronting a street and not used for parking, storage, or buildings shall be landscaped in a complementary and

similar manner. An irrigation system shall be installed which irrigates the landscaping in the Common Elements on the Lot and shall be maintained by Owner so that it continues to irrigate the plantings as needed so long as the Lot is owned. Care and consideration shall be given to preserving the character of the existing landscape contours, soil and healthy, mature trees.

B. The Declarant shall cause the first 100 feet of the setback along Hurstbourne Lane and Ormby Station Road, the first 50 feet along other dedicated roadways not including Whipps Mill Road, Dorsey Way, and LaGrange Road, and the first 30 feet from the property line on Bellevoir Circle provided for in Section 7.1 to be landscaped. It shall be irrigated and maintained by the Owner of the Lot whose property line fronts the street. The remainder of such setback areas shall be landscaped, irrigated, and maintained by the Owner or Occupant of the Lot whose property line fronts the street. The Declarant shall cause the first 80 feet from the easement line established on the record plat by Declarant around the lake to be landscaped in accordance with its landscaping plan. It shall be maintained by the Owner of Lot 120.

C. The perimeter of parking areas shall be treated with a combination of landscaped berms and plant material so as to screen said areas from view from adjacent streets. Such screening shall extend at least forty-eight (48) inches above the high point of the finished pavement in said parking area.

D. If an outdoor parking lot contains fifteen or more parking stalls, not less than 10% of the interior of such parking lot shall be landscaped. The use of landscaped earth berms to accomplish such landscaping is encouraged. Strips between parking bays shall also be landscaped with appropriate ground cover and deciduous trees.

E. The square footage of each Lot allocated to grass and landscaping shall not be less than forty (40%) percent of the total square footage of that Lot, provided, however, that:

(1) Square footage of easements described in Section 3.6D shall be included in its entirety as grass and landscaping in the calculation required in E above, and

(2) To the extent that the number of parking spaces provided by Owner exceeds the minimum requirement for the Lot determined pursuant to Section 7.7B, the area attributable to such excess shall be treated as grass and landscaping only for purposes of this calculation in Section 7.4E but in no event shall the square footage of grass and landscaping excluding this Section 7.4E(2) equal less than thirty (30%) percent of the total square footage of the Lot.

F. After completion, such landscaping as is herein required shall be maintained by Owner in an attractive, sightly and well-kept condition. If, in Declarant's reasonable opinion, the required landscaping is not maintained in a sightly and well-kept condition, Declarant shall be entitled to

the remedies set forth in Section 7.22 and Article XI.

Section 7.5. Signs. No sign shall be permitted on any Lot unless approved by Declarant in writing. No sign shall be approved other than business park identification signs, informational and vehicular control signs, signs identifying the building or the business of the Owner or Occupant of a Lot, signs offering the Lot for sale or lease, and temporary development signs.

Section 7.6. Fences. No fences or walls shall be permitted on any Lot unless such fence or wall is necessary for security or screening purposes. The Declarant reserves the right to approve the location and design of all fences, and no fence shall be constructed without a letter of approval from the Declarant.

Section 7.7. Parking Areas.

A. Off-street parking adequate to accommodate the parking needs of the Owner or Occupant and the employees and visitors thereof shall be provided by the Owner or Occupant of each Lot. No on street parking shall be permitted except for occasional and intermittent parking by public transportation vehicles. If parking requirements increase as the result of a change in the use of a Lot or in the number of persons employed by the Owner or Occupant, additional off-street parking shall be provided so as to satisfy the intent of this Section.

B. Subject to the provisions of subparagraph C of

this Section 7.7, minimum off-street parking shall be as follows:

- (1) 4 parking spaces per 1,000 feet of gross leasable area for all office uses;
- (2) 2-1/2 spaces per 1,000 feet of gross leasable area for office/warehouse or flexible space buildings; and
- (3) 5 parking spaces per 1,000 feet of gross leasable area for all stand alone retail uses.

C. All off-street parking requirements of the Louisville and Jefferson County Zoning Regulations shall be observed for other uses not stated above.

D. For the purpose of this Section 7.7 the total area of the parking lot divided by the number of parking spaces shall equal no less than 400.

E. All parking areas shall conform to the following standards:

(1) Required off-street parking shall be provided on the Lot.

(2) Parking areas and roadways shall be paved with asphalt or concrete so as to provide dust-free, all-weather surfaces. Each parking space provided shall be designated by lines painted upon the paved surface and shall be adequate in area. All parking areas shall provide, in addition to parking spaces, adequate driveways and space for the movement of vehicles.

Section 7.8. Storage and Loading Areas. Storage, maintenance and loading areas must be constructed, maintained, and used in accordance with the following conditions:

A. Outside storage of materials, supplies, or equipment, including trucks or other motor vehicles, is prohibited.

B. Provision shall be made on each site for any necessary vehicle loading or unloading and no on-street or driveway vehicle loading or unloading shall be permitted.

C. Loading dock areas shall be set back, recessed, or screened so as not to be Visible From Neighboring Property or streets, and in no event shall a loading dock be closer than seventy-five (75) feet from a property line fronting upon a street unless otherwise approved in writing by Declarant.

D. All loading dock areas and associated vehicle maneuver areas shall be paved with concrete or asphalt so as to provide a dust free, all weather surface.

Section 7.9. Condition of Property. The Owner or Occupant of any Lot shall at all times keep it and the buildings, improvements, and appurtenances thereon in a safe, clean, and wholesome condition and comply, at its own expense, in all respects with all applicable governmental, health, fire and safety ordinances, regulations, requirements, and directives, and the Owner or Occupant shall at regular and frequent intervals remove at its own expense any rubbish of any

character whatsoever that may accumulate upon such Lot.

Section 7.10. Maintenance of Grounds.

A. (1) Each Owner shall be assessed a charge (the "Assessment") for the maintenance of the open space areas, landscape easements, and other Common Elements located on the subject Parcel. Such charge shall be paid to the Declarant and shall equal an amount which represents that proportion of the total cost of such maintenance as the area of the Lot owned by the Owner is proportionate to the total area of all Lots in the Project. The Assessment shall be assessed on a periodic basis as determined by Declarant.

(2) The initial Assessment for the year ending June 30, 1990, shall not exceed \$1,500 per gross acre. The year to year increase in assessment per acre shall not exceed twenty (20%) percent for any year over the prior year unless approved by a majority vote of the Association not counting Declarant.

B. Each Owner shall be responsible for the maintenance and repair of all parking areas, driveways, walkways, landscaping on its Lot and any Improvements located on its Lot and constructed by Owner or Occupant even if a portion of the Lot being maintained is classified as a Common Element. Such maintenance and repair shall include, without limitation,

(1) Maintenance of all parking areas, driveways, and

walkways in a clean and safe condition, including the paving and repairing or resurfacing of such areas when necessary with the type of material originally installed thereon or such substitute therefor as shall, in all respects, be equal thereto in style, quality, appearance, and durability; the removal of debris and waste material and the washing and sweeping of paved areas and the removal of snow and ice; the painting and repainting of striping markers and directional signals as required;

(2) Cleaning, maintenance, and relamping of any external lighting fixtures, except such fixtures as may be the property of any public utility, government body, or the Association; and

(3) Performance of all necessary maintenance of all landscaping, including the trimming, watering, and fertilization of all grass, groundcover, shrubs, or trees; the removal of dead or waste materials; the replacement of any dead or diseased grass, groundcover, shrubs, or trees.

C. Nothing contained herein shall preclude an Owner from recovering damages, including punitive damages, from any Person whose actions or omission to act require an expenditure by such Owner for the maintenance and repair of the parking area, driveway, and/or landscaping on its Lot.

Section 7.11. Temporary Improvements. No temporary buildings or other Improvements of a temporary nature,

including without limitation trailers, tents, sheds, and shacks, shall be permitted on the Property. Temporary improvements used solely in connection with the construction of permanent approved improvements may be permitted provided they are located as inconspicuously as possible and are removed immediately after completion of such construction. Materials, supplies, and equipment shall be stored inside an approved and enclosed building. No loading dock shall be visible from any public right-of-way. The location of the loading dock shall be hidden by landscaping and buffering to the extent possible and acceptable to the Declarant.

Section 7.12. Storage Tanks. No storage tanks, including, but not limited to, those used for storage of water or propane gas, shall be permitted above ground and outside of buildings on the Property unless approved by the Declarant in writing.

Section 7.13. Mail Boxes. No mail boxes shall be permitted on the Property except as approved by the Declarant in writing.

Section 7.14. Building Height, Exterior Materials and Colors.

A. Height

(1) All buildings within Lots or sub-Lots of 102, 103, 104, 105, and 106 shall not exceed 2 stories, i.e. 30 feet from finished grade to top of parapet or 28 feet from finished grade to top of roof eave.

(2) All buildings within Lots and sub-Lots of 130 shall not exceed 4 stories in height i.e. 54 feet to the top of parapet or 52 feet to the top of roof eave from finished grade, provided that those buildings all or any part of which are within 300 feet of any property line shall not exceed 2 stories, i.e. 30 feet from finished grade to top of parapet or 28 feet from finished grade to top of roof eave.

(3) All buildings all or any part of which are within Lots or sub-Lots of 120 shall not exceed 6 stories, i.e. 85 feet from finished grade to top of parapet.

(4) All buildings all or any part of which are less than 300 feet of north and west property lines of Lots or sub-Lots of 107 shall not exceed 2 stories, i.e. 30 feet from finished grade to top of parapet or 28 feet from finished grade to top of roof eave. All buildings within the remaining area of Lot 107 shall not exceed 3 stories in height, i.e. 42 feet to top of parapet or 52 feet to the top of roof eave from finished grade.

(5) All buildings within Lots or sub-Lots of 1 and 3 shall not exceed 4 stories, i.e. 54 feet from finished grade to top of parapet or 52 feet from finished grade to top of roof eave.

B. Finish building materials shall be applied to all sides of a building. Colors shall be harmonious and compatible with colors of the natural surroundings and other adjacent buildings. Declarant shall have the sole right to approve or disapprove such materials and colors.

Section 7.15. Foundations. All Buildings constructed or placed upon a Lot shall have solid foundations.

Section 7.16. Refuse Collection Areas. All outdoor refuse collection areas shall be visually screened so as not to be Visible From Neighboring Property or streets. No refuse collection area shall be permitted between a street and the front of a building.

Section 7.17. Repair of Buildings. No building or structure upon any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 7.18. Public Utilities. Declarant reserves the sole right to grant consents of the construction and operation of public utilities, including, but not limited to, street railways, interurban or rapid transit, freight railways, poles or lines for electricity, telephone, or telegraph, above- or below-ground conduits, and gas pipes in and upon any and all streets now existing or hereafter established upon which any portion of the subject Lot or Property may now or hereafter front or abut. Declarant reserves the exclusive right to grant consents and to petition the proper authorities for any and all street improvements, such as grading, seeding, tree planting, sidewalks, paving, and sewer and water installation, whether it be on the surface or subsurface, which in the opinion of Declarant are necessary on or to the subject Property. Notwithstanding anything else herein, Declarant reserves the

exclusive right to approve above-ground utility lines across the Property or any portion thereof on a temporary basis for the purpose of construction and such lines shall be permitted when required by a government agency having jurisdiction in the matter. Notwithstanding the provisions of this Section, the construction and operation of public utilities in rights-of-way dedicated to the public must be approved by the appropriate governmental authority.

Section 7.19. Utility Lines and Antennas. No sewer, drainage, or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals, including telephone, television, microwave, or radio signals, shall be constructed, placed, or maintained anywhere in or upon any portion of the Lot other than within buildings or structures, unless the same shall be contained in conduits or cables constructed, placed, or maintained underground or concealed in or under buildings or other structures or otherwise appropriately screened in a manner approved by Declarant.. No antenna or satellite dish for the transmission or reception of telephone, television, microwave, or radio signals shall be placed on any Lot within the Property unless (a) such antenna is so located that it cannot be seen from five (5) feet above the ground or ground-floor level at a distance of two hundred (200) feet in any direction and (b) the consent of Declarant has been obtained. Nothing contained

herein shall be deemed to forbid the erection or use of temporary power or telephone facilities incidental to the construction or repair of buildings on the Lot.

Section 7.20. Mechanical Equipment. All mechanical equipment, utility meters, storage tanks, air-conditioning equipment, and similar items shall be screened with landscaping or attractive architectural features integrated into the structure itself.

Section 7.21. Mineral Exploration. No operation on any Lot shall be used in any manner to explore for or to remove any steam, heat, oil, gas or other hydrocarbons, gravel, earth or any earth substances or other minerals of any kind, provided, however, that this shall not prevent the excavation of earth in connection with the grading or construction of Improvements within the Lot. Water may be extracted to the extent permitted by the appropriate governmental agency.

Section 7.22. Remedies for Failure to Maintain and Repair.

A. Remedies. If any Owner shall fail to pay the Assessment or to perform the maintenance and repair required by Sections 7.4, 7.9 and 7.10, then Declarant, after fifteen (15) days prior written notice to such delinquent Owner, shall have the right, but not the obligation, to pay the Assessment or to perform such maintenance and repair and to charge the delinquent Owner with costs of such assessment for such work.

together with interest thereon at the rate of twelve percent (12%) per annum from the date of Declarant's advancement of funds for such payment or such work to the date of reimbursement of Declarant by Owner. If the delinquent Owner shall fail to reimburse Declarant for such costs within ten days after demand therefor, Declarant may, at any time within two years after such advance, file of record in the Office of the County Clerk of Jefferson County, a claim of lien signed by Declarant for the amount of such charge together with interest thereon. The lien created by this Section shall be effective to establish a lien against the interest of the delinquent Owner in his Lot together with interest at twelve percent (12%) per annum on the amount of such advance from the date thereof, in addition to recording fees, cost of title search obtained in connection with such lien or the foreclosure thereof, and court costs and reasonable attorney's fees that may be incurred in the enforcement of such a lien.

B. Foreclosure of Lien. Subject to the provisions of Article XI, such a lien, when so established against the Lot described in said claim, shall be prior or superior to any right, title, interest, lien, or claim that may be or may have been acquired in or attached to the real property interests subject to the lien subsequent to the time of filing such claim of record, shall be for the benefit of Declarant and may be enforced and foreclosed in a like manner as a real estate

mortgage is foreclosed in the State of Kentucky, but without redemption.

C. Cure. If a default for which a notice of claim of lien was filed is cured, Declarant shall file or record a rescission of such notice, upon payment by the defaulting Owner of the costs of preparing and filing or recording such rescission, and other reasonable costs, interest, or fees that have been incurred.

D. Nonexclusive Remedy. The foregoing lien and the rights to foreclose thereunder shall be in addition to, and not in substitution for, all other rights and remedies that any party may have hereunder and by law, including any suit to recover a money judgment for unpaid Assessments. If any Owner shall fail to perform such maintenance and repair and, notwithstanding such failure, Declarant should fail to exercise its rights and remedies hereunder, then any other Owner, after fifteen (15) days prior written notice to Declarant and such delinquent Owner, shall have the right, but not the obligation to perform such maintenance and repair and shall have the same rights and remedies with respect thereto as are provided herein to Declarant.

ARTICLE VIII

ASSOCIATION. ADMINISTRATION. MEMBERSHIP
AND VOTING RIGHTS

Section 8.1. Association to Own and Manage Common Elements. The Association shall own and manage the Common Elements in accordance with the provisions of this Declaration, the Articles and Bylaws of the Association. The Association also has the power to manage other property within or without the Project which is owned by the Declarant, the County or other property owners.

Section 8.2. Membership. The Owner of a Lot shall automatically, upon becoming the Owner of the same, be a Member of the Association, and shall remain a Member thereof until such time as its ownership ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Membership shall be held in accordance with the Articles and Bylaws of the Association and subject to Rules and Regulations which may be now or hereafter established by or for the Association.

Section 8.3. Transfer of Membership. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Lot to which it is appurtenant, and then only to the purchaser (in the case of a sale) or mortgagee (in the case of an encumbrance) of such Lot. Membership shall pass automatically to the purchaser upon transfer of title to the Lot. A mortgagee shall not have membership rights until it becomes an Owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in its name to the purchaser of its Lot, the Association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

Section 8.4. Voting. Members in the Association shall have the right to vote on Association matters in accordance with the provisions set forth in the Bylaws.

ARTICLE IX

DUTIES AND POWERS OF THE ASSOCIATION

Section 9.1. Duties. In addition to the duties enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform

the following duties:

A. Maintenance. Maintain, repair, replace, restore, operate, and manage all of the Common Elements and all facilities, improvements, utilities, and landscaping thereon unless otherwise provided herein, and all property that may be acquired by the Association or come under its jurisdiction or control, including, without limitation, lighting facilities, irrigation equipment and facilities, payment of utility bills not metered or charged separately to the Lots, lakes or retention basins or drainage areas, walkways, bike ways, jogging paths, trails and associated bridges and underpasses; open space areas, signs, Greenbelt Easement Areas, sign easements, and any Lots, easement areas, leaseholds, Parcels or other property interests owned by the Association.

The Association shall maintain, repair and, if necessary, replace all entrance signs designating the name of the Project and the entry or entries to the Property, including landscaping within the easement or fee Parcel upon which the signs are located.

The Association shall maintain any portion of the storm drain system which is not to be maintained by the Metropolitan Sewer District, located within the Project.

All lot Owners shall maintain their own property in good condition, as provided herein.

In the event an Owner of any Lot shall fail to

maintain its Lot and the Improvements and landscaping thereon, including any "Greenbelt Easement Areas," in a manner satisfactory to the Board, the Board may, after ten (10) days notice to the Lot Owner and a hearing before the Board or committee appointed by the Board, by a vote of a majority of a quorum of the Board of Directors, in the sole discretion of the Board, through its agent and employees, enter upon said lot and repair, maintain, and restore the Lot and the exterior of the Building erected thereon, or the landscaping or parking areas, or Greenbelt Easement Area, consistent with the standard required of comparable adjoining Lots. The cost of such maintenance shall constitute a special Assessment chargeable only to such Lot and payable to the Association by the Owner of such Lot.

B. Insurance. The Association shall maintain such policy or policies of insurance as the Board deems necessary or desirable in protecting the interests of the Association and its members, including, as a minimum but without limitation, fire and extended coverage (special form) insuring the full replacement value of the Common Elements and Improvements thereon, and public liability insurance covering all of the Common Elements with "severability of interest endorsement," "waiver of subrogation endorsement," and "cross liability endorsement," and fidelity bonds for officers, directors and employees handling funds. The minimum limits on the public

liability insurance policy shall be One Million Dollars (\$1,000,000.00) single limit, and Fifty Thousand Dollars (\$50,000.00) for property damage for each occurrence. The limits and coverage shall be reviewed by the Board or a committee appointed by the Board at intervals of not less than three (3) years and adjusted, if necessary, to provide such coverage and protection as the Board may deem prudent. Workmen's compensation insurance shall at all times be carried to the extent required to comply with any applicable law with respect to the employees, if any, of the Association. The policy, or policies, representing such insurance shall insure the workmen's compensation risk of all Owners in addition to that of the Association. Officers and Directors liability insurance shall be carried by the Association to cover persons serving in such capacities.

C. Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Elements and assess the cost thereof to the member or members responsible for the existence of said lien, if any.

D. Assessment. The Association shall fix, levy, collect and enforce assessments as set forth in Article X hereof.

E. Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all

licenses, taxes or governmental charges levied or imposed against the property of the Association.

F. Enforcement. The Association shall enforce this Declaration.

Section 9.2. Powers. In addition to the powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

A. Utility Service. The Association shall keep all utilities, including but not limited to storm drains, sewers, access way, roadways, lighting and appurtenances thereto on or within the Common Elements, which are not maintained by the City of Lyndon, or the County, or by public or private utility companies, in a state of good condition and repair consistent with the standard of quality of said facilities upon original installation. All such repairs shall be made at the expense of the Association.

B. Easements. The Association shall have authority to grant easements where necessary for utilities and sewer facilities over the Common Elements to serve the Common Elements and Lots.

C. Manager. The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or

any part of the duties and responsibilities of the Association.

D. Adoption of Rules. The Association may adopt reasonable rules and regulations not inconsistent with this Declaration relating to the use of the Common Elements and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Property, Lots, and other Owners.

E. Access. For the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of Directors of their respective responsibilities, the Association's agents or employees shall have the right, after reasonable notice to the Owner thereof of not less than twenty-four (24) hours (except in emergencies), to enter any Lot at reasonable hours.

F. Assessments, Liens and Fines. The Association shall have the power to levy and collect Assessments in accordance with the provisions of Article X hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay Assessments or for violation of any provision of the project documents. Penalties may include but are not limited to fines, temporary suspension of voting rights, or other appropriate discipline, provided that the accused member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose discipline is made.

G. Enforcement. The Association shall have the power to enforce this Declaration.

H. Acquisition of Property. The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

I. Loans. The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of a two-thirds majority of the total voting power of the Association, to mortgage, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

J. Dedication. Except as provided by Section 3.12, the Association shall have the power to dedicate, sell or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. Unless the transfer is ordered by a Court of the Commonwealth of Kentucky, no such dedication or transfer shall be effective unless an instrument has been signed or approved by a majority of the total voting power of the Association, agreeing to such dedication, sale or transfer.

K. Contracts. The Association shall have the power to contract for goods and/or services for the Common Elements, facilities and interests or for the Association, subject to limitations elsewhere set forth in the Declaration, Articles or Bylaws.

L. Delegation. The Association shall have the power to delegate its authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the following may not be delegated except to the Board: Setting Assessments, conducting disciplinary hearings, levying fines, suspending Owner's rights, or other matters as to which delegation may be prohibited by the Bylaws.

ARTICLE K

COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 10.1. It shall be an affirmative and perpetual obligation of the Board to fix Common Expense Assessments in an amount at least sufficient to maintain and operate the Common Elements and the Association as contemplated by this Declaration and the Bylaws. The amount of monies for Common Expenses of the Association and the manner of expenditure thereof shall be a matter for the sole discretion of the Board.

Section 10.2. Every Owner shall be deemed to covenant and agree to pay to the Association such sums, by way of annual or special Common Expense Assessments contemplated herein or in the Bylaws. Declarant's obligation to pay such sums commences upon the later of (1) recording of these Covenants or (2) July 1, 1989; the obligation of all other Owners to pay such sums commences upon their acceptance of a deed or other conveyance for a Lot whether or not it shall be so expressed in any such deed or other conveyance.

Section 10.3. Common Expenses shall be allocated among the Owners as follows:

A. All Owners shall pay their proportionate share of all annual and special Common Expenses assessed by the Board in connection with all the Common Elements listed in Section 2.8 and designated on Exhibit "B" either to be owned or maintained by the Association. Each Owner's proportionate share of the Common Expenses referenced in the preceding sentence shall be determined by multiplying the amount of all then-payable Common Expenses assessed by the Board by a fraction, the numerator of which shall be the total acreage of the applicable Lot (as certified to the Board by a licensed surveyor and accepted by the Board), including all Common Elements lying therein, and the denominator of which, subject to Article III hereof, shall be 163.07 acres.

B. In addition to the Common Expenses paid pursuant to Section 10.3A above, all Owners shall pay a proportionate share, as determined and calculated pursuant to the following sentence, of all annual and special Common Expenses assessed by the Board not directly attributable to any of the Common Elements. Each Owner's proportionate share of the Common Expenses described in the preceding sentence shall be determined by multiplying the amount of all then payable Common Expenses assessed by the Board pursuant to this subsection B by a fraction, the numerator of which shall be the total acreage of the applicable Lot (as certified to the Board by a licensed surveyor and accepted by the Board), including all Common Elements lying therein, and the denominator of which, subject to Article III hereof, shall be 163.07 acres.

Section 10.4. No Owner may waive or otherwise avoid liability for Common Expenses by nonuse of the Common Elements. Each such Assessment shall be a continuing lien upon the Lot against which it was made and shall also be a personal obligation of the Owner of such Lot at the time when the Common Expense Assessment fell due and of each subsequent record Owner of such Lot, together with any interest thereon, late charges, or the cost of collection thereof, including reasonable attorney's fees. Liens for unpaid Common Expense Assessments may be enforced and foreclosed by suit brought in the name of the Association in a like manner as a real estate mortgage is

foreclosed in the State of Kentucky, but without redemption.

Section 10.5. In addition to the above, each Owner shall pay, either as a special Common Expense or as otherwise approved by the Board, all real estate taxes for land classified as Common Elements lying within each individual Owner's Lot lines.

Section 10.6. The annual Common Expense Assessment levied by the Board shall be used for providing services to the Members of the Association and for promoting the health, safety, and welfare of the Members of the Association, including, but without limitation: the maintenance, repair, and replacement of the Common Elements; payment of all taxes and insurance premiums; all costs and expenses incidental to the operation and administration of the Association; and such other items as may from time to time be deemed appropriate by the Board.

Section 10.7. Any special Common Expense Assessment levied by the Board shall be used for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair, or replacement of a capital Common Element, including fixtures and personal property related thereto. All special Common Expense Assessments shall be levied by the Board at such time and in such amounts as the Board in its sole discretion shall deem appropriate.

Section 10.8. Each Owner shall promptly furnish, perform, and be responsible for, at its own expense, all of the maintenance, repairs, and replacements within its own Lot, provided, however: (i) such maintenance, repairs and replacements as may be required for the functioning of the Common Elements within the Lot shall be furnished by the Association; and (ii) the Association, its agents, and employees may effect emergency or other necessary repairs the Owner has failed to perform; but any and all expenses incurred pursuant to part (ii) above shall be the responsibility of the Owner(s) affected thereby.

Section 10.9. If, due to the negligent act or omission of or misuse by an Owner, or a guest, tenant, invitee, or visitor (whether authorized or unauthorized by the Owner), damage shall be caused to the Common Elements or to a Lot(s) owned by others, or maintenance, repairs, or replacements shall be required that would otherwise be a Common Expense, then the Owner directly or indirectly so responsible shall pay for such damage and be liable for any damages, liability, cost, and expense, including attorney's fees, caused by or arising out of such circumstances; and such maintenance, repairs and replacements to the Common Elements or the Lot(s) shall be subject to the Bylaws and the Rules and Regulations.

Section 10.10 Taxes and Assessments. If an Owner fails to pay taxes or Assessments on its Lot that become a lien

on any other portion of the Property, then any Owner may pay such taxes or Assessments, together with any interest, penalties, and costs arising out of or related thereto, except while the validity thereof is being contested by judicial or administrative proceedings, and in such event the defaulting Owner obligated to pay such taxes or assessments shall promptly reimburse the other Owner for all such taxes or Assessment, interest, penalties, and costs paid or incurred by such other Owner, and until such reimbursement has been made, the amount of the payment by such other Owner shall constitute a lien on and charge against the Lot of the defaulting Owner, subject and subordinate, however, to any mortgage or deed of trust then outstanding and affecting said Lot.

ARTICLE XI

GENERAL PROVISIONS

Section 11.1. Enforcement.

A. Abatement and Suit. The Owner of each Lot shall be primarily liable and the Occupant, if any, secondarily liable for the violation or breach of any covenant, condition, or restriction in this Declaration. Violation or breach of any covenant, condition, or restriction in this Declaration shall give to Declarant, following thirty (30) days written notice to the Owner or Occupant in question except in exigent circumstances, the right, privilege, and license to enter upon

the Lot where said violation or breach exists and to summarily abate and remove, at the expense of the Owner or Occupant thereof, any Improvement, structure, thing, or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions, or restrictions to enjoin or prevent them from doing so, to cause said violation to be remedied, or to recover damages for said violation. Neither Declarant nor its agents shall be subject to liability to the Owner or Occupant of said Lot for such entry nor for any action taken to remedy or remove a violation. The cost of any abatement, remedy, or removal hereunder shall be a binding personal obligation on any Owner or Occupant in violation of any provision of this Declaration, as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided for in this Section shall not be valid as against a bona fide purchaser or mortgagee for value of the Lot in question unless a suit to enforce said lien shall have been filed in a court of record in Jefferson County, Kentucky, prior to the recordation of the deed or mortgage conveying or encumbering the Lot in question to such purchaser or mortgagee, respectively.

B. Right of Entry. During reasonable hours and upon reasonable notice and subject to reasonable security

requirements, Declarant, or its agents, shall have the right to enter upon and inspect any Lot and the Improvements thereon covered by this Declaration for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and neither Declarant nor its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

C. Remedies as the Results Deemed to Constitute a Nuisance. Every remedy allowed by law or in equity against an Owner or Occupant either public or private shall be applicable against every such result which is defined as a nuisance in Section 5.3 and may be exercised by Declarant.

D. Attorney's Fees. In any legal or equitable proceeding for the enforcement of this Declaration or any provision hereof, whether it be an action for damages, declaratory relief, or injunctive relief, or any other action, the losing party or parties shall pay the attorney's fees of the prevailing party or parties, in such reasonable amount as shall be fixed by the court in such proceedings or in a separate action brought for that purpose. The prevailing party shall be entitled to said attorney's fees even though said proceeding is settled prior to judgment. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

E. Failure to Enforce Is No Waiver. The failure of Declarant to enforce any requirement, restriction, or standard herein contained shall in no event be deemed to be a waiver of the right to do so thereafter or in other cases nor of the right to enforce any other restriction.

Section 11.2. Amendment and Modification.

A. Procedure. Except as otherwise provided, this Declaration or any provision hereof, or any covenant, condition, or restriction contained herein, may be terminated, extended, modified, or otherwise amended, as to the Property or any portion thereof, with the written consent of the Owners of eighty percent (80%) of the Property, based upon the number of square feet of the Lot owned as compared to the total number of square feet of Lots subject to these covenants, conditions, and restrictions; provided, however, that so long as Declarant owns at least twenty percent (20%) of the Property subject to these covenants, conditions, and restrictions, or for a period of fifteen (15) years from the effective date thereof, whichever period is shorter, no such termination, extension, modification, or other amendment shall be effective without the written approval of Declarant. No such termination, extension, modification, or other amendment shall be effective if it conflicts with or violates a valid governmental enactment, ordinance, or regulation and until a proper instrument in writing has been executed, acknowledged, and recorded.

B. Modification by Declarant. For so long as Declarant owns any interest (excepting a lesshold interest and excepting Bellevoir Mansion and its grounds) in the Property, or any part thereof, or for a period of fifteen (15) years from the effective date thereof, whichever period is shorter, Declarant acting alone may modify or amend the provisions of Articles VI, VII, (except for 7.1, 7.2 and 7.3) X and XI, provided, however, that (i) any such modification or amendment must be within the spirit and overall intention of the development as set forth herein; (ii) prior to any such modification or amendment Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary; and (iii) any modification or amendment shall not provide for any type of Improvements or use not presently permitted by this Declaration nor modify any minimum setbacks. No such modification or amendment shall be effective until the Owners have been given thirty (30) days prior written notice of the proposed change and a proper instrument in writing has been executed, acknowledged, and recorded.

C. Governmental Regulation. All valid governmental enactments, ordinances, and regulations are deemed to be a part of this Declaration, and to the extent that they conflict with any provision, covenant, condition, or restriction hereof, said conflicting governmental enactment, ordinance, or regulation

shall control and the provision, covenant, condition, or restriction hereof in conflict therewith shall be deemed (i) amended to the extent necessary to bring it into conformity with said enactment, ordinance, or regulation while still preserving the intent and spirit of the provision, covenant, condition, or restriction; or (ii) stricken herefrom should no amendment conforming to the governmental enactment, ordinance or regulation be capable of preserving the intent and spirit of said provision, covenant, condition or restriction.

Section 11.3. Run with Land. All covenants, conditions, restrictions and agreements herein contained are made for the direct, mutual and reciprocal benefit of each and every Lot of the Property; create mutual equitable servitudes upon each Lot in favor of every other Lot; create reciprocal rights and obligations between respective Owners and Occupants of all Lots and privity of contract and estate between all grantees of said Lots, their heirs, successors, and assigns; and, as to the Owner and Occupant of each Lot, its heirs, successors, and assigns, operate as covenants running with the land, for the benefit of all other Lots, except as provided otherwise herein.

Section 11.4. Waiver. Neither Declarant nor its successors or assigns shall be liable to any Owner or Occupant of the Property by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction or for the

enforcement or failure to enforce any provision of this Declaration. Every Owner or Occupant of any Lot by acquiring its interest therein agrees that it will not bring any action or suit against Declarant to recover any such damages or to seek equitable relief because of same.

Section 11.5. Rights of Mortgages. No breach of any covenant, condition or restriction herein contained, or any enforcement thereof, shall defeat or render invalid the lien of any mortgage or deed of trust now or hereafter executed upon a Lot or a portion thereof, provided, however, that if any portion of said Lot is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser at such sale and its successors and assigns shall hold any and all property so purchased subject to all of the covenants, conditions and restrictions contained in this Declaration.

Section 11.6. Singular and Plural. The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

Section 11.7. Assignment. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned to any Person, partnership, corporation, or association that will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned, and upon any such Person, partnership, corporation, or association evidencing its consent in writing to accept such assignment and

assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Declarant herein. If at any time Declarant ceases to exist and has not made such an assignment, a successor to Declarant may be appointed in the same manner as this Declaration may be modified or amended under Section 11.2 A. Any assignment or appointment made under this Article shall be in reasonable form and shall be recorded.

Section 11.8. Captions. The captions of Articles and Sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

Section 11.9. Invalidity. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

Section 11.10. Constructive Notice and Acceptance. Every Person or entity who now or hereafter owns, occupies, or acquires any right, title, or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired an interest in the Property.

Section 11.11. Duration. The restrictions, conditions, covenants, and charges hereof shall be binding on all parties and all Persons claiming under them for a period of twenty-five (25) years from the date this Declaration is recorded, after which time all restrictions, conditions, covenants, and charges shall be automatically extended for successive periods of ten (10) years, unless and until an instrument approved or signed by the then Owners of record of more than fifty (50%) percent of the square footage in all the Parcels in the Property has been recorded in the Office of the Clerk of Jefferson County agreeing to change said restrictions, conditions, covenants, and charges, in whole or in part.

Section 11.12. Interpretation. The Board, by majority vote, shall have the right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by a Court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all Persons or property benefited or bound by the provisions hereof.

Section 11.13. Exhibits. Attached hereto and made a part hereof are the following Exhibits:

- Exhibit "A" - Description of Property
- Exhibit "B" - Proposed Project Plat including Common Elements
- Exhibit "C" - Articles of Incorporation of Association
- Exhibit "D" - Bylaws of the Association

Exhibit "E" - Initial Design Guidelines

Exhibit "F" - Property Which May Be Annexed to Project

Section 11.14. Notices. Any notice permitted or required by this Declaration, Articles or Bylaws may be delivered personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each person at the current address given by such person to the Secretary of the Board or addressed to the Lot of such person if no such address has been given to the Secretary.

In Witness Whereof, the undersigned, being the Declarant herein, has executed this Declaration this 5th day of July, 1989.

JEFFERSON COUNTY ECONOMIC
DEVELOPMENT CORPORATION

By: [Signature]

Title: Project Manager

COMMONWEALTH OF KENTUCKY)
COUNTY OF JEFFERSON) SS

Subscribed and sworn to before me this 5th day of July, 1989, by Wendell Wright as Project Manager of Jefferson County Economic Development Corporation, on behalf of the Corporation.

My commission expires: Nov 13, 1991

[Signature]
Notary Public, State-at-Large

BOOK 5882 PAGE 174

ACKNOWLEDGED AND AGREED TO:

By: _____
Purchaser

PREPARED BY:

Jane D. Lollis
Jane D. Lollis, Esq.
2350 Citizens Plaza
Louisville, KY 40202
(502) 581-1200

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070689

BOOK 5882 PAGE 174

Beginning at an iron pin set this survey at the intersection of the south right-of-way line of CSX Railroad (formerly Louisville and Nashville Railroad) and the west right-of-way line of Dorsey Lane, said iron pin also being a corner to the property known as Ormsby Village (Deed Book 4341, Page 406); thence along a line common to said CSX Railroad right-of-way and Ormsby Village N87°35'17"W, 1978.51 feet, thence, along a curve to the left having a radius of 2667.00 feet, an arc length of 851.75 feet, a chord bearing of S83°15'46"W and a chord distance of 848.14 feet; thence, S74°08'49"W, 362.23 feet to the intersection of said CSX Railroad right-of-way and the east right-of-way line of Whipps Hill Road; thence, following said Whipps Hill Road right-of-way along a curve to the right having a radius of 378.10 feet, an arc length of 225.25 feet, a chord bearing of S11°49'39"W and a chord distance of 221.94 feet; thence with said right-of-way the following calls:

S28°53'40"W, 286.83 feet;
S61°06'20"E, 10.00 feet;
S28°53'40"W, 1210.14 feet;

thence, turning and crossing the before mentioned Ormsby Village property the following calls:

S61°06'20"E, 385.00 feet;
S43°30'00"E, 232.00 feet;
S25°35'17"W, 271.52 feet;
S48°31'32"E, 280.00 feet;
S41°28'28"W, 300.00 feet;
S33°56'12"E, 377.16 feet;
S48°31'32"E, 375.00 feet

to a point on the Hurstbourne Parkway north right-of-way line; thence, along said Hurstbourne Parkway right-of-way N41°28'28"E, 393.05 feet; thence, along a curve to the right having a radius of 1687.02 feet, an arc length of 1096.47 feet, a chord bearing of N60°05'37"E and a chord distance of 1077.27 feet; thence, N78°42'48"E, 1634.49 feet; thence, along a curve to the left having a radius of 5679.58 feet, an arc length of 475.15 feet, a chord bearing of N76°24'27"E and a chord distance of 457.02 feet; thence, N74°06'06"E, 257.60 feet to the intersection of said Hurstbourne Parkway right-of-way and the aforementioned west right-of-way line of Dorsey Lane; thence along said Dorsey Lane right-of-way the following calls:

N19°57'34"W, 224.07 feet;
N07°52'50"W, 401.51 feet;
N14°39'38"W, 103.89 feet;

thence, turning eastwardly and through the before mentioned Ormsby Village along lines of property leased by Jefferson County to Kentucky Railway Museum the following calls:

S72°32'13"W, 916.16 feet;
S16°48'48"E, 200.00 feet;
S72°32'13"W, 30.00 feet;
N16°48'17"W, 1168.86 feet;
N88°52'28"W, 899.37 feet;
N87°38'17"W, 279.31 feet;
N87°40'17"W, 98.89 feet;
N88°38'17"W, 96.87 feet;
S89°02'43"W, 96.06 feet;
N02°38'17"W, 40.00 feet;
S87°21'43"W, 97.24 feet;
S85°47'53"W, 83.23 feet;
S66°46'43"W, 857.01 feet;
N27°40'43"E, 86.47 feet;
N66°46'43"E, 817.15 feet;
N85°09'15"E, 92.42 feet;
N87°21'43"E, 98.75 feet;
N89°02'43"E, 98.85 feet;
S88°38'17"E, 99.06 feet;
S07°40'17"E, 99.67 feet;
S87°35'17"E, 1890.18 feet

thence, along a curve to the right having a radius of 75.00 feet, an arc length of 36.39 feet, a chord bearing of N48°28'40"E and a chord distance of 36.03 feet to the point of beginning, containing 174.35 acres.

LEGAL DESCRIPTION PREPARED BY:

Schmpeler-Corradino Associates
First Trust Centre/Suite 300 North
200 South Fifth Street
Louisville, Kentucky 40202
(502) 587-7221

June 30, 1989

BOOK 5882 PAGE 176

TIME
BOOK 5882
ARTICLES OF INCORPORATION
HURSTBOURNE GREEN OWNERS' ASSOCIATION, INC.

A corporation is formed under the Kentucky Nonprofit Corporation Act, the organizational details of which are as follows:

1. Name. The Corporation's name shall be Hurstbourne Green Owners' Association, Inc.

2. Duration. The Corporation's duration shall be perpetual.

3. Definitions. As used in these Articles of Incorporation the following terms shall have the following meanings:

(a) "Developer" shall mean Jefferson County Economic Development Corporation of Jefferson County Kentucky, a Kentucky Municipal Corporation, and shall include any person, corporation or association to which either or both may expressly assign rights, from time to time, under these Articles of Incorporation.

(b) "Declaration" shall mean any Declaration of Covenants, Conditions and Restrictions, as amended from time to time, affecting any portion of Hurstbourne Green Research and Office Park in Jefferson County, Kentucky.

(c) "Lot" shall mean each subdivided lot or similar property, the owner of which is a member of the Corporation pursuant to the Declaration.

4. Purposes. The Corporation is organized under the Kentucky Nonprofit Corporation Act and the purposes and objects for which the Corporation is formed are as follows:

(a) To promote the general, economic and social welfare of the members of the Corporation and serve the common good and to acquire, own, construct, operate, maintain and repair any common area, whether owned by the Corporation or not, as contemplated by the Declaration.

(b) Notwithstanding the generality of the foregoing, the Corporation shall not (1) devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, or (2) directly or indirectly participate in, intervene in (including the publishing or distributing of statements), any political campaign on behalf or in opposition to any candidate for public office.

5. Powers. In addition to all other powers the Corporation may have pursuant to the Kentucky Nonprofit Corporation Act, the Corporation shall have the power to:

(a) Exercise and enforce any right or privilege assigned to it under the Declaration; and

(b) Assess, levy and collect assessments against each Lot and against members of the Corporation as provided in any Declaration.

6. Internal Affairs. Provisions for the regulation of the internal affairs of the Corporation, including provisions for the distribution of assets on dissolution or final liquidation, are:

(a) The membership of the Corporation shall consist of the owners of parcels in the Office Park, each owner being a member of the association as designated from time to time in the Declaration:

(1) Class A membership shall consist of all members other than Developer.

(2) Class B membership shall consist of Developer.

(b) Each Class A member shall have one (1) vote for each acre of property owned in the Office Park by that member. Each Class B member shall have ten (10) votes for each acre of property owned in the Office Park by that member.

(1) A portion of an acre owned in the Office Park by a member shall entitle that member to a proportionate share of a vote equal to the fraction of the acre owned by that member. A full acre owned in the Office Park by a member shall entitle that member to a full vote. The acreage owned by each member and, therefore, the votes to be cast by each member shall be determined by a licensed surveyor and accepted by the Board and shall be the same as the numerator of the fraction provided for in Section 10.3 of the Declaration filed of record in the Jefferson County Clerk's Office restricting the Office Park.

(c) Nothing in these Articles of Incorporation shall limit the right of Developers to alter in any way its plans for the development of the Lots at any time and from time to time.

(d) No part of the Corporation's net earnings shall inure to the benefit of any individual or any member of the Corporation.

.. Office and Agent. The address of the Corporation's principal office and of its initial Registered Office shall be c/o Louisville and Jefferson County Riverport Authority, 6900 Riverport Drive, Louisville, Kentucky 40258 and the name of its initial Registered Agent at such address shall be Robert Timmerman.

8. Board of Directors. The number of directors constituting the Corporation's initial Board of Directors shall be three, and the names and addresses of the persons who are to serve as the initial directors are:

<u>Name</u>	<u>Address</u>
Wendell Wright	Jefferson County Fiscal Court Jefferson County Courthouse 500 West Jefferson Street Louisville, Kentucky 40202
Robert Miller	Jefferson County Fiscal Court Jefferson County Courthouse 500 West Jefferson Street Louisville, Kentucky 40202
Robert Timmerman	Louisville Jefferson County Riverport Authority 6900 Riverport Drive Louisville, Kentucky 40258

No director of this Corporation shall be personally liable to the Corporation for monetary damages for breach of his duties as director except (1) for any transaction in which the director's personal financial interest is in conflict with the financial interest of the Corporation; (2) for acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law; or (3) for any transaction from which the director derived an improper personal profit.

9. Incorporator. The name and address of the sole incorporator is Jane D. Lollis, Esq., 2350 Citizens Plaza, Louisville, Kentucky 40202.

IN WITNESS WHEREOF, the incorporator has signed triplicate originals of these Articles of Incorporation on June 14, 1989.

Jane D. Lollis
Jane D. Lollis, Esq.

STATE OF KENTUCKY
COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me by
Jane D. Lollis, on June 14, 1989.

My commission expires: Nov 13, 1991.

Freda L. Conliffe
Notary Public, State at Large

Approved as to form Michael Conliffe,
Jefferson County Attorney

[Signature]

This instrument prepared by:
Jane D. Lollis
Attorney at Law
2350 Citizens Plaza
Louisville, Kentucky 40202

Jane D. Lollis

FILED BY [Signature]
89 JUN 19 PM 2:19
700
JIM FINE H. LONE J.L.C.
[Signature]

END OF DOCUMENT

BYLAWS

OF

HURSTBOURNE GREEN OWNERS' ASSOCIATION, INC.

I certify that the following Bylaws, consisting of 7 pages, each of which I have initialed for identification, are the Bylaws adopted by the Board of Directors of Hurstbourne Green Owners' Association, Inc., by unanimous written action of Directors dated July 5, 1989.

Robert Timmerman
Robert Timmerman, Secretary

BOOK 5882 PAGE 191

Exhibit "D"

BY-LAWS

of

HURSTBOURNE GREEN OWNERS' ASSOCIATION, INC.ARTICLE I
MeetingsA. Annual Meeting:

The annual meeting of the members of this Corporation shall be held in Jefferson County, Kentucky, during the month of November at a time designated by the Board of Directors.

B. Special Meetings:

Special meetings of the members may be called by members who voting together hold at least 20% of the votes in the Corporation. Special meetings shall also be called by the president at the written request, which shall state the object and purpose of such meeting, of two directors of the Corporation. If the president on such request neglects for three days to call a special meeting, then the directors making the request may call a special meeting.

C. Notice of Meetings:

A written or printed notice of each regular or special meeting of the members, stating the time and place, and, in case of special meetings, the object or objects thereof, shall be given each member of the Corporation by mailing the same to its last known address at least ten days before any such meeting.

125

D. Place of Meetings:

Meetings of the members shall be held at the registered office of the Corporation unless the Board of Directors designates a different place for the meeting, in which case the meeting shall be held at the place designated.

E. Quorum:

At any meeting of the members, the holders of votes entitling them to exercise twenty (20) percent of the voting power of the Corporation shall constitute a quorum of the members, for all purposes, unless the presence of a larger number shall be required by law.

At any meeting of the members all questions, except those the decision of which is regulated by statute, shall be determined by a majority vote of the members present, and in case of a tie vote, the presiding officer at the meeting shall cast the deciding vote.

G. Action Without a Meeting:

Any action required or permitted to be taken at any meeting of the members entitled to vote may be taken without a meeting if a consent in writing is signed by all members entitled to vote and the written consent of the members entitled to vote is filed with the minutes of proceedings.

A. Number and Term of Office:

The business and the affairs of this Corporation shall be exercised, conducted and controlled by the Board of Directors, which shall be composed of no less than three persons. The election of directors shall take place at the annual meeting of the members, or at a special meeting called for that purpose, and shall be by ballot; provided that if such election is not held at an annual meeting or a special meeting called for that purpose, it may be held at any members' meeting at which all members are present.

The directors shall be elected for one year and shall continue in office until their successors are elected and qualified.

B. Vacancies:

In case of any vacancy in the Board of Directors, through death, resignation, disqualification, or other cause, the remaining directors, by an affirmative vote of a majority thereof, may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant, and until the election and qualification of his successor.

C. Executive Committee:

The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate an executive committee to consist of the chief executive officer and two or more of the directors as the Board may from time to time determine. In addition, the Board of Directors may appoint persons who are not directors of the corporation as associate non-voting members of the executive committee. The executive committee shall have and may exercise, when the Board is not in session, all the powers of the Board of Directors in the management of the business and affairs of the Corporation, but the executive committee shall not have power to fill vacancies in the Board, or to change the membership of or fill the vacancies on the said committee, or to amend the By-laws or the Articles of Incorporation of the Corporation. The Board shall have the power at any time to change the membership of the executive committee, to fill vacancies in it, or to dissolve it. The executive committee may make such rules for the conduct of its business and may appoint such committees and assistants as it shall from time to time deem necessary. A majority of the members of the executive committee shall constitute a quorum.

D. Other Committees:

The Board of Directors may by resolution designate one or more other committees which committees shall have and may exercise such powers as the Board of Directors shall by resolution provide.

ARTICLE III
OfficersA. Election:

The Board of Directors, as soon as may be after the election held in each year, shall choose a president of the Corporation, a secretary and a treasurer. The Board of Directors may also from time to time appoint such vice presidents, assistant secretaries, assistant treasurers and such other officers, agents and employees as it may deem proper. The president shall be chosen from among the directors, and the president shall be the chief executive officer of the corporation. Any two or more offices, except that of the chief executive officer and secretary, may be held by the same person.

B. Term; Removal:

The term of office of all officers shall be one year or until their respective successors are elected and shall qualify; but any officer may be removed from office at any time by the affirmative vote of a majority of the members of the Board then in office. Any vacancy occurring in any

office of the Corporation by death, resignation, removal, or otherwise may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

ARTICLE IV
Powers and Duties of Officers

Subject to the limitations as the Board of Directors or the executive committee may from time to time prescribe, the officers of the Corporation shall each have such powers and duties as generally pertain to the respective offices, as well as such powers and duties as from time to time may be conferred by the Board of Directors or by the executive committee. The treasurer and the assistant treasurers may be required to give bond for the faithful discharge of their duties, in such sum and with such surety as the Board of Directors may prescribe.

ARTICLE V
Finance

A. Banking:

All funds and money of the Corporation shall be banked, handled and disbursed, and all bills, notes, checks and like obligations, and endorsements for deposit or collection, shall be signed by such officers and other persons as the Board of Directors shall from time to time designate, who shall account therefor to the treasurer as and when he

may require. All money, funds, bills, notes, checks and other negotiable instruments coming to the Corporation shall be collected and promptly deposited in the name of the corporation in such depositories as the Board shall select.

ARTICLE VI

The Board of Directors shall annually assess each owner of a Lot (as defined in the Corporation's Articles of Incorporation) in accordance with the provision of any Declaration of Covenants, Conditions and Restrictions recorded in the Office of the Clerk of Jefferson County, Kentucky affecting Hurstbourne Green Research and Office Park.

ARTICLE VII Amendments

These By-laws may be adopted, amended or repealed by the vote of the majority of the Directors of this Corporation at any meeting thereof.

HURSTBOURNE GREEN
RESEARCH & OFFICE PARK
DESIGN GUIDELINES

prepared by
LOUIS AND HENRY GROUP, INC.
334 East Broadway
Louisville, Kentucky 40202
502-589-5010

June 29, 1989

Exhibit "E"

SITE PLANNING GUIDELINES

The objective of these Site Planning Guidelines is to create well planned and executed development on parcels within the Office Park of the highest quality and interest which complement and enhance the overall character of the entire Hurstbourne Green Office Park.

A. Parking Areas:

1. Minimum numbers of parking spaces required shall be as defined in the "Declaration of Covenants, Conditions and Restrictions", and as required in the current edition of "Zoning District and Subdivision Regulations for Jefferson County".
2. No color pigmentation shall be added to hard-surface paving materials.
3. Entry drives shall be readily observable to the first time visitor, with as few entry drives provided as practical per parcel. Entry drives shall be highlighted by such features as landscaping, planters, and architecturally compatible walls.
4. Parking areas shall be so arranged as to provide minimum conflict among service areas, pedestrians, and automobiles, and so as to provide natural and easy pedestrian access to building entries and to the overall site amenities such as jogging trails and footpaths. Special care should be taken to encourage pedestrian linkage to the retention lake area in parcel 120, as well as to the Bellevoir Mansion and A.B. Sawyer Park.
5. All parking areas shall be striped with white paint.
6. For parcel 120 there is a preference for minimal or no parking or loading/unloading areas between buildings and the retention lake area, so that a continuous greenspace from retention lake to building will be created.

B. Sidewalks and Plazas:

1. Visitor building entries shall be made easily recognizable to the first time visitor through the creation of entry plazas highlighted by such features as ceremonial porte cochere, special planters and landscape areas, architectural walls, and highlight lighting.
2. Pedestrian sidewalks and paved entry plazas shall be of hard-surfaced materials compatible in design, materials and texture to the paved pedestrian areas provided in the common areas of the Office Park.

C. Storage, Service and Loading Areas:

BOOK 5882 PAGE 191

1. No materials or equipment, including vehicles, shall be stored on site except inside buildings, or behind permanent walls not less than six feet in height, which screen such areas from adjacent sites so as not to be visible from neighboring properties, streets, and entrances.
2. No storage, service, or loading area shall extend into setback areas.
3. Each site shall be so arranged as to allow all necessary loading/unloading to be performed totally on site. No street loading/unloading shall be allowed.

D. Refuse Collection Areas:

1. All outdoor refuse containers shall be visually screened within a durable permanent enclosure which shall be 1 foot more in height than the height of the container enclosed and shall not exceed seven feet in height.
2. No refuse collection areas shall be permitted between a street and the front of a building.
3. Refuse collection areas should be effectively designed to contain all refuse generated on-site and deposited between collections. Deposited refuse should not be visible from outside the refuse enclosure.
4. Refuse collection enclosure should be designed of durable materials with finishes and colors which are unified and harmonious with the overall architectural theme.
5. Refuse collection areas should be so located on-site to provide clear and convenient access to refuse collection vehicles and thereby minimizing wear and tear on on-site and off-site development.
6. Refuse collection areas should be designed and located upon the lot to be convenient for the deposition of refuse generated on-site.

E. Screening of Mechanical and Electrical Equipment, Utilities and Communication Devices:

1. Guidelines under this section shall be construed to include, as a minimum, the following: exterior components of plumbing, processing, heating, cooling and ventilation systems, including piping, tanks, stacks, collectors, fans, blowers, ductwork, vents, louvers, meters, compressors, motors, exterior electrical equipment, transformers, conduits, gas lines, water lines, phone lines, cable T.V. lines, and equipment, antenna or communication devices, additional unnamed items are included if they are a part of any of the above mentioned systems.

2. Components shall not be directly visible from a height of five feet above any ground or ground floor elevations at a distance closer than five hundred feet from the closest building, wall or any lot.
3. It is preferred that in the case of roof-mounted components, that building parapets be of sufficient height that roof-mounted screening devices not be required. If parapets are not of sufficient height for screening, then an unobtrusive screening device that will appear as an integrated part of the overall architectural design shall be provided.
4. Any device implemented for screening of components shall appear as an integral part of the overall architectural design.
5. Visibility of exterior components from upper stories of adjacent building shall be kept to a minimum, and components shall be installed in a neat and compact fashion, and be painted to blend with adjacent materials.
6. In no case shall components be visible from adjacent streets, Bellevoir Mansion, or the retention lake area.
7. All exterior on-site utilities, including but not limited to drainage system, sewers, gas lines, water lines, electrical, telephone, communications and wires, and cable T.V. shall be installed underground.

F. Fences and Walls:

1. No fence or wall shall be constructed outside the building set-back line, except at parcel entrances. Walls or fences at entrances will be allowed within 50 feet of road right-of-way if designed as an integral part of the entry signage and of architectural design, texture, color and materials identical with the associated building. However, such fence or wall shall not intrude into the site distance triangle defined in the current edition of "Zoning District & Subdivision Regulations for Jefferson County", and shall not exceed 4'-0" in height unless otherwise approved by the Architectural Review Committee.
2. No fence or wall in a side yard without access or rear yard without access shall exceed a height of seven feet unless otherwise approved in writing by the Architectural Review Committee.
3. Walls and fences between buildings and fronting streets are discouraged, but when deemed necessary by the Owner, shall require written approval of the Architectural Review Committee.
4. All walls and fences shall be designed as an integral part of the overall architectural scheme, complementary in design, materials, texture and color, and as durable, permanent structures.

G. Access and Egress:

BOOK 5882 PAGE 133

1. It is the intention of this section to limit and control the placement of site entries in order to create a safe and logical traffic pattern with minimum congestion, and to support the goal of aesthetically pleasing, well designed and efficiently designed sets.
2. No parcel shall have direct access to Hurstbourne Lane, Whipps Mill Road or LaGrange Road.
3. Direct access to Dorsey Lane from Parcel 130 is discouraged.
4. Parcel 1 shall have no more than two entrances from Millbrook, with none closer than 400 feet to Whipps Mill Road or 150 feet to the entrance to another parcel.
5. Parcel 3 shall have one entrance to Millbrook at the extreme northern portion of the site, and one entrance from Ormsby Station Road no closer than 300 feet to Millbrook and no closer than 500 feet from Hurstbourne Lane.
6. Parcel 120 shall have no more than four entrances to Ormsby Station Road, and none shall be within 650 feet of Hurstbourne Lane.
7. Parcel 107 shall have one entrance to Ormsby Station Road and one entrance to Bellevoir Circle.
8. Parcels 102, 103, 104, 105 and 106 shall not have direct access to Ormsby Station Road or Mill Brook Road. Access to these streets shall be via two access roads from Bellevoir Circle.
9. Parcel 130 shall have three entrances to Ormsby Station Road, with no entrance closer than 650 feet to Hurstbourne Lane.
10. All entrances to parcels across the street from one another shall be coordinated so that they are either directly opposed, or are a minimum of 150 feet apart. Approval of entrance locations by the Architectural Review Committee shall be on a first-come, first-serve basis. However, the approved general district development plan has established the number and location of all entrances.

BOOK 5882 PAGE 133

The intent of the Architectural Guidelines is to establish a design framework which will create an overall standard of high quality and uniformity throughout Hurstbourne Green.

A. Building Design:

All buildings shall reflect current technology and shall be creative in design. Buildings giving the appearance of residences are not acceptable. The design of all buildings throughout the complex is to be compatible. Design conveying strong, bold statements which draws unnecessary attention or are incompatible with the overall appearance are not acceptable.

1. Height

- a) All buildings within parcels or subparcels of 102, 103, 104, 105 and 106 shall not exceed two stories, i.e. 30 feet from finished grade to top of parapet or 28 feet from finished grade to top of roof eave.
- b) All buildings within parcel or subparcels of 130 shall not exceed 4 stories in height i.e. 54 feet to the top of parapet or 52 feet to the top of roof eave from finished grade, with the exception of those buildings within 300 feet of the north and east property lines. Buildings within 300 feet shall not exceed 2 stories as described in Paragraph "a" above.
- c) All buildings within parcel or subparcels of 120 shall not exceed six stories, i.e. 85 feet from finished grade to top of parapet.
- d) All buildings within 300 feet of north and west property lines of parcel or subparcels of 107 shall not exceed 2 stories as described in Paragraph "a" above. All buildings within the remaining area of parcel 107 shall not exceed 3 stories in height, i.e. 42 feet to top of parapet or 52 feet to the top of roof eave from finished grade.
- e) All buildings within parcels or subparcels of 1 and 3 shall not exceed 4 stories, i.e. 54 feet from finished grade to top of parapet or 52' from finished grade to top of roof eave.

2. Building Massing: Reduce the visual impact of large scale buildings.
- a) Long continuous building facades shall be fragmented into smaller components.
 - b) Buildings shall be designed to create shadow lines.
 - c) Consideration shall be given to the selection and placement of material textures.
 - d) Buildings shall be designed so as to incorporate small scale elements into the design such as planter walls.
 - e) Landscaping and berming shall be incorporated into the overall building design.
 - f) Industrial-type and pre-engineered metal building types shall not be used.
 - g) Street facing building facades shall be designed to be attractive and shall be or shall appear to be a primary facade.

3. Roofs

- a) Flat roofs are acceptable so long as:
 - 1. All roof top equipment is screened either with parapet walls and/or screen walls which are compatible with the building.
 - 2. Roof top equipment is painted a color to match either the building or roof in order to deemphasize their appearance and presence.
- b) Sloped roof treatments are acceptable so long as:
 - 1. They are not Mansard or Gambrel roofs.
 - 2. The materials are:
 - (a) Standing seam copper, or
 - (b) Factory finished standing seam metal roofs, or
 - (c) Skylight
 - 3. Corrugated metal, shingle or wood are not used.
 - 4. Gutters and downspouts are concealed or designed so as to be an architectural design element of the building.
 - 5. Minimum roof slope is 6:12

4. Building Materials

- a) One dominant material should be selected and expressed for each building.
- b) Materials shall be compatible with those of buildings on adjacent parcels and throughout the complex.
- c) Materials shall convey permanence, timelessness and high quality.
- d) Ease and efficiency of maintenance shall be considered in choosing material.
- e) Recommended materials include, but are not limited to, high quality brick, granite, glass, marble.
- f) Unacceptable materials include wood, metal and vinyl siding; plywood, texture 111 and other predominantly residential materials. Pre-engineered building materials such as corrugated metal siding shall not be used.

5. Color

- a) Exterior colors shall be subdued in tone and shall compliment colors used throughout the complex.
- b) Accent colors shall be limited.
- c) Variations in color shall be limited.

6. Entrances

Building entrances shall be highlighted by such features as Pattern change, material change, recesses, plazas, architectural walls, special detailing.

7. Styles - The objective is to create a consistency of basic architectural elements.

- a) Building design shall be tasteful, imaginative, and devoid of trendy or period styles.
- b) Styles such as colonial, tudor, Spanish, Victorian, Gothic shall not be used.

The objective of this section is to insure that exterior signage compliments the overall design integrity of the Research and Office Park.

A. Standards

1. Signs shall be limited to tenant identification only and shall be either wall mounted or freestanding.

WALL MOUNTED SIGNAGE

- a) All signage attached to buildings shall consist of individual letters and shall be attached parallel to the facade.
- b) Illumination shall be concealed and internal per letter.
- c) Signage shall neither move nor appear to move in any fashion.
- d) Signage shall be devoid of advertising.
- e) No sign shall be mounted on any roof.
- f) No sign shall extend above a line 18" below the top of the building parapet.
- g) Painted signs shall not be used.
- h) Attached signs shall not project beyond 6" from the face of wall.
- i) There shall be no more than two (2) primary tenant identification signs per building with only one sign per street frontage side. Letters shall be individual, and shall not exceed two (2) feet in height. Each identification sign shall not be larger than 80 S.F. There shall be no more than one logo per building. Height of logo shall not larger five (5) feet and shall not encompass more than 25 square feet. When a logo and letters are used in combination the total signage shall not exceed 120 S.F. Logo illumination, if desired, shall be internal only.

- j) In the case of a multi-use building, the primary tenant shall follow paragraph "i" above. Each tenant thereafter will be allowed one additional sign which shall be installed in a predesignated space adjacent to the individual tenant entrance. Maximum size of tenant signage shall not exceed ten (10) sq. ft. with individual letters of a maximum height of 12 inches. Attached signs shall be designed as stipulated in paragraphs "a" through "h" above.
- k) In the case of a multi-use building with only one primary exterior entrance, individual exterior tenant signs, except that of the primary tenant will be incorporated into a free-standing building sign. See "Free-standing Building Signs."

FREESTANDING BUILDING SIGNS

Freestanding building signs, illuminated or non-illuminated, are permitted only in those situations when the above regulations disallow attached signage.

- a) Multi-tenant building signs shall not exceed 6 feet in height and shall be not more than 30 sq. ft. in size per face.
- b) Freestanding building signs shall not be used for single tenant buildings.
- c) No signs shall have more than two faces.
- d) Only one sign shall be used per parcel.
- e) Illumination shall be either internal or from concealed uplighting located in the ground at the base of the sign.
- f) Sign materials shall be durable, convey an appearance of high quality and shall be compatible with the building style and material. The sign shall appear solid with its base totally at grade.
- g) Recommended materials include granite, marble, pre-manufactured smooth metal signs with interior illumination.
- h) Signage materials which do not display permanence, such as wood or canvas, shall not be used.
- i) Portable or temporary signs are not acceptable.

- j) Freestanding building signs shall not be erected closer than 100 feet to Hurstbourne Lane.
- k) No freestanding building sign shall be erected within street right-of-ways or required street front setback, that is, 100 feet on Hurstbourne Lane, 30 feet on Dellevoir Circle and 50 feet on all other streets.

Directional Signs

Directional signs shall be in accordance with Planning and Zoning regulations.

LIGHTING

The objective of this section is to ensure that lighting will be designed for each lot which will contribute to public safety and site security, insure a cohesive fixture design throughout the complex and avoid illumination distractions to adjacent lots.

- A. All lighting potentially visible from an adjacent street, except bollard lighting less than forty two (42) inches high, shall be indirect or shall incorporate a full cut-off shield-type fixture.
- B. Lighting fixtures for parking areas, access drives, and internal vehicular circulation areas shall be a zero cutoff. The parking lot illumination level shall achieve a uniformity ratio of 3 to 1 (average to minimum) with a maintained average of 1 footcandle and a minimum of 0.3 footcandles.
- C. Service-area lighting shall be contained within the service yard's boundaries and enclosure walls. No light spillover should occur outside the service area. The light source should not be visible from the street.
- D. Light fixtures for parking areas, access drives and internal vehicular circulation areas shall match those installed within the road right-of-ways.
- E. Exterior building illumination or "wall washing" is not permissible.
- F. No parking areas or drives shall be illuminated from building mounted light fixtures.

The objective of the Landscape Guidelines is to create a sense of harmony and unity throughout the complex and an atmosphere of serenity and warmth.

A. Special Landscape Areas

1. Retention Basins:

- a) Landscaping inside the easement is designed and will be planted by the Association in order to create a lake/parklike visual feature for all tenants throughout the complex.
- b) No building, or part of a building shall encroach into the retention basin easement.

2. Parking Lot Perimeters

- a) The objective is to screen the view of automobiles within parking lots from a pedestrian or car passenger on any street and to visually soften each lot with landscaping.
 - b) Parking lots adjacent to front yard setbacks shall be screened from each street. Screening shall consist of continuous berms, shrubs, trees and ground cover. Non-continuous berms of 60-80' lengths may be grouped and planted with complimentary evergreen shrubs to substitute for continuous berms.
 1. Berms shall be at a height no less than 42 inches above the elevation of parking pavement and shall be sloped no greater than 3:1.
 2. In addition to the berm; planting shall consist of continuous low border evergreen shrubs 24 inches to 36 inches tall with at least 85% opacity during the summer and 60% opacity during the winter. Large shade trees shall also be planted along the frontage in a regular pattern while ornamental trees are to be grouped throughout. All plant material shall be hardy to the region.
3. Planting requirements
- a. Shade trees shall be a minimum of 12 to 15 feet in height with a 3 inch caliper trunk at 6" above the base at the time of planting and planted at 30 feet on center average.
 - b. Evergreen shrubs planted on the berms shall be 24 to 30 inches high at maturity and shall be 15" to 18" tall at the time of planting. Shrubs shall be maintained in natural state at no more than a 36 inch height.

- c. Ornamental trees shall be planted in groupings of 3, 4 or 5. Distance between groupings shall average 75 feet on center. Trees shall be a minimum of 8-10 feet tall with a trunk caliper of 2 inches minimum at 6" above the base at the time of installation.
- d. All trees, and overgreen shrubs shall be high quality low maintenance and of improved select hardy variety.
- c) Side and rear yard parking lots which cannot be viewed from any street shall have continuous shrub border 3 feet to 4 feet tall at maturity an opacity of 85% in the summer and 60% opacity in the winter. In addition, tree groupings consisting of ornamental trees shall be planted. Groupings shall be spaced no more than 75 feet on center. Shade trees shall be spaced no more than 45' apart.
 - 1. Planting requirements shall be as specified above in in paragraph "2.d" under Planting Requirements.
 - 2. A minimum distance from rear or side property lines to curb of parking lot shall be no less than 25 feet.
- 3. Interior Parking Lot Landscape Regulations
 - a) Each row of parking shall be terminated at each end by a landscape island 5 feet wide. Each row shall have a tree island no less than 80' apart. Each island shall contain 2 shade trees and shrubs.
 - b) Head to head parking shall be separated by a landscaped island with a minimum width of 8 feet from face to face of curb. Planting within each island shall consist of shade trees and shrubs.
 - 1. Shade trees shall be not less than 10-12' in height with a 3" caliper trunk.
 - 2. Shrubs shall be planted between each tree and shall be spaced at 4 feet on center. Height of shrubs shall be 30 inches to 36 inches natural growth at maturity.
 - 3. A sufficient mulch bed shall be placed throughout to limit unsightly weeds. Weed barrier cloth may be used.
 - c) Each side of all entrance drives shall be lined with shade and ornamental trees. Spacing shall not exceed 30 feet on center.

4. Parcel Perimeter Landscaping

a) Street perimeter landscape planting.

Street front planting shall be designed and installed in accordance with the "Declaration of Covenants, Conditions and Restrictions" and the previously developed landscape plan for Hurstbourne Green.

b) Side and Rear Yard Perimeter Landscape

1. A minimum of 60% of all rear yard property lines shall be landscaped.
2. No less than one tree shall be planted per 40 linear feet of side and rear property lines. Trees may be clustered but shall not be planted more than 75 feet apart. At least 40% of all trees shall be shade trees. Evergreen or ornamental trees shall not total more than 30% of all trees planted.
3. Whenever side and rear yard parking lot planting buffers are planted as stipulated in paragraph "c", "Side and Rear Yard Parking Lots", then "Perimeter Landscaping" described in paragraphs b1 and b2 above does not have to be planted for the length of the parking lot.

c) Perimeter Planting

1. Shade trees shall be a minimum of 8-10 feet in height with a 2-1/2 inch caliper trunk at the time of planting.
2. Evergreen shrubs shall be a minimum of 24 inches tall and when planted at 3 feet center to center shall have an opacity of 85%. Ornamental trees shall be minimum of 10 feet tall with a minimum trunk caliper of 2 inches at installation.
3. All trees, and evergreen shrubs shall be high quality, low maintenance, of improved select indigenous variety.

- a) It is recommended that each building entry be enhanced with amenities to soften hard surface materials as well as to reduce the scale of the entry area to effectively relate to the human scale of the users. These include planters, paving, entry covers, fountains, built-in seating and landscaping.
- b) Landscaping Throughout
 - 1. Trees, shrubs, ornamental trees and flowering plants, shall be installed throughout each parcel. Shrubs should be planted around each building to highlight entrances, shade structures and shield tenants from harsh climatological conditions.

6. Existing Trees

- a) Existing, healthy trees with a trunk caliper or equal size of those stipulated herein may be used to satisfy requirement for new trees, pursuant to these guidelines. Plants must be high quality disease and bug resistant hardy varieties.
- b) Existing trees to be substituted for new trees shall not be skinned or unhealthy and shall be free from disease; insect infestation and stress of construction.
- c) Existing trees with trunk caliper of 6 inches or more shall not be removed unless written approval is received from the Review Board. Protection of plants and their root system during construction and preservation of healthy existing trees is strongly required.

LEGAL DESCRIPTION FOR
JEFFERSON COUNTY
ECONOMIC DEVELOPMENT CORPORATION

Beginning at a point S48°28'40" W a distance of 36.03 feet from the intersection of the south right-of-way line of CSX Railroad (formerly known as Louisville and Nashville Railroad) and the west right-of-way line of Dorsey Lane, said point being a corner to the property known as Ormsby Village (Deed Book 4341, Page 406); thence, turning and crossing said Ormsby Village Property the following calls:

N87°35'17"W, 1890.18 feet;
N87°40'17"W, 99.67 feet;
N88°38'17"W, 99.05 feet;
S89°02'43"W, 98.85 feet;
S87°21'43"W, 98.75 feet;
S85°09'15"W, 92.42 feet;
S65°46'43"W, 817.15 feet;
S27°40'43"W, 56.47 feet;
N66°46'43"E, 857.01 feet;
N85°47'53"E, 83.23 feet;
N87°21'43"E, 97.24 feet;
S02°38'17"E, 40.00 feet;
N89°02'43"E, 96.05 feet;
S88°38'17"E, 96.87 feet;
S87°40'17"E, 98.89 feet;
S87°35'17"E, 279.31 feet;
S55°52'25"E, 899.37 feet;
S16°45'17"E, 1168.86 feet;
N72°32'13"E, 30.00 feet;
N15°45'45"W, 200.00 feet;
N72°32'13"E, 916.16 feet

to a point on the above mentioned Dorsey Lane right-of-way; thence, turning and following the said right-of-way line the following calls:

N14°39'38"W, 117.22 feet;
N09°37'55"W, 251.79 feet;
N75°31'31"E, 10.00 feet;
N17°01'01"W, 707.78 feet

thence, along a curve to the left having a radius of 75.00 feet, an arc length of 144.57 feet, a chord bearing of N20°38'25"W and a chord distance of 123.20 feet to the point of beginning, containing 37.11 acres.

LEGAL DESCRIPTION PREPARED BY:

Schimpeler-Corradino Associates
First Trust Centre/Suite 300 North
200 South Fifth Street
Louisville, Kentucky 40202
(502) 587-7221

June 30, 1989

Exhibit "F"