



Regional Planning Commission  
Kingston Springs, Tennessee

**October 14, 2021**  
**Meeting Packet**





**Kingston Springs Regional Planning Commission  
Meeting Agenda  
October 14, 2021**

*Submittal Deadline Date: September 10, 2021*

The meeting was called to order by \_\_\_\_\_ at \_\_\_\_\_ pm.

**1. Roll Call of Voting Members:**

- Keith Allgood \_\_\_\_\_
- Tony Campbell \_\_\_\_\_
- Josh Eatherly \_\_\_\_\_
- Tony Gross \_\_\_\_\_
- Lauren Hill \_\_\_\_\_
- Brian McCain \_\_\_\_\_
- Mike Patenaude \_\_\_\_\_
- Chuck Sleighter \_\_\_\_\_
- Bob Stohler \_\_\_\_\_

**2. Non-Voting Staff:**

- Sharon Armstrong \_\_\_\_\_
- John Lawless \_\_\_\_\_
- Martha Brooke Perry \_\_\_\_\_
- Brittney Stanley \_\_\_\_\_

**3. Declaration of Quorum by Chairperson.**

**4. Motion to approve September 9, 2021 Planning Commission meeting minutes.**

**5. Motion to approve October 14, 2021 Planning Commission meeting agenda.**

## 6. Community Input

## 7. Old Business

- A. Update on Ellersly Subdivision, Ron Merville – Notice of Violation for Erosion and Sediment Control – PUD approval lapse, Code Enforcement Complaints; and HOA documents.
- Soil and Erosion occurring on the lot causing damage to the road surface, curbing, adjacent lots and water intrusion into adjacent structures. Enforcement actions taken and staff recommendation will include consideration of As Built Performance Bonding in favor of the city, a revised Grading Plan, street, curb, guttering, and detention areas for the currently vacant lots, and Phase 2 & 3 undeveloped areas.
  - Expired PUD - consideration of staff recommendations requiring reapplication for PUD approval for Phase 2 & 3 undeveloped areas.
  - HOA transfer to property owners - HOA transfers occurred without Planning Commission input and approval. Consideration of staff recommendations to rescind the HOA agreements in favor of approved HOA documents and conditions recommended to the City Commission.
  - PUD Agreement addressing Grading, soil and erosion, streets, curb, gutters, stormwater retention, and infrastructure maintenance requirements for all private and public improvements to the built environment and undeveloped Phase 2 & 3 of the property.
  - Consideration of Construction Bond requirement, Phase 2 and 3 development plan requirements.
- B. Roy B. McPherson - 115 E. Kingston Springs Road, adjacent to the Stuff It Storage business and Luyben Hills Road.
- 1) *Recess for Design Review Committee.*
  - 2) Consideration of Design Review Committee approval of proposed Building Materials, Lighting, Landscape, and Security Plans for the PUD 40 Unit Multi-Family Development.

8. New Business

- A. Brian McCain - Representing TRUSTEES OF THE 380 MOORE LAND TRUST - Final Plat to subdivide 380 Moores Circle into 2 lots. Property lies on W. Kingston Springs Rd. Downtown, adjacent to Westview Drive and the Commercial strip development block at 385 N Main St. Consideration of Final Plat - Commercial Subdivision.
  
- B. SR249 Corridor Study – Transportation Planning Report. Recommendation of the Kingston Springs Regional Planning Commission to the Kingston Springs Board of Commissioners Resolution of approval of study.
  
- C. Discussion on traffic speeding mitigation in Kingston Springs.
  
- D. Town of Kingston Springs Splash Pad Expansion – L.L. Burns Park.

9. Other (For Discussion Only).

10. Motion to Adjourn.

The meeting was adjourned by \_\_\_\_\_ at \_\_\_\_\_ pm

\_\_\_\_\_  
Mike Patenaude  
Planning Commission Chair

\_\_\_\_\_  
Jamie Dupré  
City Recorder





**Kingston Springs Regional Planning Commission  
Meeting Minutes  
September 9, 2021**

The meeting was called to order by Mike Patenaude at 7 pm.

**1. Roll Call of Voting Members:**

Keith Allgood	Present
Tony Campbell	Present
Josh Eatherly	Present
Tony Gross	Present
Lauren Hill	Present
Brian McCain	Present
Mike Patenaude	Present
Chuck Sleighter	Present
Bob Stohler	Absent

**2. Non-Voting Staff:**

Sharon Armstrong	Absent
John Lawless	Present
Martha Brooke Perry	Present
Brittney Stanley	Absent

**3. Declaration of Quorum by Chairperson.**

Declaration of Quorum by Chairman Patenaude

**4. Motion to approve August 12, 2021 Public Hearing meeting minutes.**

Motion to approve August 12, 2021, Public Hearing meeting minutes by Chuck Sleighter, 2<sup>nd</sup> Tong Gross, motion passed unanimously.

5. **Motion to approve August 12, 2021 Planning Commission meeting minutes.**  
Motion to approve August 12, 2021 Planning Commission meeting minutes made by Chuck Sleighter, 2<sup>nd</sup> by Tony Campbell. Motion passed unanimously.
  
6. **Motion to approve September 9, 2021 Planning Commission meeting agenda.**  
Motion to approve the September 9, 2021 Planning Commission Agenda made by Tony Campbell, 2<sup>nd</sup> by Chuck Sleighter. Motion approved unanimously.
  
7. **Community Input**  
Tony Gross informed the Commission that Tom Cullen had resigned, and Lauren Hill had been selected to fill the open position. Gross thanked Tom Cullen for his years of service and dedication to the Planning Commission and welcomed new Planning Commission member Lauren Hill.
  
8. **Old Business**
  - A. **None**  
No Old Business
  
9. **New Business**
  - A. **Roy B. McPherson - Master Development Plan, Construction Plans, property located at 115 E. Kingston Springs Road, adjacent to the Stuff It Storage business and Luyben Hills Road.**  
Motion to approve the Master Development Plan, Construction Plans, property located at 115 E. Kingston Springs Road, adjacent to the Stuff It Storage business and Luyben hills Road was made by Chuck Sleighter and 2<sup>nd</sup> by Tony Campbell. Opposed were Josh Eatherly and Mike Patenaude. Motion passed
  
10. **Other (For Discussion Only).**  
Moving Forward with future developments looking into Crime Prevention Through Environmental Design
  
11. **Motion to Adjourn.**  
Motion to adjourn was made by Tony Campbell and 2<sup>nd</sup> by Chuck Sleighter. Meeting adjourned at 7:22pm.

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**Mike Patenaude**  
Planning Commission Chair

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**Jamie Dupré**  
City Recorder

7.A.



October 6, 2021

Mr. John Lawless  
City Manager  
Town of Kingston Springs  
PO Box 256  
Kingston Springs, TN 37082

**Re: Ellersly Subdivision  
Phase 1 Bond Amount**

Dear Mr. Lawless,

On behalf of the owner/developer, we are respectfully submitting herewith our bond amount estimate for the remaining work necessary to finish Ellersly Phase 1. Based on the enclosed calculations the bond amount should be in the amount of \$305,113.00.

Please review the enclosed spreadsheet for a more detailed breakdown.

If you need any additional information, please do not hesitate to let me know.

Respectfully Submitted  
CSDG

A handwritten signature in black ink, appearing to read 'Ryan Lovelace', is written over a light blue horizontal line.

Ryan Lovelace, P.E.  
Principal

Cc: Ron Merville, Developer  
David Risner, Counsel  
Sharon Armstrong, City Planner

CSDG No. 19-012-01

**Bond Cost Estimate for Finishing Ellersley Phase 1**

Date: 10/6/2021

	QTY	UNT	UNIT PRICE	EXT. TOTAL	TOTAL COST
<b>Clearing and Grading</b>					
Grading cut/fill (roads and pond)	2,250	CY	\$ 9.50	\$ 21,375.00	
Stripping Topsoil (6") 0.7 acres	580	CY	\$ 5.00	\$ 2,900.00	
Clearing and Grinding Trees	2	AC	\$ 7,000.00	\$ 14,000.00	
					\$ 38,275
<b>Sanitary Sewer</b>					
N/A					
<b>Storm</b>					
Headwall	1	EA	\$ 2,000.00	\$ 2,000.00	
18" RCP	42	LF	\$ 55.00	\$ 2,310.00	
Detention Pond Outlet structure	1	LS	\$ 5,000.00	\$ 5,000.00	
					\$ 9,310
<b>Water</b>					
N/A					
<b>Base and Binder/Paving A.C.</b>					
<b>Ellersley Way</b>					
Base Stone 8" (unbilt sections)	1480	SY	\$ 14.30	\$ 21,164.00	
Bituminous Binder 3" (unbilt sections)	1200	SY	\$ 19.50	\$ 23,400.00	
Asphalt Topping 2" (entire roadway)	2353	SY	\$ 17.30	\$ 40,707.00	
Extruded Curb	680	LF	\$ 10.00	\$ 6,800.00	
<b>Alleys</b>					
Base Stone 8" (Alley C)	1050	SY	\$ 14.30	\$ 15,015.00	
Bituminous Binder 2" (Alley C)	960	SY	\$ 13.00	\$ 12,480.00	
Asphalt Topping 1.5" (all Alleys)	2970	SY	\$ 13.00	\$ 38,610.00	
					\$ 158,176
<b>Other</b>					
Construction Entrance	1	EA	\$ 15,000.00	\$ 15,000.00	
Silt Fence	1100	LF	\$ 5.00	\$ 5,500.00	
Slope Matting	1	LS	\$ 15,000.00	\$ 15,000.00	
Riprap	1	LS	\$ 5,000.00	\$ 5,000.00	
Temporary Seeding & Straw	4.0	AC	\$ 2,000.00	\$ 8,000.00	
					\$ 48,500
<b>Contingency</b>					
20% Contingency	20%	Subtotal:	\$ 254,261.00	\$ 50,852.20	
					\$ 50,852
<b>Totals for Site Work</b>					<b>\$ 305,113</b>

NOTE: This Engineer's Opinion of Possible Construction Cost is made on the basis of our experience and qualifications. It represents our best judgment as experienced and qualified design professionals. It should be recognized that CSDG does not have control over the cost of materials or services furnished by others, over market conditions or contractors methods of determining their prices. Accordingly, CSDG cannot and does not guarantee that bids or actual costs will not vary from this Opinion.







**TOWN OF KINGSTON SPRINGS  
SUBDIVISION DEVELOPMENT AGREEMENT  
FOR  
ELLERSLY**

THIS DEVELOPMENT AGREEMENT is made and entered into on this 8<sup>th</sup> day of March, 2007, by and between THE TOWN OF KINGSTON SPRINGS OF CHEATHAM COUNTY, TENNESSEE, A MUNICIPAL CORPORATION under the laws of the State of Tennessee, with its office and principal place of business in Cheatham County, Tennessee hereinafter called the "TOWN"), and RONALD B. MERVILLE, JR. AND WIFE, LADONNA M. MERVILLE, the DEVELOPER (hereinafter called the "DEVELOPER") named on the Addendum to this Agreement attached hereto and by this reference made a part hereof (hereinafter called the "ADDENDUM").

WITNESSETH:

WHEREAS, the DEVELOPER desires to develop the property described on the ADDENDUM (hereinafter called the "PROJECT"); and

WHEREAS, the plat of the PROJECT, Ellersly, a Planned Unit Development consisting of 35 Lots, first plat of a multi-phase development, has preliminary and final platting approval of the Kingston Springs Municipal Regional Planning Commission (hereinafter called the Planning Commission) on the 8<sup>th</sup> day of March 2007, pursuant to Tennessee Code Annotated, Sec. 13-4-301, et seq. and Sec. 13-3-401, et seq., and the Subdivision Regulations of Kingston Springs, Tennessee, (the Subdivision Regulations) and other applicable ordinances of the TOWN; and,

WHEREAS, the DEVELOPER is the owner of the PROJECT and has authority to engage in such development, and DEVELOPER herein may be referred to as "he, she, his, her or it"; and,

WHEREAS, the DEVELOPER desires to develop and improve said PROJECT by subdivision; and,

WHEREAS, in order to provide for the health, safety and welfare of future residents of the PROJECT, it will be necessary for improvements to the TOWN'S utility system and road infrastructure or connected thereto to be constructed within and to serve the PROJECT; and

WHEREAS, in consideration for the agreement of the TOWN to provide these services to the PROJECT, the DEVELOPER has agreed to construct the necessary improvements to the standards of the TOWN; and

WHEREAS, in order for said improvements to be fully integrated with the utility system(s) and road infrastructure of the TOWN and to function in a satisfactory manner, the DEVELOPER has agreed to construct in accordance with the Subdivision Regulations and other rules, regulations and ordinances of the TOWN public improvements in said project and construct or extend utilities to the project at his own cost; and,

WHEREAS, the TOWN is willing to accept the dedication of the wastewater utilities and other appurtenant improvements which will become public in nature subject to the applicant's compliance with all requirements in this agreement and applicable existing laws of the TOWN of Kingston Springs and the State of Tennessee.

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties herein contained, it is agreed and understood as follows:

I. GENERAL CONDITIONS

1. Construction Costs

The DEVELOPER shall pay for all material and labor necessary to install and complete the private roads, sidewalks, sewers and other facilities in accordance with this agreement.

2. Bonding

At the time of execution of this agreement, the DEVELOPER shall give the TOWN Irrevocable Letters-of-Credit, on a bank licensed to do business in Tennessee and insured by the FDIC irrevocable without conditions and callable upon a bank doing business in Cheatham County, Tennessee, or a county contiguous to Cheatham County, Tennessee, in the amount set forth on the Bonding Schedule attached hereto as Exhibit "A" for improvements, including private roads, sidewalks, drainage, landscaping and other improvements specified by the plans and plats of the development approved by the TOWN and the Planning Commission. The Letters-of-Credit shall secure performance of all obligations of the DEVELOPER under this agreement pursuant to Planning Commission approved plans and filings. The Letters-of-Credit shall meet all requirements established in the Subdivision Regulations or other ordinances of the TOWN and secure full compliance with all terms and conditions of this agreement, including payment of all amounts payable by the DEVELOPER of DEVELOPER's obligations hereunder, and its obligations under the warranty and indemnification provisions hereof. The Letters-of-Credit may be called for failure to comply with the provisions of this agreement in whole or in part according to the terms of the Letters-of-Credit without any further approval of the TOWN legislative body or Planning Commission. The Letters-of-Credit will not be released, except and until there has been full compliance with this agreement and upon certification of a licensed engineer that the development has been completed in full compliance with the approved plat and construction plans. Thereafter, in conformity with the TOWN's Subdivision Regulations, maintenance bonding, as applicable, shall be required prior to release of performance bonding.

3. Inspection

The TOWN shall have a continuous right to inspect the work and facilities to assure that the facilities are constructed in accordance with the Subdivision Regulations, other applicable ordinances or resolutions of the TOWN and approved construction plans.

4. Right of Entry

The TOWN shall have the right, in case a Letter-of Credit is called for noncompliance, to enter upon any property of the DEVELOPER and take all necessary actions to complete the work and obligations not completed.

5. Acceptance of Facilities

Upon notice by the TOWN of acceptance of all or part of the facilities, then those facilities specified in the acceptance shall become a public use property of the TOWN free from all claims from any person or entity. DEVELOPER shall, if requested, and as may be applicable, agree, prior to acceptance and prior to conveyance by deed, to furnish to TOWN a title insurance commitment or an attorney's certificate of title examination evidencing any such facility parcel is free and clear of any encumbrance, except as permitted exception(s) approved by TOWN's attorney. A written legal description to be exhibited to the deed shall be furnished with DEVELOPER's evidence of clear title. Prior to acceptance of all facilities, DEVELOPER will file a requisite Notice of Completion in the Register of Deeds Office, pursuant to T.C.A. 56-11-143. Other facilities may be accepted without the necessity of any further written agreement or deed. The parties intend that this agreement shall, except as set forth herein, operate as a conveyance of the facilities when the facilities are accepted. The DEVELOPER further agrees that any facilities placed within a public or platted right-of-way or dedicated public easement are irrevocably dedicated to the public use. All public use conveyances or dedications are without any right of reimbursement or compensation of any kind.

6. Failure to Install

In the event the DEVELOPER fails to install the facilities in accordance with the terms of this agreement, the TOWN may, in its sole discretion, elect to accept all or a portion of the facilities installed. Should the TOWN choose to accept all or a portion of these facilities, the TOWN shall become the sole owner of these facilities. The TOWN may give notice of acceptance by writing delivered to the DEVELOPER or recorded in the Register's Office, of Cheatham County, Tennessee. No further writing or deed shall be required. The TOWN's election to accept such facilities shall not be construed as an assumption of any obligation related to these facilities such as the obligation to maintain the facilities or to pay for any part of the cost of installing the facilities, nor will it relieve DEVELOPER from any other contractual or monetary obligation owing unto TOWN for which DEVELOPER shall remain liable.

7. Fees Not Refundable

If the DEVELOPER fails to install the facilities in accordance with the terms of this Agreement, no portion of the review fees, monies tendered under the TOWN'S Pass

Through Ordinance, or other amounts paid to the TOWN shall be refundable to the DEVELOPER. Further, upon final approval no fees or monies paid are refundable.

8. Liability Insurance

The DEVELOPER shall purchase an owner's and contractor's liability policy and public liability insurance policy in the amount of one million dollars (\$1,000,000.00) and name the TOWN as an additional insured party. DEVELOPER further agrees to hold and name the TOWN harmless from the claim of any person and further agrees to defend any action brought in any court against the TOWN and to pay any judgments rendered against the TOWN.

9. Legal Expense in Case of Default

In the event the DEVELOPER or its sureties breach this agreement, they shall bear all costs of the TOWN's reasonable expenses, including reasonable attorney's fees and other expenses incurred in enforcing this agreement or completing this agreement whether incurred by negotiation, litigation or otherwise. Entitlement to aforesaid expense shall be applicable to I (8) above.

10. Town Ordinances, Rules and Regulations

All currently existing TOWN ordinances, resolutions, rules and regulations and the Subdivision Regulations adopted by the Planning Commission and Board of Commissioners of the TOWN are made a part of this agreement. In the event of a conflict between the terms of this agreement and a TOWN ordinance, the ordinance shall prevail. In the event of a conflict between the terms of this agreement and the Subdivision Regulations, the Subdivision Regulations shall prevail. All work done under this agreement is to be performed in accordance with plans, grades and specifications approved by the TOWN and is made a part hereof.

11. Agreement not Assignable

No third party shall obtain any benefits or rights under this agreement nor shall the rights or duties be assigned by either party.

12. Revocation and Interpretation

This agreement shall bind DEVELOPER when executed by DEVELOPER and may not be revoked by DEVELOPER without permission of the TOWN, even if the agreement has not been executed by the TOWN, or does not bind TOWN, for other reasons. This agreement shall be interpreted in accordance with Tennessee law and may only be enforced in the Chancery Court or Circuit Court or Court of competent jurisdiction of Cheatham County, Tennessee, and Tennessee appellate courts

13. No Oral Agreement

This agreement may not be orally amended and supersedes all prior negotiations, commitments or understandings. Any written modification to this agreement must be approved by the Kingston Springs Board of Commissioners.

14. Separability

If any portion of this agreement is held to be unenforceable, the TOWN shall have the right to determine whether the remainder of the agreement shall remain in effect or whether the agreement shall be void and all rights of the DEVELOPER pursuant to this agreement terminated.

15. Transferability

The DEVELOPER and/or Owner agrees that he will not transfer the property on which this proposed subdivision is to be located without first providing the TOWN with notice of when the transfer is to occur and who the proposed transferee is, along with appropriate address and telephone numbers. If it is the transferee's intention to develop this subdivision in accordance with the agreement, the DEVELOPER agrees to provide the TOWN an Assumption Agreement whereby the transferee agrees to perform the improvements required under this agreement and to provide the security needed to assure such performance. Said agreement will be subject to the approval of the TOWN Attorney. The DEVELOPER and/or Owner understand that if he transfers said property without providing the notice of transfer and Assumption Agreement as required herein, he will be in breach of this agreement and in violation of the subdivision regulations. The DEVELOPER further agrees that he shall remain liable under the terms of this agreement though a subsequent sale of all or part of said property occurs, unless an Assumption Agreement is entered into between the new owners and the TOWN and a new agreement and Performance Bond is issued naming the new owners as principal.

16. Covenants, Conditions and Restrictions to Be Filed

As may be applicable, the DEVELOPER will submit a Declaration of Covenants, Conditions and Restrictions and Charter issued by the Secretary of State of Tennessee, together with the By-Laws of Home Owners'/Owners' Association, to be filed with and recorded with the final plat. The Declaration of Covenants, Conditions and Restrictions shall contain all provisions required by the Zoning Ordinances, of the TOWN and shall include provisions for a Home Owners' Association to maintain all detention or retention ponds, common drainage ditches and any and all common areas. The Declaration of Covenants, Conditions and Restrictions shall contain provisions for the TOWN, to have the right, but not the obligation, to enforce any restrictions dealing with health, safety, and welfare which could be, otherwise, enforced by any land owner of record in the development. The Declaration of Covenants, Conditions and Restrictions shall also contain provisions

for assessments of property for maintenance of common areas and provisions for enforcement of the assessments by liens, removal of voting rights, and enforcement at law and equity. The Declaration of Covenants, Conditions and Restrictions shall make adequate and sufficient provisions for the maintenance of any detention ponds or drainage areas to include an amortizing of maintenance costs to be provided to the Home Owners' Association by the DEVELOPER at the time of the establishment of the Home Owners' Association. The Declaration of Covenants, Conditions and Restrictions shall run with the land and must be approved by the Planning Commission, prior to recordation, as a part of the final plat.

17. Conveyance of Common Area and Open Space

Upon recordation of the final plat, followed by the recordations required in I(16) herein, all open space and common area not to become a facility or property conveyed to the TOWN, to vest in a Home Owners'/Owners' Association, shall be conveyed by deed by the DEVELOPER to such Association and be sufficiently described so as to create an identifiable separate taxing parcel by the Assessor's Office for Cheatham County, Tennessee. Notwithstanding, the Assessor may elect to tax the common area fractionally with the individual lots of the PROJECT.

18. Time Period for Construction

In consideration of the promise by the TOWN to accept for future maintenance facilities which become public and other infrastructure covered by this agreement the DEVELOPER agrees to be bound to complete within two (2) years, all improvements shown on the plat and plans and all things required by this agreement. The DEVELOPER further agrees that if due to unforeseen circumstances, he is unable to complete all work included in this agreement within the time specified above, but desires to complete said agreement to the satisfaction of the TOWN, he will submit a written request for extension of the agreement period to the TOWN at least ninety (90) days prior to the expiration of the existing agreement period, specifying the reason for his failure to complete the work as agreed and a prospective date for such completion. The DEVELOPER further agrees that if the bond (Letters of Credit) executed to secure the value of the work to be performed under this agreement and said bond (Letter of Credit) due to inflation and/or rising costs, is inadequate to secure the cost of said improvements at the time an extension is sought, he will provide the additional security to bring the bond amount in line with current cost projections as made by the TOWN. The TOWN agrees that it will not unreasonably withhold approval of extensions where the DEVELOPER has complied with the requirements of notice to the TOWN and provided the required additional security, if any be needed. The DEVELOPER understands that his failure to follow this extension procedure constitutes a breach of this agreement and places him in violation of the subdivision regulations. The DEVELOPER further understands that should he fail to complete any part of the work outlined in this agreement in a good and workmanlike manner as approved the TOWN shall reserve the right to withhold

and withdraw all building permits and/or sewer service within the subdivision until all items of this Agreement have been fulfilled by the DEVELOPER.

## II. DESIGN AND APPROVAL

### 1. Contents of Plans

The DEVELOPER shall cause to be prepared and submitted to the TOWN, plans (the "Plans") describing in reasonable detail all utility systems, the storm drainage system, and street system improvements necessary to provide adequate services to the Project (hereinafter called the "IMPROVEMENTS"). The plans shall include all information required by the Subdivision Regulations and any other details as requested by the TOWN. It is recognized that the IMPROVEMENTS may be constructed in phases as the Project is developed. The DEVELOPER shall submit the Plans as provided herein for each phase and execute a separate DEVELOPMENT AGREEMENT for each phase.

### 2. Preparation of Plans

The Plans shall be prepared by an engineer licensed by the State of Tennessee to design all systems and shall bear the seal, signature and license number of the engineer preparing the Plans

### 3. Design Criteria

The design of water and sewer improvements shall follow the State of Tennessee design criteria. Drainage and streets shall be designed according to the Subdivision Regulations, all other applicable municipal specifications and ordinances and sound engineering judgment. In all cases, the specifications and design details for the Improvements shall be those of the TOWN and those as approved by the State of Tennessee Department of Environment and Conservation. In the event of a disagreement as to compliance with or interpretation of the Plans and the TOWN's specifications, the decision of the TOWN shall be final and binding on the DEVELOPER. The requisite sets of prints of the Plans shall be submitted by the DEVELOPER to the TOWN. The TOWN agrees to review the drawings and Plans so submitted in a timely manner. DEVELOPER agrees to make all revisions to the Plans as required by the TOWN. Following review and approval of the Plans, or following review and approval of revised Plans if revisions have been required, a representative of the TOWN will sign the Plans. The DEVELOPER must then submit the Plans, as approved by the TOWN Engineer, to the Tennessee Department of Environment and Conservation for approval. The TOWN will require a copy of the State approval letter for sewer and water, along with three (3) copies of the State approved (stamped) Plans before the DEVELOPER may commence work.

## III. COMMENCEMENT OF CONSTRUCTION

Construction of Improvements may not begin until the following events have occurred:

1. The Plans are approved by the TOWN, and all necessary facets of platting and construction plan approval, through the Planning Commission, have been completed.
2. The Tennessee Department of Environment and Conservation has approved the applicable portions of the Plans and has confirmed its approval to the TOWN and/or DEVELOPER in writing.
3. If required, the review fee described in Paragraph XIV (FEES), hereof, has been paid in full.
4. The TOWN has received three (3) copies of the State-approved Plans.
5. The TOWN has approved the DEVELOPER's choice of a contractor.
6. The TOWN shall have received the surety bond described in Paragraph 2, of Section 1, hereof.
7. The pre-construction conference described in Paragraph 3, hereof has been held. The DEVELOPER shall give the TOWN notice of commencement of construction, in writing at least five (5) days prior to commencement.

#### IV. CONTRACTOR

The improvements shall be installed in accordance with the Plans, approved as provided above, by a CONTRACTOR licensed by the State of Tennessee, as a utility CONTRACTOR and acceptable to the TOWN. Prior to the beginning of construction, the DEVELOPER shall submit to TOWN the DEVELOPER's choice of CONTRACTOR(S), and the TOWN will, upon verification of license and work performance, either approve or disapprove DEVELOPER's CONTRACTOR, in writing. Approval or disapproval shall be at the total and absolute discretion of the TOWN. TOWN within the context of this section shall mean the City Manager or designee of the City Manager. If approval is withheld, the DEVELOPER must choose another CONTRACTOR and the process of approval shall begin again and shall continue until the TOWN approves a CONTRACTOR. After the TOWN has approved the CONTRACTOR, the DEVELOPER shall convene a pre-construction meeting at the TOWN offices or such other TOWN designated location, at a time mutually acceptable to the parties. This meeting is required before construction may begin.

#### V. CONSTRUCTION

The DEVELOPER shall be responsible for construction of the Improvements, providing all labor, materials, construction supervision and equipment necessary to construct and install the Improvements. The TOWN will not be responsible for the sale of materials to the DEVELOPER. It will be the responsibility of the DEVELOPER to purchase the necessary materials through a reputable vendor. The work indicated on the development plans is to be performed in accordance with plans, grades and specifications approved by the TOWN and

made a part hereof, and according to the specifications contained within such plans, the Subdivision Regulations, and the requirements of this section.

1. Utilities

a. Water System

SECOND SOUTH CHEATHAM UTILITY DISTRICT is the utility providing potable water to serve the PROJECT. DEVELOPER agrees to pay the cost of water mains and accessories to serve the subdivision plus the water mains and accessories within the subdivision including service lines and accessories from main to the meter center for each lot within the subdivision. The Developer further agrees to install fire hydrants of the type and at the locations approved by SECOND SOUTH CHEATHAM UTILITY DISTRICT and the TOWN in the Plans. The DEVELOPER further agrees to pay the cost of all engineering, inspection and laboratory testing costs incidental to the water service in or to the subdivision. The DEVELOPER shall be responsible for the cost of any and all relocation, adjustment, modification, installation and/or removal of utilities brought about as a result of the development of the project, both on and off site. As a part of constructing the Improvements, the DEVELOPER shall install, in accordance with the Plans and SECOND SOUTH CHEATHAM UTILITY DISTRICT specifications, all water service taps, fire lines, and all facilities, equipment and accessories relating thereto necessary to provide water service to the Project. DEVELOPER shall fully perform pursuant to his contract and approvals with SECOND SOUTH CHEATHAM UTILITY DISTRICT.

b. Sewer System

As applicable, DEVELOPER agrees to pay the cost of necessary facilities to a State approved sewage system complete with necessary pump stations, force mains and with manholes, outside the boundary of the subdivision as approved by the TOWN. The DEVELOPER further agrees to pay the cost of sewer mains, manhole, and sewer service laterals from the sewer main to the property line of each unit within the development as approved by the TOWN upon the subdivision plans and specifications. The DEVELOPER further agrees to pay the cost of all engineering, inspection and laboratory testing costs incidental to the sewer service in or to the subdivision. The DEVELOPER shall be responsible for the cost of any and all relocation, adjustment, modification, installation and/or removal of utilities brought about as a result of the development of the project, both on and off site. As a part of constructing the Improvements, the DEVELOPER shall install, in accordance with the Plans and TOWN specifications, all water service taps, sewer service, and all facilities, equipment and accessories relating thereto necessary to provide utility service to the Project. DEVELOPER and approved DEVELOPER's contractor shall adhere to the TOWN's policy and

procedures as set forth in all applicable ordinances and resolutions heretofore adopted by the TOWN.

c. Gas System

Should the PROJECT be served by natural gas, the DEVELOPER, or the natural gas provider, agrees to pay the cost of an approved natural gas distribution system that is to be constructed utilizing materials and construction standards established by the gas supplier. The DEVELOPER shall fully perform pursuant to his contract with the gas system franchisee utility, Greater Dickson Gas Authority, and approvals given by it and further agrees that the gas distribution system will be installed so as to meet the all requisite conditions and specifications.

d. Electric System

DEVELOPER to perform as required by Town of Dickson Electric Department to serve the PROJECT with sufficient electric utility service.

e. Telephone, Cable Television and Other Communications

Perform as DEVELOPER may be required by such third party entity or by contract with said provider. CATV must be coordinated between TOWN and franchise holder.

2. Storm Drainage

The DEVELOPER shall be responsible for all drainage work, including ditch paving, bank protection, and fencing adjacent to open ditches made necessary by the development of this subdivision.

- A. The DEVELOPER shall provide and deliver the formal written opinion of a licensed and bonded professional engineer certifying that he has reviewed the entire water shed wherein the subdivision is located and that upon full development at the greatest allowable use density under existing zoning of all land within that watershed, the proposed subdivision will not increase, alter or affect the flow of surface waters, nor contribute to same, so as to damage, flood or adversely affect any property. Further, the DEVELOPER agrees to hold harmless and defend the TOWN from any claim, cause of action or liability, alleged and/or proven, to have arisen directly or indirectly from alteration to the surface water by reason of the DEVELOPER's design, construction, installation or the development itself, in whole or part.
- B. The DEVELOPER shall provide necessary erosion control such as seeding for gentle slopes, grass sod for sharper slopes with special grading and terracing to the published design standards and specifications of the TOWN.

All freshly excavated and embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required by the TOWN to prevent erosion. In the event the TOWN determines that necessary erosion control is not being provided by the DEVELOPER, the TOWN or other proper governing authority, such as the Tennessee Department of Transportation, as may be applicable, shall officially notify the DEVELOPER of the problem. If the DEVELOPER has not begun to provide satisfactory erosion control within fifteen (15) days after the notice, then the proper governing authority shall make the necessary improvements to eliminate the erosion problems, documenting all expenses incurred performing the work. Prior to releasing any securities covering this subdivision, all expenses incurred by the governing authority shall be paid in full by the DEVELOPER.

- C. Any and all unenclosed water courses lying partially or wholly within the bounds of this subdivision shall be constructed to adequate cross section to provide design flow without threat of erosion or flooding of any property within this subdivision, or of any adjoining property.
- D. All drainage structures necessitated by the road plans of this development that affect any watercourse lying partially or wholly within vision are to be provided by the DEVELOPER.
- E. It is understood and agreed that the TOWN in its proprietary function is not and could not be expected to oversee, supervise, and/or direct the construction of all drainage improvements, and the excavation incident thereto. Neither is the TOWN vested with the original design responsibility nor the means to formally survey elevations or the locations of improvements at every stage of the construction process. The TOWN is vested with the right of periodic inspections, final approval and stop work order as a measure of secondary or subsequent enforcement. Rather, the DEVELOPER now has and shall retain the responsibility to properly anticipate, survey, design and construct the subdivision surface water drainage improvements and give full assurance that same shall not adversely affect the flow of surface water from or upon any property. In providing technical assistance, plan and design review, the TOWN does not and shall not relieve or accept any liability from the DEVELOPER.

3. Street Construction

The DEVELOPER, hereby, agrees to construct and improve the streets shown on the Plans to comply with the construction standards of the TOWN and to the satisfaction of the road superintendent and approval of the TOWN Engineer by grading, draining, subgrade preparation, base preparation, curb and gutter, sidewalk installation and paving with the required amount of material the full required width. The DEVELOPER further agrees to pay the cost of all engineering, inspection and

laboratory cost incidental to the construction of subdivision streets including but not limited to material and density testing. While the proposed street, Avalon Drive, is a public way, it is a "private" street/roadway to be kept and maintained by the Owners' Association. The TOWN is in no manner obligated to provide maintenance to the public way, private in nature.

- A. It is agreed and understood that all grading within the street right-of-way and public easements shall be completed before the utilities are installed.
- B. The DEVELOPER further agrees to furnish and install asphalt base and a final asphalt surface course (wearing surface) in accordance with the Subdivision Regulations. The final surface shall be placed at least one (1) year (twelve (12) consecutive months) after acceptance of the streets, but not more than two (2) years (twenty-four (24) consecutive months) unless a time extension is requested, and approved by the TOWN. The DEVELOPER may request to install final surface within the first twelve months of acceptance if building activity is seventy-five (75) percent complete or otherwise specifically approved by the TOWN.
- C. The DEVELOPER further agrees to install permanent street signposts and markers at all intersections in said subdivision. The plans and specifications for said street signpost and lettering can be obtained from the TOWN. Location of street signs to be installed will be at the direction of the Director of Public Works. Variance from standard street sign type shall be approved by the Director of Public Works.
- D. The DEVELOPER further agrees to make all necessary adjustments to manholes and valve boxes to meet finished surface grade and to repair subsurface or base material, as required, in areas recommended by TOWN, prior to application of final surface. It is further agreed and understood that if it is not necessary to change the existing grade or disturb the pavement of an existing street or road, the DEVELOPER shall only be required to construct drainage, grade and gravel to match the existing pavement and construct sidewalks and curb and gutter as required. If the existing grade is changed, the DEVELOPER shall be required to grade and gravel the full width of said street.

VI. OFF-SITE IMPROVEMENTS (UTILITIES)

The DEVELOPER shall construct any and all off-site facilities that may be required to serve the Project, not including any additions, improvements and upgrades. Unless specifically noted in the Plans and made a part of this agreement, the TOWN shall not be required to reimburse the DEVELOPER for construction of off-site Improvements.

VII. INSPECTION AND COMPLIANCE

After construction begins, the TOWN shall provide on-site construction inspection as the TOWN deems necessary to insure that all work is performed and completed in accordance with the Plans, the TOWN'S specifications and the contents of this agreement. In the event of a disagreement as to compliance with or interpretation of the Plans and the TOWN's specifications, the decision of the TOWN shall be final and binding on the DEVELOPER. If the DEVELOPER fails to construct in accordance with the approved Plans or to comply with the TOWN's specifications, the TOWN may issue a stop-work order and DEVELOPER hereby agrees to be bound by such order.

VIII. TESTING

The DEVELOPER agrees to pay the cost of all engineering, inspection and laboratory costs incidental to construction of the improvements included within this agreement. Such testing includes, but is not limited to, material and density testing.

IX. SCRAP REMOVAL

The DEVELOPER agrees that he will haul all scrap building materials, debris, rubbish, and other degradable materials to an authorized landfill and not bury such materials within the limits of the subdivision.

X. ACCEPTANCE (ROADS & UTILITIES)

As may be applicable and at such time as the improvements have been constructed and installed, in accordance with the Plans and specifications, required testing has been accomplished and the test results found satisfactory, and all clean-up and cover-up has been done to the satisfaction of the TOWN's engineer a letter of tentative acceptance of construction will be provided the DEVELOPER. Formal acceptance shall follow the procedure established in the Subdivision Regulations. Prior to acceptance of the project improvements which shall become public by the TOWN, the DEVELOPER shall deliver to the TOWN a certificate stating that all subcontractors and material suppliers furnishing labor and/or material for the improvements required under this agreement have been paid in full.

The DEVELOPER agrees he shall have no claim, direct or implied, in the title or ownership of the improvements specified in this agreement when the approved improvements are completed and thereafter accepted by the TOWN. The TOWN, upon final approval and acceptance, will take full title to the public improvements and will provide maintenance thereafter, except that the DEVELOPER will be responsible for construction failures and defects in the subdivision for one (1) year after the date of final acceptance of the subdivision construction. During this period, it shall remain the responsibility of the DEVELOPER to correct and cure these defects and failures. All warranties for any component(s) of a facility in excess of one year shall be transferred for the TOWN's benefit thereunder.

This PROJECT's wastewater facility requires full construction and be operational prior to acceptance in addition to all other requisite inspections, testing and bonding set forth herein.

XI. WARRANTY

The DEVELOPER warrants that all installed facilities are free from defects in design, materials or workmanship for a period of one (1) year from the date of written acceptance by the TOWN. Further, the DEVELOPER shall immediately repair, at its own costs, all defects of any type whatsoever which occur within one (1) year from the date the facilities are accepted in writing by the TOWN. The TOWN shall have the right to make repairs or have others make the repairs at the expense of the DEVELOPER, if the TOWN deems it necessary. The DEVELOPER shall pay for all work, labor, materials and all other expenses of the facilities in a timely manner and this shall include any amounts that exceed the letter-of-credit. If the DEVELOPER does not pay in a timely manner, the DEVELOPER hereby authorizes the TOWN to call payable its letters-of-credit, without any formal or further action, and to make the payments that are due for the facilities whether the debts are secured by a valid lien.

The Developer further agrees to execute a maintenance bond (Letter of Credit) with good security to be approved by the Board of the TOWN and City Attorney in the amount of twenty-five (25) percent of the construction cost of the facilities being offered for dedication. Ten (10) months after final acceptance of the facilities included in the offer of dedication, an inspection will be made by the TOWN to determine and list any defects or failures of improvements within the subdivision. All failures or defects, if any, shall be repaired within thirty (30) days after which the bond will be released and cancelled by TOWN.

XII. EASEMENTS

The DEVELOPER shall obtain and dedicate to the TOWN or cause to be dedicated to the TOWN, either by dedication on the plat or by easement deed, in either case in form acceptable to the TOWN, permanent easements of such widths as required by the TOWN and noted on the Plans. The DEVELOPER or the Owner further agrees that he will grant the necessary easement and rights-of-way across his properties without expense to the TOWN and waive any claim for damages.

XIII. AS-BUILT DRAWINGS AND POST-COMPLETION ITEMS

The DEVELOPER agrees to furnish to the TOWN as-built plans, on a reproducible, stable media, of all improvements within the subdivision before the TOWN shall accept such improvements.

XIV. FEES

Review fees established by the TOWN shall be paid prior to any review of the Plans. No construction or grading of any sort shall be begun prior to approval of such plans. Any

applicable pass through fee for engineering, legal or otherwise necessary under the TOWN's ordinances shall be paid within thirty (30) days of submitted to DEVELOPER.

XV. INDEMNITY

The DEVELOPER shall indemnify and hold the TOWN harmless from all loss, costs, expenses, liability, money damages, penalties or claims arising out of any work covered by this agreement, including any attorney fees incurred by the TOWN in connection therewith. Inspection of the Improvements by an authorized representative of the TOWN shall not constitute a waiver by the TOWN of any defect or of any of the DEVELOPER's obligations hereunder.

XVI. REMEDIES

In the event of a default in the performance by either party of its obligation hereunder, the other party, in addition to any and all remedies set forth herein, shall be entitled to all remedies provided by law or in equity, including the remedy of specific performance or injunction.

XVII. BINDING EFFECT

The covenants and agreements herein contained shall bind and endure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns, as appropriate.

XVIII. ENTIRE AGREEMENT

This document contains the entire agreement between the parties, and there are no collateral understandings or agreements between them, and no variations or alterations of the terms of this agreement shall be binding upon either of the parties, unless the same be reduced to writing and made an amendment to this agreement.

XIX. HEADINGS

Paragraph titles and headings contained herein are inserted for convenience only and shall no be deemed a part of the Agreement and in no way shall define, limit, extend or describe the scope or intent of any provision hereof.

XX. NOTICES

Any notice or other communication required to be given hereunder shall be in writing and delivered personally or sent by United States Certified Mail, return receipt requested, or sent by Federal Express Delivery Service, addressed to the TOWN at City Hall and addressed to the DEVELOPER at the address set forth below, or such other address as either party may hereafter give the other, to wit:

TO THE TOWN:

Town of Kingston Springs  
396 Spring Street  
P.O. Box 256  
Kingston Springs, Tennessee 37082

with a copy to:

Larry D. Craig, City Attorney  
305 Fourteenth Avenue North  
Nashville, Tennessee 37203

TO THE DEVELOPER:

Ronald B. Merville, Jr.  
LaDonna M. Merville  
8 Westlake Drive  
Nashville, Tennessee 37205

with a copy to:

XXI. TRAFFIC CONTROL

All traffic control and safety devices, including signs, lane markings, and barriers necessitated by any and all construction activity undertaken pursuant to this agreement shall be installed and maintained by the DEVELOPER. All traffic control devices shall meet the standards and be installed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways published by the United States Department of Transportation. The TOWN is under no obligation to furnish its employees for traffic control, absent a separate contract with the TOWN.

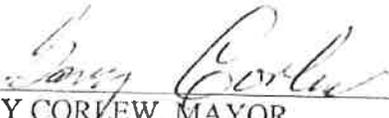
XXII. TEMPORARY FACILITIES

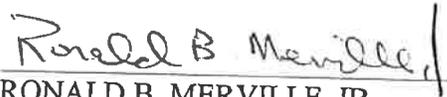
The DEVELOPER shall provide all temporary facilities, including but not limited to utilities and roadways, that are determined by the TOWN to be required in connection with and/or as a result of interruption of service or access that occurs as a consequence of construction activity associated with the work covered by this agreement. Such temporary services shall in all regards and at all points in time be adequate to assure emergency access and adequate fire flows.

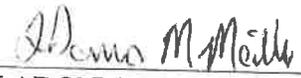
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in multiple originals by persons properly authorized so to do on or as of the day and year first given.

TOWN OF KINGSTON SPRINGS  
(COUNTY OF CHEATHAM), TENNESSEE

OWNER/DEVELOPER:

BY:   
GARY CORLEW, MAYOR

  
RONALD B. MERVILLE, JR.

  
LADONNA M. MERVILLE

APPROVED AS TO FORM:

BY:   
LARRY D. CRAIG, CITY ATTORNEY

**EXHIBIT "A"**  
**TO**  
**ELLERSLY**  
**DEVELOPMENT AGREEMENT**

**BONDING SCHEDULE**

## ADDENDUM

Ronald B. Merville, Jr. and wife, LaDonna M. Merville, Developers of the following:

Being a tract of land in the Eleventh Councilmanic District of Cheatham County, Tennessee, and located in the Town of Kingston Springs on the south margin of West Kingston Springs Road, west of north main street (Aiken Ave) and being more particularly described as follows:

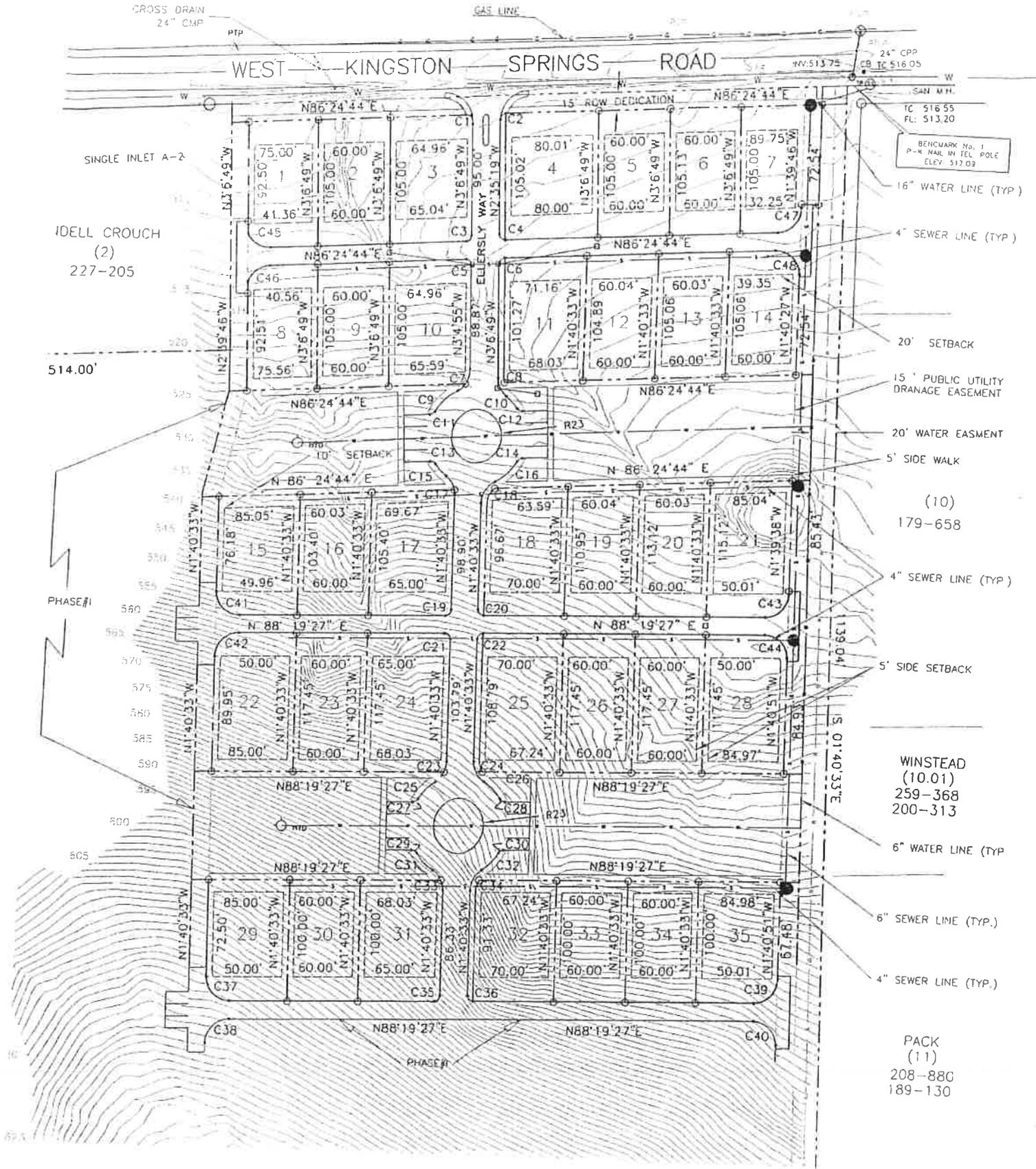
Beginning on a iron pin on the south margin of West Kingston Springs Road; and being westerly 800 feet, more or less, from intersection of the westerly right-of-way of North Main Street and the south right-of-way of West Kingston Springs Road and said iron pin being the northeast corner of the herein described tract and the northwest corner of Wahl as evidenced in Deed Book 363, Page 23, in the Register's Office for Cheatham County, Tennessee (ROCC), thence leaving said margin and along Wahl's line and along the west line of Moore Circle Subdivision Lots 4, 5 and 6, also being the east line of the herein described Tract S 01 deg. 40' 33" E a distance of 1139.04 feet to an iron pin, said pin being the southeast corner of the herein described tract, thence along the south line of the herein described tract, N 88 deg. 25' 08" W a distance of 957.00 feet to an iron pin, said pin being in the east line of Finch as evidenced in Deed Book 96, Page 42 (ROCC) and said pin being the southwest corner of the herein described tract, thence; along the common line of Finch and the herein described tract N 12 deg. 26' 10" W a distance of 297.00 feet to an iron pin, said pin being the northeast corner of Finch and the southeast corner of Baker as evidence in Deed Book 283, Page 119 (ROCC), thence; along the common line of Baker and the herein described Tract N 02 deg. 44' 22" W a distance of 289.00 feet to an iron pin said iron pin being the southwest corner of Marvin Crouch as evidenced in Deed Book 217, Page 877 (ROCC), thence along the south line of Marvin Crouch passing Marvin Crouch's southeast corner at 296 feet more or less and continuing with Wendell Crouch's south line and passing Wendell Crouch's southeast corner at an additional 199 feet, more or less, and continuing along with the south line of a 19 foot wide strip, all being with the north line of the herein described tract N 87 deg. 14' 30" E a total distance of 514.00 feet to an iron pin being the southwest corner of Plunkett as evidenced in Deed Book 75, Page 317, (ROCC), thence; along the east line of the 19 foot wide strip, being the west line of the herein described tract N 03 deg. 26' 13" W a distance of 205.33 feet to an iron pin, said pin being in the south margin of West Kingston Springs Road, thence; along the south margin of West Kingston Springs Road and the north line of the herein described tract N 86 deg. 24' 44" E, a distance of 526.80 feet to an iron pin, the point of beginning, containing 23.123 acres, more or less, according to a survey by Jesse E. Walker, RLS, PE, dated 07/25/96, RLS #1486.

Being the same property conveyed to Ronald B. Merville, Jr. and wife, LaDonna M. Merville, by deed of record in Record Book 203, Page 565, Register's Office for Cheatham County, Tennessee.

**Phase One is a portion of the aforescribed property.**

See attachment reflecting 35 lots for first of multi-phase development.

ADDENDUM ATTACHMENT



BENCHMARK No. 1  
P-K NAIL IN TEL POLE  
ELEV. 517.03

16" WATER LINE (TYP)

4" SEWER LINE (TYP)

20' SETBACK

15' PUBLIC UTILITY  
DRAINAGE EASEMENT

20' WATER EASEMENT

5' SIDE WALK

(10)  
179-658

4" SEWER LINE (TYP)

5' SIDE SETBACK

WINSTEAD  
(10.01)  
259-368  
200-313

6" WATER LINE (TYP)

6" SEWER LINE (TYP.)

4" SEWER LINE (TYP.)

PACK  
(11)  
208-880  
189-130

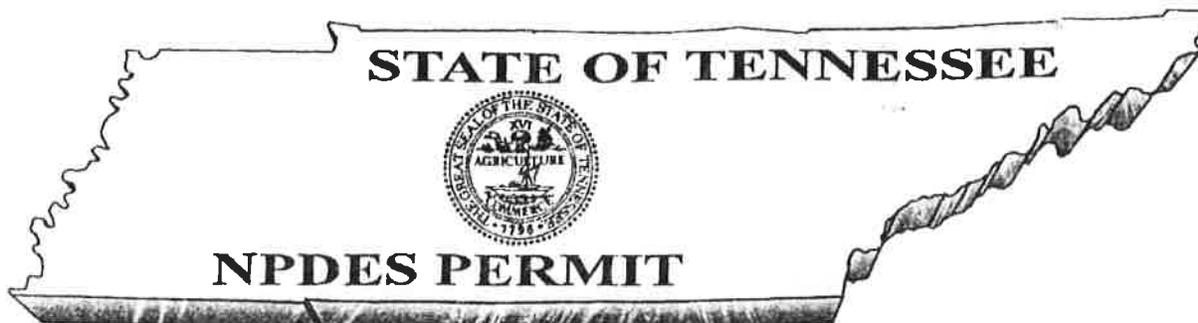
SINGLE INLET A-2  
IDELL CROUCH  
(2)  
227-205

514.00'

PHASE #1

605

PHASE #1



**Tracking No. TNR144975**

General NPDES Permit for  
**STORM WATER DISCHARGES ASSOCIATED WITH  
CONSTRUCTION ACTIVITY**

Tennessee Department of Environment and Conservation  
Division of Water Pollution Control  
401 Church Street, 6th Floor, L&C Annex  
Nashville, Tennessee 37243-1534

Under authority of the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.) and the delegation of authority from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.):

Name of the Construction Project: **Ellersly**  
Construction site Owner/Developer: **Ronald B. Merville, Jr.**

is authorized to discharge storm water associated with construction activity

from site located at: **450 West Kingston Springs Road, Kingston Springs,  
Cheatham County, TN**  
to receiving waters named: **Harpeth River**

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

Likely presence of threatened or endangered species in 1 mile radius: **YES**  
Likely presence of threatened or endangered species downstream: **YES**

Additional pollution prevention requirements apply for discharges into waters which TDEC identifies as:  
a) impaired: **NO**                      b) discharging into High Quality Waters: **YES**

Coverage under this general permit shall become effective on November 3, 2006, and shall be terminated upon approval of Notice of Termination, or the date of expiration of this General Permit.

Paul E. Davis, Director  
Division of Water Pollution Control

Dolores Moulton, Register  
Chestham County Tennessee  
Rec #: 143736 Instrument #: 99923  
Rec'd: 310.00 Recorded  
State: 0.00 6/5/2007 at 9:00 AM  
Clerk: 0.00 in Record Book  
EDP: 2.00 250  
Total: 312.00 Pgs 1-62

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
ELLERSLY  
A PLANNED UNIT DEVELOPMENT  
TOGETHER WITH  
APPENDED BY-LAWS  
FOR  
ELLERSLY HOMEOWNERS ASSOCIATION, INC.**

**THIS INSTRUMENT PREPARED BY:**

Larry D. Craig, Attorney at Law  
CRAIG & DRAKE  
305 Fourteenth Avenue, North  
Nashville, Tennessee 37203  
(615) 320-5577

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**DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
FOR  
ELLERSLY  
A PLANNED UNIT DEVELOPMENT**

This Declaration is made as of the 8<sup>th</sup> day of March, 2007 by Ronald B. Merville, Jr. and wife, LaDonna M. Merville ("Declarant"), with reference to the following facts:

RECITALS

- A. Declarant is the owner of the Real Property located in Cheatham County, Tennessee, and as described in **Exhibit "A"** attached hereto.
- B. Declarant is the developer of the Property and the Additional Property.
- C. Declarant may, in its sole discretion and without the obligation, by one or more supplemental filing pursuant to the provisions of Section 16.01 (A) of this Declaration, make all or any portion of the Additional Property subject to this Declaration and part of the Project.
- D. Declarant intends to improve the Property as a Planned Unit Development by dividing the Property into Lots appropriate for single-family dwellings.
- E. Declarant intends to develop the Project in multiple stages under a common scheme and general plan for the improvement and maintenance of the Project as generally reflected by an approved master plan by the Kingston Springs Municipal Regional Planning Commission.
- F. For this purpose, Declarant intends to subject the Property (and any portion of the additional Property or other additional property as shall, from time to time, be annexed to the Project in accordance with the provisions of this Declaration) to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in this Declaration, for the benefit of the Project and the future owners thereof.
- G. Declarant deems it desirable for the management and administration of the planned development and for the preservation of the values and amenities of the planned unit development to incorporate the Ellersly Homeowners Association, Inc., a non-profit mutual benefit corporation under the laws of the State of Tennessee for the purposes of administering and enforcing the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration or by the Charter of Incorporation and By-laws of the Association.

NOW, THEREFORE, Declarants do hereby declare as follows:

ARTICLE 1  
DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.01. Additional Property. "Additional Property" means that certain residential real property, not including the Property, shown on the Plan, located in Cheatham County, Tennessee, consisting of approximately 23.123 acres, all or a portion of which may be made subject to this Declaration and annexed into the Project pursuant to the provisions of the Kingston Springs Municipal-Regional Planning Commission, consisting of approximately 23.123 acres, all or a portion of which may be made subject to this Declaration and annexed into the Project pursuant to the provisions of Section 16.01 (A) of this Declaration.

1.02. Articles. "Articles" means the Articles of Incorporation of the Association, including any amendments thereto.

1.03. Association. "Association" means the Ellersly Homeowners Association, Inc., a Tennessee non-profit mutual benefit corporation, its successors and assigns. The charter issued by the Secretary of State of Tennessee is of record in Record Book 234, Page 139, Register's Office for Cheatham County, Tennessee.

1.04. Board. "Board" means the Board of Directors of the Association.

1.05. Builder. "Builder" means any Person who purchases one or more Lots from Declarant for the purpose of construction a Home thereon for later sale to consumers in the ordinary course of such Person's business and who is designated as a Builder by Declarant by an instrument recorded in the Register's Office for Cheatham County, Tennessee.

1.06. By-Laws. "By-Laws" means the By-Laws of the Association and any amendments thereto.

1.07. City. "City" means the Town of Kingston Springs, Tennessee.

1.08. Committee. "Committee" means the Architectural Control Committee established and empowered as provided in Article 14 hereof.

1.09. Common Area. "Common Area" means all property, whether improved or unimproved, real and personal, or any easement, use right, maintenance obligation, or other property right or obligation therein, owned or held by the Association for the common use, enjoyment, or obligation of its Members, including without limitation (i) the Open Space Areas and the Storm water Detention Areas, (ii) any Project screening or decorative wall designated for common maintenance by Declarant, (iii) any Project entrance monuments, right-of-way landscaping, irrigation systems, drainage facilities, detention ponds, and such other Improvements and facilities lying within dedicated public easements or rights-of-way adjacent to the Project as may be designated by the City for Association maintenance or as deemed appropriate by the Board for the preservation, protection and enhancement of the Project.

1.10. Completion of Sales. "Completion of Sales" means the earlier of (1) conveyance of all Lots in the Project to purchasers other than a successor Declarant or Builder hereunder or (2) a Lot; provided, however, if Declarant is delayed in developing the Project, constructing Improvements or selling Lots and dwellings due to strikes or work stoppages; shortages of materials, supplies, land use permits and approvals or affecting the availability of water, sewer, power or other utilities or necessary services; inclement weather; civil strife; major disaster or other cause beyond Declarant's reasonable control, the time periods shall be extended by the period of any such delay.

1.11. County. "County" means Cheatham County, Tennessee

1.12. Declarant. "Declarant" means Ronald B. Merville, Jr. and wife LaDonna M. Merville general partnership, and any successor or assign to whom Ronald B. Merville, Jr. and wife LaDonna M. Merville assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the County.

1.13. Declaration. "Declaration" means this Declaration and all amendments or supplements hereto.

1.14. Development Plan. "Development Plan" means the development plan proposed by Declarant for the Property, as such may be updated or amended from time to time by Declarant with the approval of the applicable governmental authorities. The first phase of development consisting of 35 lots of the Development Plan is reflected by the plan entitled "**Ellersly Phase I, Kingston Springs, Cheatham County, Tennessee**", a copy of which is attached hereto as Exhibit "A-1" and incorporated herein by this reference (the "Site Plan"). The Site Plan may be updated or amended from time to time, to reflect the then current Development Plan for the Property.

1.15. Final Plat. "Final Plat" means the final subdivision plat approved by the City, for a portion of the Property which is recorded in the Register's Office for Cheatham County, Tennessee in Plat Book 13, Page 256, to which reference is hereby made. It is this plat that this declaration is first made submitting 35 lots to be subject to this instrument.

1.16. Home. "Home" means a residential dwelling unit constructed upon a Lot within the Project intended as an abode for one family.

1.17. Improvement. "Improvement" means any building (including a Home), fence, wall, patio area, driveway, walkway, landscaping, antenna, sign, mailbox, pool, tennis court, or other structure or improvement which is constructed, made, installed, placed or developed within or upon, or removed from, any portion of the Project or any change, alteration, addition or removal of any such structure or improvement other than normal maintenance and repair which does not materially alter or change the exterior appearance, condition and color of same.

1.18. Lot. "Lot" means any numbered lot of land, together with any Improvements thereon, as delineated by any Final Plat, which contains or is intended to contain a Home.

1.19. Member. "Member" means a member of the Association.

1.20. Mortgage. "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Lot given to a bank, savings and loan association or other institutional lender for the purpose of securing indebtedness incurred to purchase or improve a Lot.

1.21. Mortgagee. "Mortgagee" means the holder of the beneficial interest in any Mortgage.

1.22. Notice and Opportunity for Hearing. "Notice and Opportunity for Hearing" means giving at least fifteen (15) days' prior notice of a proposed action and the reasons therefore, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

1.23. Open Space Areas. "Open Space Areas" means the real property and any Improvements thereon located within those portions of the Project designated as "Open Space" or "Common Area" on a Final Plat, as generally reflected by the Site Plan.

1.24. Owner. "Owner" means the record owner, whether one or more persons or entities, of fee simple title to any Lot, and shall include Declarant and any Builder as to any Lot owned by them. "Owner" shall not include any person or entity who holds an interest in a Lot merely as security for the performance an obligation or as a tenant.

1.25. Person. "Person" means an individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

1.26. Project. "Project" means the planned development known as Ellersly which shall be developed and constructed on the Property, and on so much of the Additional Property as shall from time to time be annexed thereto and made subject to this Declaration in accordance with the provisions of this Declaration.

1.27. Property. "Property" means that certain real property located in Cheatham County, Tennessee, consisting of approximately 23.123 acres of land, a portion thereof, as reflected upon the Final Plat, Phase One, Section One, Ellersly Subdivision, and any additional property as may be annexed pursuant to the provisions of Section 16.01 of this Declaration.

1.28. Rules and Regulations. "Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association.

1.29. Storm water Detention Areas. "Storm water Detention Areas" means the real property and any Improvements thereon located within those portions of the Project designated as Detention Pond or Storm water Detention/Common Area on a Final Plat, as generally reflected by the Master Plan.

1.30. Total Planned Lots. "Total Planned Lots" means the total number of Lots planned for the Property and the Total Property by the Development Plan as such may exist from time to time and as reflected by the Site Plan as such is updated from time to time to reflect the then current Development Plan.

1.31. Total Property. "Total Property" means collectively, the Property and the Additional Property.

1.32. Turnover Date. "Turnover Date" shall mean and refer to the earlier of (i) three (3) months after ninety percent (90%) of the Total Planned Lots have been improved with a Home and conveyed to an Owner other than a successor Declarant of Builder for use as a primary residence, or (ii) (a) the date on which Declarant records in the County Register's Office a document relinquishing its control of the Association to the member at large.

1.33. Voting Power. "Voting Power" means the total number of votes held by Members (in a class of Members of the Association, or of Members other than Declarant, as the case may be) whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of the Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting. All voting specifications and requirements shall apply to the entire project.

ARTICLE 2  
SUBMISSION AND TERM

2.01. Submission. The Property shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easement, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be (i) in furtherance of a common scheme and general plan for the development, improvement and maintenance of the Project and (ii) for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Project. All of the limitation, covenants, conditions, restrictions, easement, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding upon and inure to the benefit of the Property, shall be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in the Project, shall be binding upon and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

2.02. Incorporation of Declaration Into Instruments. Any deed or other instrument by which a Lot is conveyed shall be subject to the provision of this Declaration and shall be deemed to incorporate the provisions of this Declaration, whether or not the deed makes reference hereto.

2.03. Term. This Declaration shall remain in force for a term of thirty (30) years from the date this Declaration is recorded, after which time it shall be automatically extended for successive periods of ten (10) years, unless sooner terminated by the affirmative vote of seventy-five percent (75%) of the total Voting Power of the Association and the written consent of seventy-five percent (76%) of the Mortgagees.

ARTICLE 3  
COMPLIANCE WITH MANAGEMENT DOCUMENTS

3.01. Compliance with Declaration and Other Documents. Each Owner, resident or tenant of a Lot shall comply with the provisions of this Declaration, the By-Laws, Rules and Regulations duly adopted by the Association, decisions and resolutions of the Association and its duly authorized representative, all as may be amended from time to time, and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action to recover sums due for damages or for injunctive relief.

3.02. Resolution of Conflicts Between Documents. Each Owner covenants and agrees that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles, the By-Laws and Rules and Regulations duly adopted by the Association. If there are any matters of conflict or inconsistencies in the By-Laws, Articles and this Declaration, then the provisions of the Declaration shall prevail. In the event that anything shown on a Final Plat for all or any portion of the Project is in any way inconsistent with provisions of this Declaration, then the provisions of this Declaration shall prevail. If a dispute arises among Owners in regard to the administration of the Project, then the provisions of this Declaration shall prevail.

ARTICLE 4  
PROPERTY RIGHTS

4.01. Common Area Easements. Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area and of access to and from his Lot over any streets comprising a portion of the Common Area (if any). The foregoing rights and easements in and to the

Common Area shall be appurtenant to and shall pass with the title to a Lot, subject to the following rights and restrictions:

(A) The right of the Association to grant easements and to dedicate or otherwise convey all or any part of the Common Area as provided in this Declaration;

(B) The right of the Association to borrow money to improve, repair, restore, and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes, subject to the approval of Members and Mortgagees as otherwise provided in this Declaration;

(C) The right of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Area; and

(D) Easements for ingress, egress, use and enjoyment over, in, to and throughout the Common Area for the benefit of Declarant.

4.02. Delegation. Any Owner may delegate his rights of use and enjoyment of the Common Area and any facilities thereon to the members of his family or household residing on his Lot and to his guests and invitees while he is in possession of his Lot, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the By-Laws and the Rules and Regulations. Provided the notice required by Section 4.03 of this Declaration has first been given to the Association, a tenant of an Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Lot. No such delegation shall release an Owner from his obligations hereunder, including, without limitation, the obligation to pay regular and special assessments. Upon request, each Owner or tenant shall notify the Secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights of use and enjoyment of the Common Area and the relationship that each such person bears to such Owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of Owners.

4.03. Tenants.

(A) No Owner shall lease or rent less than an entire Lot and no more than one family shall live in the Home constructed on any one Lot. Subject to Section 7.32., the Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than ninety (90) days. Subject to the foregoing restrictions, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the By-Laws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the By-Laws, and the Rules and Regulations.

(B) In the event an Owner shall rent or lease his Lot such Owner shall immediately give to the Association in writing:

- (1) the name of the tenant and the Lot rented or leased;
- (2) the current address of such Owner;

(3) a true and complete copy of the lease or rental agreement; and

(4) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the By-Laws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant.

(C) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

4.04. Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area as may be adjacent thereto and between adjacent Lots for the flow of rainwater from gutters and downspouts; provided, however, that no such easement shall unreasonably interfere with the use and enjoyment of the Common Area, or any adjacent Lot. If any Common Area, or Lot encroaches upon a Lot because of the placement, construction, reconstruction, repair, movement, settling or shifting of the Improvements constructed, reconstructed or repaired in accordance with the provisions of this Declaration, an easement for the encroachment and for its maintenance shall exist to a distance of not more than (1) foot as measured from any point on the common boundary between the Common Area and the Lot or between Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall such an easement exist for willful encroachments. If any Lot Improvement encroaches upon the Common Area as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, an easement for the encroachment and for its maintenance shall exist so long as it remains.

4.05. Utility Easements.

(A) Easement for installation and maintenance of utilities, stormwater retention, detention ponds and open space areas are reserved as may be shown on a Final Plat. In addition to the platted easement, each Lot shall be subject to a five foot (5') drainage easement for the flow of stormwater runoff and drainage purposes along the side boundary lines of each Lot for the benefit of the Association and each of the Owners, including reasonable rights of access for persons and equipment to install, construct, maintain, alter, inspect, remove, relocate and repair any facilities or Improvements. Any easement for installation, maintenance, use or repair of public utilities or drainage facilities shall be kept free of buildings, and within such easements no structure shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public utilities or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible to Declarant until the Project is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities and drainage facilities.

(B) As long as a two-class voting structure is in effect, Declarant hereby reserves the right to grant perpetual, nonexclusive easements limited to the front ten (10) feet of each Lot and the rear ten feet of each Lot and the side five (5) feet of each Lot for the benefit of Declarant or its designees, and perpetual non-exclusive easements upon, across, over, through and under any portion of the common Area for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, cable television. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables or other improvements installed on or in such easements.

(C) Any recorded Final Plat may reflect further and additional easements which shall control for the purpose(s) so stated thereupon.

4.06. Declarant's Easement to Correct Drainage. Declarant hereby reserves for the benefit of Declarant a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant to correct or maintain any drainage facilities within the Property.

4.07. No Subdivision of Lots; No Time-Sharing. There shall be no further subdivision or partition of any Lot nor shall any Owner or any other person acquiring any interest in a Lot seek any partition or subdivision thereof. There shall be no time-sharing or other co-ownership which allows multiple Owners sequential possessory interests in a Lot.

4.08. Sale of Common Area. Except as otherwise provided in this Declaration, so sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of the Common Area shall occur or be valid, whether by act or omission of the Association, without (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than the Declarant.

4.09. Rules and Regulations. The Association, through the Board, shall have the right to adopt, publish and enforce Rules and Regulation governing the Project, and the use and enjoyment of the Common Area and any facilities thereon, and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants, which Rules and Regulations shall be consistent with the rights and duties established by this Declaration. Such Rules and Regulations as to the Common Area shall be binding upon all Owners, occupants, invitees, and licensees, if any, until and unless revised or cancelled by the Board or overruled, cancelled, or modified in a regular or special meeting of the Association by (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than the Declarant.

4.10. Enforcement. The Association shall have the right, after Notice and Opportunity for Hearing, to levy fines for infraction of the provisions of this Declaration or the Rules and Regulations, provided (i) the Member shall have been warned in writing of a previous infraction within the preceding one (1) year, and (ii) the fine conforms to the provisions of Section 9.12.

4.11. Association Easements.

(A) The Association is granted the right and easement to maintain, repair, replace and reconstruct any Project screening wall in substantially the same location as originally installed. Such easement rights shall include the right of access upon and across any portion of the Project as may be reasonably necessary to allow the performance of any such maintenance, repair, replacement, or reconstruction to any portion of such screening wall.

(B) The Association is granted the right and easement to maintain, repair, replace and reconstruct any Project entrance monument and related facilities, including without limitation, landscaping, lighting, and irrigation systems, in substantially the same location as originally installed. Such easement rights shall include the right of access upon and across any portion of the Project as may be reasonably necessary to allow the performance of any such maintenance, repair, replacement, or reconstruction to any portion of such entrance monument easement area.

(C) The Association is granted the right and easement to enter upon any easement area granted, dedicated or reserved for the benefit of the Association, to maintain, repair, replace and reconstruct any Improvements or other facilities within such easement area.

ARTICLE 5  
COMMON AREA EASEMENTS AND RIGHTS OF WAY; ENCUMBRANCES

5.01. Dedications. The Association shall have the power to grant easements in, on, over, through and across the Common Area for any public or quasi-public improvements or facilities and their appurtenances, including, without limitation, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided (i) any such easement does not unreasonably interfere with the use and enjoyment of the Common Area, or any Lot and (ii) the prior written consent of Declarant shall be obtained so long as Declarant owns any Lot. Each Owner, by accepting a deed to a Lot, expressly grants to the Association an irrevocable power of attorney for the purpose of granting such easements in, on, over, through and across the Common Area. The President or other duly designated officer of the Association may execute, acknowledge and record in the official records of the County a certificate stating that the Board is the attorney in fact for the Owners for the purpose of such grant and that such power of attorney is properly exercisable in accordance with this Declaration. The acts of this Board in exercising its power of attorney shall be conclusively binding on all Owners. The power of attorney herein granted shall include authority to do such acts incidental to such grant and to incur such expenses as may be necessary or convenient in connection therewith. The Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including but not limited to, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be deemed necessary or convenient for such dedication grant.

5.02. Encumbrances. The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than the Declarant.

ARTICLE 6  
COMMON AREA AND LOT MAINTENANCE

6.01. Maintenance by Association. The Association shall repair and maintain the Common Area and any Improvements, utilities and facilities located on the Common Area. The Association's maintenance obligation shall arise upon the filing with the Association by Declarant of a notice of completion of Common Area Improvements or any portion thereof, and the commencement of annual assessments against the Owners.

6.02. Maintenance by Owners. Each Owner, at all times, shall maintain, repair and otherwise be responsible for his Lot and the Improvements thereon. Without limiting the generality of the foregoing, and subject to the requirements of Article 15 of this Declaration, and Owner shall be responsible for replacement and reconstruction of Improvements on his Lot required because of damage or destruction by fire or other casualty, and each Owner shall maintain, repair and replace the surface and subsurface drainage facilities and appurtenances located on his Lot as may be necessary to maintain good and proper drainage of the Lot and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by the Association, or by the City or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair or replace such drainage facilities and appurtenances at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefore as provided in Section 9.07.

No Improvement shall be placed or permitted to remain on any Lot which may damage or interfere with the use, maintenance, repair or replacement of such drainage facilities and appurtenances and no Owner shall do any work, construct any Improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots, the Common Area, as established in connection with the approval of the Final Plat or Plats applicable to the Project by the City, except to the extent such alteration in drainage pattern is approved in writing by the Association and all public authorities having jurisdiction. All such drainage facilities and appurtenances shall at all times be accessible to Declarant until the Project is completed and at all times shall be accessible to the Association and all persons installing, using maintaining, repairing or replacing such drainage facilities and appurtenances. Declarant may from time to time present for recordation in the official records of the County instruments showing approximate locations of subsurface storm drainage facilities and of subsurface groundwater drainage facilities. If for any reason any such instrument is not accepted for recording, Declarant may deliver such instrument to the Association, and the Association shall maintain the same as part of its permanent records. In either event, each Owner shall be deemed to have notice of the location of such drainage facilities as may be shown in such instrument.

6.03. Negligence. The cost of repair or replacement of any Improvement to be maintained and kept in repair by the Association, which repair or replacement is required because of the act or omission of any Owner, shall be the responsibility of and paid for by such Owner.

6.04. Right to Enter. After reasonable notice to the occupant, the Association or its agents shall have access over and upon any Lot when necessary in connection with any repair, maintenance, or replacement of Improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his Lot subject to such right of access of the Association or its agents.

6.05. Conveyance of Common Areas to Association by Declarant. Declarant shall have the right to convey title to any portion of the Property owned by it or any easement or interest therein, to the Association as a Common Area/ and the Association shall be required to accept such conveyance. Any such conveyance shall be effective upon recording the deed or instrument of conveyance in the public records of the County.

6.06. Streets/Roadways. The streets, roadways and alleys or service roads depicted upon the Final Plat(s) are public ways to serve the lots, but are to be privately maintained by the Association at the Association's sole expense.

**ARTICLE 7**  
**USE RESTRICTIONS**

In addition to the restrictions set forth in Article 14 below, the following apply to the Project:

7.01. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any Owners. Such nuisance shall include, but not be limited to, the use of power tools generating noise which can be heard beyond the boundary of a Lot between the hours of 9:00 P.M. and 7:00 A.M. No owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance on any other residence which would be in violation of any law.

7.02. Development Activity. Notwithstanding any other provision herein, Declarant and its successors and assigns shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and the construction and sale of dwelling units on the Property.

7.03. Temporary Structures. No structure of a temporary character, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. This restriction shall not be interpreted to limit the right of Declarant or any Builder to use trailers or outbuildings as sales offices, construction offices or material storage facilities.

7.04. Signs. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Home, fence or other Improvement upon such Lot so as to be visible from public view except the following:

(A) For Sale Signs. An Owner may erect one (1) sign, not exceeding 3' x 3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of the ground advertising the property for sale.

(B) Declarant's Signs. Signs or billboards may be erected by the Declarant.

(C) Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and are removed within fifteen (15) days after the election.

7.05. Campers, Trucks, Boats, Commercial and Recreational Vehicles. No boat, trailer, recreational vehicle, commercial vehicle with more than two (2) axles, camper or camper truck shall be parked, stored or left (a) on any part of the Common Area or the Private Streets, (b) in any driveway or (c) on any other part of a Lot unless the same are fully enclosed within the garage located on the Lot, or are kept behind the front line of the house on the Lot and behind an approved fence no less than six (6) feet in height and which fully screens them from the view of the public walking by such Lots. In the event a Lot Owner is required by his or her employer to bring a commercial vehicle home, then that Lot Owner must obtain, a waiver of this restrictive covenant from the Board pursuant to such requirements as the Board shall deem appropriate. Any automobile, motorcycle or truck shall be parked, stored or left wholly within the garage located upon the Lot, except to the extent a garage is already occupied to capacity, in which case such vehicle may be parked in the driveway. This restriction shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Declarant and its agents and contractors in the conduct of their

business. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Property. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway or front, side or back yard of a Lot. Such repair and maintenance work shall be confined to the garage and done in such a manner as to allow the garage door to be closed.

7.06. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for cats, dogs or other generally recognized household pets of a reasonable number, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further, than no more than three (3) adult animals may be kept on a single Lot except for newborn offspring of such household pets which are under nine (9) months of age. All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws).

7.07. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubbish, or debris shall be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage and rubbish and on which days only such cans, bags, containers, and receptacles may be placed behind a residence and beside a street or alley for removal but shall be removed from view before the following day.

7.08. Sight Distance at Intersections. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by the intersecting street curb lines and a line connecting them at points twenty-five (25) feet from the intersection, of the street curb lines or extensions thereof shall be placed/planted, or permitted to remain on any corner Lots. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a curb line with the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7.09. Parking. No vehicles, trailers, implements or apparatus may be driven or parked in the Common Area or on any easement, other than while in use for maintenance the Common Areas. In order to enhance the aesthetic image of the community and to create a safer community for children, Owners are requested not to park vehicles, trailers, implements or apparatus in the street and whenever possible to park such in the garage or driveway on the subject Owner's Lot.

7.10. Commercial or Institutional Use. No Lot, and no building erected or maintained on any Lot shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purposes, except for construction offices, model homes and sales offices as set forth herein. Nothing in this 7.10 shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as tutoring, or giving music or art lessons, so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining Owner's use and enjoyment of their residences and yards.

7.11. Detached Buildings. No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Lot without the prior consent of the Committee. Every outbuilding, inclusive of such structures as a storage building, greenhouse or children's playhouse shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. In no instance shall an outbuilding

exceed one (1) story in height or have total floor area in excess of ten percent (10%) of the floor area of the main dwelling and no more than one (1) outbuilding shall be permitted on each Lot.

7.12. Fences.

A) Fences in General. All fences and non-retaining walls shall be located at or behind the rear corners of the house. Privacy and pool fencing shall be located inside the setback lines. However, on a corner lot, privacy or perimeter fencing may project to the secondary front yard setback provided the fence does not extend beyond a line parallel to the rear of the home. No fence or wall shall be constructed in the front yard of any lot, except for fences erected in conjunction with model homes, sales offices or construction trailers. Except for any project entry monument, screening wall, retaining wall or fence installed by the Declarant which are expressly excluded from the restrictions in this Article 7, all fences constructed require prior written consent of the committee. Chain link or other similar metal fencing is expressly prohibited. Perimeter fencing and privacy fencing around patios, decks or pools may not exceed six (6) feet in height. Privacy fencing, picket fencing and invisible fencing that conforms to standards approved by the Committee and incorporated herein, by reference may be used. Security or safety fences at or enclosing public utilities are exempt from the guidelines.

(B) Pool Fences. It shall be a requirement within the Property that any pool constructed within the Property, shall be surrounded by a non-climbable perimeter fence of at least five (5) feet in height and equipped with a self-closing mechanism on all gates. The design for swimming pool construction must be submitted to the Committee for prior approval, and said approval will not be given unless the plans therefore include a perimeter fence in compliance with this section. The minimum fence requirements contained in Section 7.12 (A) shall apply to any pool fences constructed within the Property. The foregoing limitation shall not alter, affect or exempt any requirement or limitations imposed by any law, regulation, ordinance or statute.

7.13. Vegetation. No weeds or vegetation of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Property which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Property shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed from the Lot and replacements of equal quality or value promptly installed.

7.14. Antennae, Satellite Dishes and Solar Collectors.

(A) Solar Collectors. Owners may erect or maintain a solar collector panel or similar equipment upon any Lot. However, the placement of said apparatus must be approved by the Committee.

(B) Antennae and Satellite Dishes. No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar apparatus or equipment unless: (i) such apparatus is one (1) meter or less in diameter, (ii) the apparatus is screened from public view and located behind the Home either in the rear yard or affixed to the rear roof, (iii) the apparatus is not visible while standing at any point along the property boundary line in front of the house that abuts or is adjacent to a street, right-of-way or sidewalk, and (iv) the Committee has approved the apparatus, its location and the type of screening.

7.15. Exterior Finish. Subject to the provision of Section 7.26 of this Declaration, all exterior walls of all dwellings, garages and approved accessory buildings shall be completely finished with wood, stucco, brick, stone, paneling or other material acceptable to the Committee. Notwithstanding the foregoing, exterior walls finished with aluminum and vinyl siding are hereby expressly prohibited.

7.16. INTENTIONALLY OMITTED AND RESERVED.

7.17. Clothes Hanging Devices. Clothes hanging devices exterior to a Home shall not be visible from outside the Lot.

7.18. Window Treatment. No aluminum foil, newspaper, reflective film or similar treatment shall be placed on windows or glass doors.

7.19. Oil and Mining Operations. No oil drilling, oil development, operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other fluids may be maintained on any of the Lots above the surface of the ground.

7.20. Mail Boxes. Mailboxes shall be standardized, and shall conform to the design specifications approved by the Committee and incorporated herein by reference. Such design may be revised by the Committee. Specified mail receptacles, USPO approved, must be placed in an authorized location at the service roads or alleys.

7.21. Roof. Exposed roof surfaces on any principal and or secondary structures shall be of composition shingles. The Committee shall have the authority to approve roof treatments and materials when in its determination such treatments and materials, in the form utilized will not be a detriment to the quality of the Project.

7.22. Setback Lines. Except for the fence requirements set forth in Section 7.12 above, all buildings or other structures, permanent or temporary, habitable or uninhabitable, must be constructed, placed and maintained in conformity with setback lines as required by the City. Notwithstanding the foregoing, the Committee shall have the right and authority to approve variances from the setback requirements for reasonable cause or to alleviate a hardship; provided, however, said variances does not relieve the requesting party from obtaining any necessary approvals from the applicable governmental authorities.

7.23. Reconstruction of Residences. In the event of damage or destruction to a residence by fire or other casualty, the Owner shall within four (4) months diligently commence to reconstruct such residence as soon as reasonably possible and substantially in accordance with the original plans and specifications thereof; provided however, that such residence shall be restored so that the exterior appearances thereof substantially resemble their appearances in form and in color prior to such damage or destruction. Notwithstanding the foregoing, however, any Owner of a damaged residence may request permission from the Committee to reconstruct or repair his residence in accordance with revisions in the plans and specifications. The Committee shall grant such requests only in the event that the proposed change or deviation will materially benefit and enhance the entire Project in a matter generally consistent with the plan of development thereof.

7.24. Water and Sewage Systems. No individual water supply system or sewage disposal system shall be permitted on any Lot, including but not limited to water wells or cesspools.

7.25. Basketball Goals. Basketball goals are permitted provided, however, such goals shall not be attached to the front of the dwelling or in front of the building setback line. Use of the basketball goals after 9:30 P.M. is not permitted without the prior consent of the Owners affected by any disturbance created by such use.

7.26. Square Footage and Exterior Finish.

(A) All Homes shall contain at least 2,500 square feet of conditioned area, exclusive of basements, breezeways, garages, porches, screened porches, and similar places. Additionally, all Homes shall have either a two (2) car attached garage or two (2) Car basement.

(B) All Homes shall have full masonry foundations and no exposed block or concrete foundation shall be visible above grade. Moreover, the exposed masonry portion of the foundation of any Home located within the Project shall be covered with a brick veneer. For the purpose of this Declaration, including this provision, brick veneer shall include stone, stucco, or other decorative masonry material.

(C) It is the intent of Declarant that Homes located within the Property be constructed in such manner and using such finishes that will enhance the overall appearance and property values of the Homes. As further detailed in Section 14.03, the Committee shall approve the architectural design and exterior building materials and colors of any proposed Home or Improvement.

(D) No Homes shall be constructed utilizing 100% vinyl siding on the exterior walls of the Home.

(E) During the period of Declarant Control, Declarant may require standards in excess of those outlined in this section.

7.27. Garages. All Homes located within the Property shall have attached garages with space therein for a minimum of at least two automobiles.

7.28. Driveways. All Homes shall have paved driveways consisting of either concrete or aggregate composition. No gravel or asphalt driveways are permitted.

7.29. Unlawful Activity. No unlawful activity shall be conducted on any Lot or in any other part of the Property. Nothing shall be done within the Property that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Property, or that unreasonably interferes with the quiet enjoyment of the Lots by their respective Owners.

7.30. Statues. No statues, sculptures or three dimensional artwork or decorations, including but not limited to representations or models of persons, animals or other objects shall be placed on any Lot without the prior written consent of the Committee.

7.31. Pools. No above ground pools shall be installed, constructed or placed upon any Lot. No swimming pool shall be constructed or installed upon any Lot without the prior written consent of the Committee.

7.32. Declarant's Rights. Notwithstanding anything to the contrary contained in this Article or elsewhere in this Declaration, Declarant, its agents, assignees, employees and contractors, and any other Builders designated by Declarant, shall not be restricted or prevented by this Declaration from doing, (and Declarant, its agents, assignees, employees, contractors, and designated Builders shall have the right to do) such things or take such actions as they deem necessary, advisable or convenient for completion and improvement of the Project as a residential community and for the sale, rental or other disposition of Lots in the Project. The rights of Declarant, its agents, assignees, employees, contractors, and designated Builders shall include, without limitation:

(A) The right and easement of ingress in, over and upon the Common Area for the purpose of performing on any part or parts of the Project acts deemed necessary, advisable or convenient for the completion and improvement of the Project as a residential community and for the sale, rental or other disposition of Lots;

(B) The right to erect, construct, maintain, demolish or remove structures and other Improvements on any Common Area as they deem necessary, advisable or convenient for the completion and improvement of the Project as a residential community and for the sale, rental or other-disposition of Lots; and

(C) The right to use Lots and Improvements owned by Declarant or such designated Builders as models, sales offices and contractor's offices and to construct and display promotional, informational and directional signs and other sales aids on or about any portion of the Project.

(D) The right of Declarant to modify the Development Plan for the Property and to annex into the Project, the Additional Property or other property which is contiguous to the Property thereby increasing or otherwise adjusting the number of Total Planned Lots.

The rights under this Section shall terminate one (1) year after the Completion of Sales. Amendment of this section shall require (i) if a two-class voting structure is in effect, the vote or written consent of seventy-five percent (75%) of the Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of seventy-five percent (75%) of the total Voting Power of the Association. Further, as long as Declarant owns a Lot in the Project, no amendment of this Section can be made without the written approval of Declarant.

## ARTICLE 8 MEMBERSHIP AND VOTING RIGHTS

8.01. Governing Body. The Association shall be the governing body for all Owners with respect to the management, administration, maintenance, repair and replacement of the Project, as provided by this Declaration, the Articles, and the By-Laws.

8.02. Membership. Membership in the Association shall be composed of and limited to Owners. Each Owner, including Declarant, and any Builder, shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot.

8.03. Voting. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot and Total Planned Lot owned; Class B membership shall cease and be converted to Class A membership on the Turnover Date.

When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Lot shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Lot.

8.04. Commencement of Voting Rights. Voting rights attributable to an ownership interest shall vest upon the recording of this Declaration.

8.05. Declarant's Voting Rights. No requirement for the approval of a prescribed majority of the Voting Power of Members of the Association other than Declarant for action to be taken by the Association is intended to preclude Declarant from casting votes attributable to Lots owned by Declarant.

8.06. Control by Declarant. Notwithstanding any other provision to the contrary in this Declaration, the Articles, or the By-Laws, Declarant hereby retains the right to appoint and remove any and all directors comprising the Board and any officer or officers of the Association until the earlier of (i) ninety (90) days after the Turnover Date, or (ii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association, pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots; and a special meeting of the Association shall be called for and held within ninety (90) days from the date of the expiration of Declarant's rights hereunder. At such special meeting the Owners shall elect a new Board which shall undertake the responsibilities - of running the Association and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association as well as any agreements or contracts executed by or on behalf of the Association which may still be in effect or operation. Each Owner by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Section.

#### ARTICLE 9 COVENANTS FOR ASSESSMENTS

##### 9.01. Covenant to Pay Assessments; Lien.

(A) Every Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay, to the Association such regular annual assessments or charges, payable monthly, and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration.

(B) The amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and become a lien upon the Lot assessed when the Association causes to be recorded in the official records of the County a notice of assessment, which notice shall state:

- (i) The amount of such assessment and such other charges thereon as may be authorized by this Declaration;
- (ii) A description of the Lot against which the same has been assessed; and
- (iii) The name of the record owner of the Lot assessed.

Such notice shall be signed by an authorized representative of the Association. Upon payment of such assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association, at the Owner's cost and expense, shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The lien provided for herein shall be prior to all other liens recorded subsequent to the recordation of such notice of assessment. Unless sooner satisfied and released or the enforcement thereof initiated as hereinafter provided, the lien shall expire and be of no further force or effect one (1) year from the date of recordation of the notice of assessment. The one-year period may be extended by the Association for a period not to exceed one (1) additional year by recordation of a written extension thereof. The lien may be enforced by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property in accordance with Tennessee law or in any other manner permitted by law. The Association shall have power to purchase the Lot at a foreclosure sale, and to hold, lease, mortgage and convey the same.

9.02. Personal Obligation. Each regular annual or special assessment, together with any late charges, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of each person or entity, other than any Mortgagee, who held an ownership interest in the Lot at the time such assessment was levied as to such Lot. If more than one person or entity held an ownership interest in the Lot at such time, the personal obligation to pay such assessment or installment respecting such Lot shall be both joint and several. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or non-use of any Common Area within the Project or any other portion of the Common Area or by abandonment or leasing of his Lot.

9.03. Use of Assessments. Regular annual or special assessments paid by Declarant and other Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common Area, roadway upkeep and repavement thereof and other purposes reasonably related to the foregoing, and to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

9.04. Reserve Funds. The Board shall establish and maintain reserves in accordance with standard accounting practices and procedures for Common Area replacements and maintenance and the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserves. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose, except that if the Board determines

that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the budget of the Association and expended for the purpose for which such other reserve fund has been established.

9.05. Declarant Exemption. Notwithstanding anything herein to the contrary, Declarant shall not be liable for any assessments as long as Declarant pays the difference if any, between (a) the actual operating expenses (other than those operating expenses which are properly the subject of a special assessment) incurred by the Association, which shall include reserve funds as established by the budget of the Association, during the Guarantee Period (referred to in Section 9.13 below), and (b) the amounts actually collected as regular annual assessments (referred to in Section 9.06 below) from Class A Members and the working capital fund assessments set forth in section 9.07(A) hereof which will be used to defray initial start up expenses.

9.06. Regular Assessments.

(A) The total anticipated operating expenses for each assessment year shall be set forth in the budget prepared by the Board as required under the By-Laws and this Declaration. The total anticipated operating expenses (other than those operating expenses which are properly the subject of a special assessment) shall be apportioned equally among, the Lots by dividing the total anticipated operating expenses as reflected by the budget, other than those operating expenses which are properly the subject of a special assessment, by the total number of Lots, with the quotient thus arrived at being the regular annual assessment. If an assessment year shall have fewer than twelve months, the regular annual assessment shall be appropriately prorated for the shorter period.

(B) The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least sixty (60) days in advance of each assessment year. Written notice of the regular annual assessment shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous assessment year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix. The Association shall, upon demand, and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot have been paid and, if not, the amount due.

(C) Notwithstanding anything set forth in this Section 9.06 to the contrary, regular annual assessments payable by Owners during the "Guarantee Period" referred to in section 9.13 shall be paid in accordance with the provisions of said section. 9.13.

9.07. Special Assessments. In addition to the regular annual assessments authorized herein, the Board may levy:

(A) A working capital fund assessment equal to two (2) months regular assessment. Such assessment shall be levied upon the first purchaser of a Lot with a Home constructed thereon, at the time of the conveyance of such Lot. The funds created by this assessment shall be included with the regular assessment funds and shall be available for all necessary expenditures of the Association.

(B) In any assessment year, a special assessment against all Owners applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property on or

comprising a part of the Common Area; provided in any fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than Declarant.

9.08. Assessment as Remedy. After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members, may levy a special assessment against an Owner as a remedy to reimburse the Association for costs (including attorneys' fees) incurred in bringing the Owner, his Lot or his Home into compliance with the provisions of this Declaration, the By-Laws or the Rules and Regulations.

9.09. Allocation of Assessments. Except as otherwise provided in this Declaration and except for the exemption from assessments during the Guarantee Period on Lots owned by Declarant as provided herein, all regular annual and special assessments shall be levied equally against all Owners.

9.10. Commencement of Assessments. The regular annual assessments provided for herein shall commence as to all Lots in the Property on the first day of the month next following the conveyance of the first Lot with a dwelling to a purchaser, other than a successor Declarant, for use as a residence. No Builder shall be obligated to the monthly assessment of dues for a period of twelve (12) months following issuance of a certificate of occupancy by the City Building Official. The first assessment period shall be the period commencing on the date regular annual assessments commence and ending on the December 31 next following. The regular annual, assessment for the first assessment period shall be prorated from the amounts fixed by the Board for a full twelve-month year, based on the number of months to be contained in the first assessment period. Subsequent assessment years shall be each successive calendar year; provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board.

9.11. Revised Assessments. Subject to the provisions of Section 9.05 and 9.13 if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or over adequate by reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for the balance of the assessment year. Any such revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association at such time as determined by the Board.

9.12. Delinquent Assessments; Fines. Any assessment not paid within ten (10) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments' and fines levied as provided in Section 4.11 shall not exceed the following rates computed on the outstanding balance, which shall include any late charges previously assessed and unpaid, from month to month:

(A) On so much of the outstanding balance as does not exceed one thousand dollars (\$1,000), one and one-half percent (1.50%).

(B) If the outstanding balance is more than one thousand dollars (\$1,000), one percent (1%) on the excess over one thousand dollars (\$1,000) of the outstanding balance.

(C) If the late charge so computed is less than ten dollars (\$10) for any month, ten dollars (\$10).

Fines may be imposed at a rate of one hundred dollars (\$100) per month, or portion thereof, for each month in which an infraction of the provisions of this Declaration or the Rules and Regulations is not corrected.

No charge may be imposed more than once each month for the delinquency of the same payment, provided, however, that the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. When an assessment is paid more than ten (10) days after the due date of the assessment, late charges shall accrue from the first day following the due date of the assessment. The Association may bring legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership rights in the Association while the assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

9.13. Guaranteed Assessments During Guarantee Period. Declarant covenants and agrees with the Association and the Owners that for the period commencing with the date of recordation of this Declaration, and ending upon the earlier of (i) the Turnover Date, or (ii) the date that is one (1) year after the date of recordation of this Declaration (the "Guarantee Period"), that the regular annual assessment for a Lot for the first full assessment year shall not exceed the amount of \$480.00 (the "Guaranteed Assessment Amount"), and that Declarant will pay the difference if any, between (a) the actual operating expenses (other than those operating expenses which are properly the subject of a special assessment) incurred by the Association in performing its obligations hereunder during the Guarantee Period, including reserve funds as established by the annual budget, and (b) the amounts actually collected from the Class A Members as regular assessments. The Guaranteed Assessment Amount for the first partial assessment period which precedes the first full assessment year shall be \$480.00 appropriately reduced prorata for the shorter period. If a later assessment period shall have fewer than twelve months, the Guaranteed Assessment Amount for such period shall be proportionately reduced in the same manner. Declarant hereby reserves the right to (a) extend the Guarantee Period to a date ending no later than the Turnover Date, and (b) increase the amount of the regular assessment due during any such extended Guarantee Period, in Declarant's sole discretion by providing written notice to the Association of such election at least thirty (30) days prior to the expiration of the Guarantee Period or any extended Guarantee Period.

After the Guarantee Period terminates, each Owner shall be obligated to pay regular annual assessments as set forth in Section 9.06 of this Declaration.

9.14 Working Capital. All Lot sales, other than to a Builder as defined at Section 1.05, and the transferee of a Builder, initial purchase shall pay to the Association the sum of \$200.00 working capital of which, not less than \$100.00 of said sum will be placed in a reserve and replacement fund of the Association. After initial purchase, a \$75.00 transfer fee shall be paid to the Association by new Lot Owners.

ARTICLE 10  
INSURANCE

10.01. Duty to Maintain Insurance.

(A) The Association shall have the duty and the authority to maintain fire and extended coverage casualty insurance on the Common Area in an amount not less than the full insurable value thereof (based upon current replacement cost), and liability insurance with limits in and amounts adequate, under standards in the insurance industry existing from time to time, to protect the Association and the Owners in the event of property damage, personal injury or death occurring in or about the Project. The Board shall have the authority to settle or enforce on behalf of the Association and on behalf of the Owners, by legal action or otherwise, any claim arising under any insurance carried by the Association.

(B) Each Owner shall maintain casualty and personal liability insurance pertaining, to his Lot, in such form and in such amounts as the Rules and Regulations may require.

(C) All policies of insurance carried by the Association or the Owners shall include a waiver of subrogation if such waiver can be obtained; unless otherwise provided in the Rules and Regulations.

(D) Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity, bond requirements for planned unit development projects established by the Federal National Mortgage Association and Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or Government National Mortgage Association.

10.02. Proceeds of Insurance. The proceeds of casualty insurance carried by the Association shall be paid to and held by the Association as trustee for the Owners, Declarant and Mortgagees for disbursement in accordance with the provisions of this Declaration. Except as otherwise provided herein, casualty insurance proceeds shall be used for repair, replacement or reconstruction to the extent required to effectuate repair, replacement or reconstruction.

ARTICLE 11  
DAMAGE AND DESTRUCTION

11.01. Damage to Lots. Restoration and repair of damage to any Lot and Improvements thereon shall be made by and at the expense of the Owner thereof and pursuant to the requirements of Section 7.23 of this Declaration.

11.02. Minor Damage and Major Damage Defined. Damage or destruction to the Common Area where the estimated cost of repair, restoration or reconstruction does not exceed Twenty-Five Thousand Dollars (\$25,000) is referred to in this Declaration as "Minor Damage". Damage or destruction to the Common Area where the estimated cost of repair, restoration or reconstruction exceeds Twenty-Five Thousand Dollars (\$25,000) is referred to in this Declaration as "Major Damage".

11.03. Minor Damage. If Minor Damage occurs, the Association shall promptly contract for the repair, restoration or reconstruction of the Common Area or Improvements which have been

damaged or destroyed. The difference, if any, between the insurance proceeds payable by reason of such Minor Damage to the Common Area and the cost of such repair; restoration and reconstruction may be recovered by one or more special assessments levied by the Board equally against all Owners.

11.04. Major Damage. In the event of any Major Damage to or destruction of any portion of the Common Area by fire or other casualty:

(A) The Board shall as soon as reasonably practicable obtain such information as it deems necessary to make an informed judgment about whether to proceed with the repair, restoration or reconstruction of the Common Area so damaged or destroyed, which information may include: (i) obtaining firm bids from two (2) or more responsible and licensed general contractors for the repair, restoration and reconstruction of the Common Area so damaged or destroyed in accordance with the original plans and specifications to the extent reasonably practicable; and (ii) obtaining an appraisal setting forth an opinion as to the value of the Common Area as it then exists together with an opinion of the increment in value, if any, which would accrue if the Common Area or some portion thereof were razed.

(B) No later than one hundred eighty (180) days after the occurrence of Major Damage to the Common Area, the Board shall hold a special meeting of Members after notice as provided in the By-Laws. Such notice, shall include a summary of the appraisal (if any) and of the bids for repair, restoration and reconstruction (if any), the amount of insurance proceeds payable to the Association as a result of such damage and destruction, and the amount of the special assessment, if any, necessary to make any difference between the insurance proceeds and the total cost of repair, restoration and reconstruction.

(C) Unless within two hundred forty (240) days after the occurrence of such Major Damage to the Common Areas, (i) if a two-class voting structure is in effect, sixty-seven percent (67%) of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, sixty-seven percent (67%) of the total Voting Power of the Association agree by vote or written consent and a majority of all Mortgagees (based upon one (1) vote for each Mortgage owned) agree in writing that such repair, restoration or reconstruction of the Common Area improvements which have been damaged or destroyed shall not take place: (a) the Association shall promptly contract for and complete such repair, restoration and reconstruction in accordance with plans and specifications approved by the Board; and (b) the difference, if any, between the insurance proceeds and the total cost of repair, restoration and reconstruction shall be recovered by a special assessment levied by the Association equally against all Owners.

(D) If Major Damage occurs and it is determined in accordance with this Section 11.04 that the Common Area or any portion thereof shall not be repaired, restored or reconstructed, the Board shall cause an appraisal to be made, (if such appraisal has not previously been obtained) and the appraisal shall be made available to the Owners and Mortgagees. The Association may then sell the Common Area or any portion thereof, for and on behalf of all Owners; upon which terms and conditions and for such price as may be approved by a majority of the Board and ratified (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class, of Members, or, (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association. For such purposes, the Board shall be and hereby is irrevocably appointed attorney in fact to act on behalf of all Owners to sell the Common Area or any portion thereof upon such terms and conditions and-for such price as shall have been ratified and approved by the Members and to do such acts incidental to the sale and to incur such expense as in its opinion will increase the value of the Common Area for the purpose

of sale or as may be deemed necessary or convenient in connection with the sale, including but not limited to, the razing of any or all improvements. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. In connection with the sale of the Common Area or any portion thereof, the Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including, but not limited to, maps, plans, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be necessary or convenient for the sale. The Board shall be authorized to incur fees for legal and accounting services, appraisals, engineering, examination of title and other expenses reasonably related to the sale.

(E) After payment of expenses directly relating to the sale of the Common Area and properly payable out of the escrow at the closing of the sale, the Board shall receive the remaining sale proceeds and shall disburse such proceeds, together with any insurance proceeds it holds, as follows:

(1) To pay any outstanding expenses of the Association, relating to the sale of the Common Area, including but not limited to, costs of appraisal, collection of insurance proceeds, engineering, legal and accounting expenses, costs of preparing the Common Area for sale and other related expenses; and

(2) To establish or add to the reserve funds of the Association as deemed appropriate by the Board.

(3) As to the sale of the Common Area, to pay equally to the respective Owners in the Project on an equal per Lot pro rata basis; provided, however, that an equitable adjustment shall be made in the distribution to provide for any Owner's liability to the Association, including but not limited to, liability for unpaid assessments and charges.

#### ARTICLE 12 EMINENT DOMAIN

12.01. Eminent Domain. If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, Mortgagees and the Association as the court may determine. A condemnation award which is not apportioned among the Owners by court judgment or by agreement between the condemning authority each affected Owner shall be allocated first, to the repair, restoration and reconstruction of any remaining portion of the Common Area, then to add to the reserve funds of the Association as deemed appropriate by the Board, and then any excess shall be distributed equally among the affected Owners (or any Mortgagee of an Owner to the extent such Mortgagee is entitled to such Owner's share of the proceeds).

12.02. Repair, Restoration, Reconstruction. If only a portion of a Common Area facility is taken, the Board shall promptly contract for the repair, restoration or reconstruction of the Common Area facility to a complete architectural unit, to the extent such repair, restoration and reconstruction is reasonably necessary and practical. If the cost of repair, restoration and reconstruction of the Common Area exceeds the amount awarded by the court for such purposes, the difference may be recovered by a special assessment levied equally against all Owners.

ARTICLE 13  
INSPECTION OF IMPROVEMENTS

13.01. Inspection of Improvements.

(A) Declarant may notify the Board when any Common Area Improvements (including landscaping) have been completed for the Project or some portion thereof. Declarant shall request that the architect who designed the Common Area Improvements or other qualified engineers or architects inspect the Common Area improvements as to which Declarant has given such notice. The person(s) selected by Declarant is (are) referred to herein as the "Expert" (whether one or more). Declarant shall pay the reasonable compensation of the Expert.

(B) The Expert shall inspect the Common Area Improvements as to which Declarant has given notice of completion and requested inspection. Declarant and the Board may accompany the Expert during the inspection. The inspection shall be limited to a visual inspection, and Improvements shall not be uncovered. The Expert shall not be responsible for identifying latent defects. Promptly after the inspection is completed, the Expert shall submit a written report (the "Report") to Declarant and the Board specifying the respects, if any, in which the Improvements do not conform to the plans and specifications therefore and are defective, and if there are no such defects, the Report shall state that the Improvements conform to the plans and specifications therefore. The Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the Improvements have been constructed in accordance with the plans and specifications therefore, and thereafter Declarant shall have no further liability, duty or obligation with respect to such Improvements, except to remedy any defects specified in the Report and except with respect to latent defects, if any, and the separate repair obligations of Declarant under express written warranty, if any.

(C) Declarant shall correct any defects specified in the Report, and the Expert shall reinspect such Improvements within thirty (30) days after Declarant's request. Such reinspection shall be performed in the same manner as provided for the first inspection. Promptly after the reinspection is completed, the Expert shall submit another written report (the "Reinspection Report") to Declarant and the Board specifying the defects specified in the Report which have not been corrected, if any, and if all such defects have been corrected the Reinspection Report shall state that the Improvements conform to the plans and specifications therefore. The Reinspection Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the Improvements have been constructed in accordance with the plans and specifications therefore, and thereafter Declarant shall have no further liability, duty or obligation with respect to such Improvements, except to remedy any defects specified in the Reinspection Report, and except with respect to latent defects, if any, and the separate repair obligations of Declarant under express written warranty, if any.

(D) Additional inspections and Reinspection Reports shall, be made, if necessary, all in accordance with and with the same effect as provided hereinabove.

(E) If the Improvements to be inspected are landscaping Improvements, then notwithstanding anything to the contrary contained herein the Expert shall be a horticulturalist or landscape architect. In all other respects, the provisions of this section shall apply to the inspection of Landscaping Improvements.

(F) Within ten (10) days after all defects have been corrected, as evidenced by a Report or Reinspection Report, the Board shall accept the Improvements in writing.

ARTICLE 14  
ARCHITECTURAL CONTROL

14.01. Establishment. "Committee" shall mean the architectural control committee, which shall be the governing body charged with using its best efforts to promote and ensure a high level of taste, design, quality, harmony and conformity throughout the Project consistent with this Declaration. Until the Termination of Declarant Control, referred to below, Declarant shall constitute the Committee, and may approve Plans and Submissions or take other actions on behalf of the Committee in Declarant's own name or in the name of the Committee. After the Termination of Declarant Control, the Committee shall be composed of at least three (3) individuals appointed by the Board, each of whom shall be an Owner. The Committee shall act by simple majority vote. In the event of death, resignation or other removal of any Board appointed member of the Committee, the Board shall appoint a successor member. No member of the Committee shall be entitled to compensation for, or be liable, for claims, causes of action or damages arising out of services performed pursuant to this Declaration. Declarant shall cease to control and constitute the Committee on the earlier of: (a) the date on which Declarant records in the County land records a document declaring the termination of its control of the Committee, or (b) at such time as Declarant (or any successor Declarant) no longer owns a Lot within the Project (which may be referred to in this Declaration as "Termination of Declarant Control").

14.02. Purpose of the Committee. The Committee is established to provide a system of review for the construction or modification of all Improvements within the Project. No Improvement shall be commenced, improved or altered, nor shall any grading, excavation, tree removal, landscaping or change of exterior color or other work which in any way alters the exterior appearance of an Improvement be done without the prior written approval of the Committee.

14.03. Development Standards. The Committee is empowered to publish or modify from time to time, design and development standards for the Project, including, but not limited to, standards for the following ("Standards"): (i) architectural design of Improvements, including, but not limited to, design standards for any Home or other Improvement constructed upon a Lot; (ii) fences, walls and similar structures; (iii) exterior building materials and colors; (iv) exterior landscaping; (v) exterior appurtenances relating to utility installation; (vi) signs and graphics, mailboxes and exterior lighting; (vii) building setbacks, pools and pool decks, side yards and related height bulk and design criteria; (viii) pedestrian and bicycle ways, sidewalks and pathways; and (ix) all buildings, landscaping and Improvements on lands owned, or controlled by the Association. After Termination of Declarant Control, a copy of any Standards promulgated by the Committee shall be subject to approval by the Board. After the Board's approval, a copy of the Standards will be made available to all Members.

14.04. Requirement of Committee Approval. No Improvement of any kind shall be erected, placed or maintained, and no, addition, alteration, modification, or change to any Improvement shall be made without the prior written approval of the Committee. For purposes of this Declaration, Declarant Improvements means any Improvement erected, placed, or maintained with the approval of Declarant, including, without limitation, any building, wall, fence, swimming pool, tennis court, screened enclosure or landscaping, constructed, installed or placed by or with, the approval of Declarant, and additions, alterations, modifications or changes to any of the foregoing (collectively, "Declarant Improvements"). Notwithstanding anything to the contrary contained above, Declarant Improvements are not subject to the approval of the Committee and are deemed to conform to the plan of development for the Project.

14.05. Obtaining Committee Approval. In order to obtain the approval of the Committee, a complete set of plans and specifications ("Plans") for proposed Improvements shall be submitted to the Committee for its review. The Plans shall include, as appropriate, the proposed location, grade, elevations, shape, dimensions, exterior color plans, approximate costs, and nature, type and color of materials to be used. The Committee may also require the submission of additional information and materials as may be reasonably necessary for the Committee to evaluate the proposed Improvement or alteration ("Submissions"). The Committee shall have the right to refuse to approve any proposed Plans which, in its sole discretion, are not suitable or desirable. Any and all approvals or disapprovals of the Committee shall be in writing and shall be sent to each respective Owner submitting same. In the event the Committee fails to approve or to disapprove in writing any Plans and or Submissions after: (i) submission to the Committee of the last item of the Plans and Submissions requested by the Committee, so that the Committee has a complete package of all Plans and Submissions requested by the Committee; and (ii) thirty (30) days have elapsed since submission and written request for approval or disapproval was delivered to the Committee by the Owner; then said Plans, and Submissions shall be deemed to have been approved by the Committee provided, however, that no Improvement shall be erected or shall be allowed to remain which violates any conditions or restrictions contained in this Declaration, or which violates any applicable zoning or building ordinance or regulation. The approval by the Committee relates only to the, aesthetics of the Improvements shown, on the Plans and Submissions and not to their sufficiency or adequacy. Each Owner shall be responsible for obtaining all necessary technical data and to make application to and obtain the approval of the appropriate governmental agencies prior to commencement of any construction.

14.06. Scope of Review. The Committee shall review and approve or disapprove all Plans and Submissions solely on the basis of aesthetic standards as to the aesthetic quality of materials and workmanship to be used, suitability and harmony of location, structure and external design in relation to surrounding topography and structures and the overall benefit or detriment which would result to the immediate vicinity and to the Project as a whole and any other factors deemed relevant to the review by the Committee in its opinion, reasonably exercised. The Committee shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, and shall not be responsible for reviewing, nor shall its approval, of any Plans be deemed approval of, any design or plan from the standpoint of structural safety or conformance with building or other codes.

14.07. Variance from Standards. The Committee may authorize, in a reasonable manner so as not to destroy the general scheme or plans of the development of the Project, variances from compliance with any Standards which it has promulgated pursuant to its authority when circumstances such as topography, natural obstructions, hardship, aesthetics or environmental considerations may require. If any such variances are granted, no violation of the restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose, except as to that particular property and particular provision hereof or Standards promulgated hereby which are covered by the variance. Such variance shall be evidenced in writing.

14.08. Enforcement. There is specifically reserved unto the Committee the right of entry and inspection upon any Lot or other portion of the Project for the purpose of determination by the Committee whether there exists any Improvement which violates the terms of any approval by the Committee or the terms of this Declaration. Except in emergencies, any exercise of the right of entry and inspection by the Committee hereunder should be made only upon reasonable notice given to the Owner of record at least twenty-four (24) hours in advance of such entry. The Committee is

specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any Improvement or to remove any unapproved Improvements, the prevailing party in such litigation shall be entitled to recover all court costs, expenses and reasonable attorneys fees in connection therewith. The Association shall indemnify and hold harmless any member of the Committee from all costs, expenses and liabilities, including attorneys fees incurred by virtue of any member's service as a member of the Committee, provided such member acted in good faith and without malice.

14.09. Subcommittees and Delegation of Authority. The Committee may establish subcommittees for the purpose of acting on behalf of the Committee with respect to similar circumstances, situations, or types of Improvements, such as a swimming pool subcommittee or a subcommittee which would deal with modifications of existing Improvements or additional new Improvements ancillary to an existing Home, in contrast to the construction of Initial Improvements upon a previously unimproved Lot. All rights and powers of the Committee may be delegated to such subcommittee with regard to the subject matter of the subcommittee. The rights and powers of the Committee may be assigned to a management company, an architect, design professional or other entity, or any portion of such rights and powers applicable to a particular subcommittee or area of similar circumstance.

## ARTICLE 15 MORTGAGEE PROTECTION

15.01. Interpretation. In the event any provision of this Article 15 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 15 shall control.

15.02. Notices. Any Mortgagee of any Lot, by written notice to the Association setting forth the Lot encumbered, the Owner thereof and the address to which notices may be sent, may request and thereby be entitled to receive written notice from the Association of (i) any default which is outstanding for sixty (60) days or longer by the Owner of such Lot in the performance of his obligations under or in compliance with the provisions of this Declaration, the By-Laws or the Rules and Regulations, (ii) any substantial damage to or destruction of the Common Area, including the Improvements located thereon or, if known to the Association, any substantial damage to or destruction of a Lot, including the Improvements located thereon, and (iii) any proposed or threatened taking by power of eminent domain of the Common Area or any portion thereof or of any Lot or portion thereof.

15.03. Mortgagee's Right to Information. Upon written request to the Association, a Mortgagee is entitled to: (1) inspect the books and records of the Association during normal business hours; and (2) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Project; and (3) receive (written notice of all meetings of the Association and to designate a representative to attend all such meetings.

15.04. Damage and Destruction Rights. In the event of substantial damage to or destruction of any Lot or Improvements to a Lot or any part of the Common Area, no provision of any document establishing the Project shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

15.05. Condemnation Rights. If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation proceedings or is otherwise sought to be acquired by a condemning authority, no provision of any document establishing the Project

shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of the proceeds of any award or settlement.

15.06. Right of First Refusal. Any right given by an Owner of a Lot to any third person to purchase such Lot before it is offered for sale or sold to any other person (such right commonly known as a "right of first refusal") shall not be binding upon or enforceable against any Mortgagee acquiring such Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, or by acceptance of a deed or assignment in lieu of foreclosure.

15.07. Subordination. No provisions contained in this Declaration shall defeat or render invalid the lien of any Mortgage which is made in good faith and for value. The lien of the assessments provided for herein shall be subordinate to the lien of any Mortgage recorded prior to the date any such assessment becomes due. This subordination shall apply only to assessments on a Lot which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against the Lot which have accrued prior to the time such Mortgagee or purchaser, acquires title, to or comes into possession of the Lot; provided, however, this exception shall not be applicable to any claim for assessments or charges levied by the Association against all Lots for the purpose of recovering any revenue lost by reason of the nonpayment, of past due assessments upon such Lot; and provided further, that except as otherwise provided in this section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot shall not relieve a selling Owner from personal liability for any assessments which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot from a duly recorded lien for any such prior unpaid assessment.

15.08. Payments by Mortgagees. Any Mortgagee, after at least ten (10) days' prior written notification to the Association of the items to be paid and the failure of the Association within such time to make payment, may pay, alone or in conjunction with other Mortgagees, delinquent taxes, liens or assessments which may be or become a charge against the Common Area or any portion thereof, and any overdue premiums on policies of fire and extended coverage insurance for the Common Area, and in the event of a lapse of such a policy of insurance, may pay premiums to secure a new policy. In the event such payments are made, the Mortgagee making such payment shall be entitled to immediate reimbursement from the Association to the extent of the payment made.

15.09. Professional Management. In the event that Declarant or the Association enters into any contract with any person or entity to provide management or maintenance services to the Project, such contract shall not: exceed one (1) year and shall provide that the Association shall have the right to terminate the contract for cause upon thirty (30) days' written notice and without cause upon ninety (90) days' written notice, without payment of a termination fee.

ARTICLE 16  
ANNEXATION

16.01. Right to Annex.

(A) Annexation of the Additional Property. Declarant shall have the right, without the approval or joinder of any other person, to annex to the Property and thereby bring within the scheme of this Declaration and subject to the jurisdiction of the Association, all or any portion of the Additional Property. In the event any portion of the Additional Property is so annexed, the definition of the Property shall be expanded to include such annexed portion of the Additional Property as if such annexed portion of the Additional Property had originally been a part of the Property, including such portion being deemed part of the Development Plan for the Project and the number of Lots within such annexed portion being used to determine the number of Total-Planned Lots.

(B) Annexation of Contiguous Property. Declarant shall have the right, without the approval or joinder of any other Person, to annex to the Property and thereby bring within the scheme of this Declaration and subject to the jurisdiction of the Association any real property owned or acquired by Declarant which is contiguous to the Property. In the event any additional contiguous property is so annexed, the definition of the Property shall be expanded to include such annexed property as if such annexed property had originally been a part of the Property, including such portion being deemed part of the Development Plan for the Project and the number of Lots within such annexed portion being used to determine the number of Total Planned Lots.

16.02. Procedure for Annexation. Any annexation shall be made by recordation of a Supplemental Declaration covering the real property to be annexed. The Supplemental Declaration shall describe the real property to be annexed and state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the real property being annexed. The Supplemental Declaration may contain such complementary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any, of the real property being annexed and as are not inconsistent with the general scheme of this Declaration.

16.03. Annexed Property. Each Owner of any portion of the annexed property automatically shall be a Member of the Association and upon the recordation of a Final Plat for the annexed property, such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the Project or any part thereof. Assessments of Lots in any annexed property shall commence upon the first day of the month next following the first conveyance of a Lot improved with a Home to an Owner other than a successor Declarant or Builder. The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and By-Laws with respect to annexed real property. Except as may otherwise be expressly provided in this Declaration or any Supplemental Declaration, the Project shall be managed and governed by the Association as an entirety. Assessments collected from Owners in the Project may be expended by the Association anywhere in the Project without regard to the particular phase area or subdivision of the Project from which such assessments came. All Owners shall have ingress and egress to and from all the Common Area throughout the Project and any portion thereof - and shall have use and enjoyment of any recreational facilities and other amenities contained within the Common Area throughout the Project, provided that any such use shall be subject to the provisions of this Declaration, any Supplemental Declaration, the By-Laws and the Rules and Regulations.

16.04. Withdrawal. Declarant reserves the right to amend this Declaration at any time, without prior notice and without the consent of any Person for the purpose of removing certain

portions of the Property then owned by Declarant from the provisions of this Declaration (i) if such real property was included originally in error, or (ii) if the planned use of such property is changed from residential to another use, as evidenced by the approval of the applicable governmental authorities.

ARTICLE 17  
MISCELLANEOUS PROVISIONS

17.01. Power to Settle Claims. The Board shall have the power and authority to compromise, settle, release and otherwise adjust claims, demands, causes of action and liabilities in favor of the Association and the Owners, on behalf of the Association and Owners, as the case may be, provided any such claim, demand, cause of action or liability arises out of or relates to a condition or defect common to all or a majority of the Lots or Improvements constructed thereon, or to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area or part thereof, and the Association shall have the right and the power to make and receive all payments or other consideration necessary therefore or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney in fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

17.02. Independence of Provisions. The provisions of this Declaration shall be deemed independent and severable. Invalidation or partial invalidation of any provision of this Declaration by judgment or Court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

17.03. Notices. Notices shall be in writing and shall be addressed as follows: (i) if to an Owner, to the address of his Lot; (ii) if addressed to Declarant, to Ronald B. Merville, Jr., 8 Westlake Drive, Nashville, Tennessee, 37205 and (iii) if to the Association, to the address of the Project. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant may designate a different address for notices by giving written notice of such change of address to all Owners and to the Association. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association and to Declarant.

17.04. Headings. The headings used in this Declaration are for convenience and reference only and the words contained therein shall not be held to expand, modify, or aid in the interpretation, construction, or meaning of this Declaration.

17.05. Enforcement. The failure of any Owner to comply with the provisions of this Declaration, the By-Laws or the Articles shall entitle the Association, any Owner, or any of them, to maintain an action for the recovery of damages or injunctive relief or both, and such persons or entities, or any of them, shall have the right to enforce all limitations, restrictions, covenants, conditions, easements, liens, charges, assessments and equitable servitudes imposed by or pursuant to the provisions, of this Declaration. Right of enforcement shall entitle the prevailing party to recover all costs incident thereto, court costs and reasonable attorney's fees. Failure to enforce the provisions of this Declaration shall not be deemed a waiver of the right to do so thereafter. All remedies provided in this Declaration shall be cumulative and in addition to any other remedies available under law.

17.06. Equal Opportunity Housing. This Project provides equal opportunity housing. Each Lot sold shall be sold without regard to the race, creed, color, national origin, ancestry, religion, marital status, age, sex, or handicap of the purchaser.

17.07. Exhibits. The following Exhibits are attached to this Declaration, incorporated herein, and made a part hereof by reference:

Exhibit "A" - Written Legal Description (Master Plan)

Exhibit "A-1"- Site Plan for the Property and the Additional Property which may hereafter be annexed.

Exhibit "B" - Attorney's Opinion

Exhibit "C" - Secretary of State's Certificate of Incorporation and Association Charter

17.08. Amendments.

(A) During any period in which Declarant owns a Lot, Declarant may amend this Declaration without the approval of any Member or Mortgagee provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot, and during any such period this Declaration may not be amended without the written joinder of Declarant. In the event that such amendment would materially and adversely affect the security, title and interest of any Mortgagee, such amendment shall be valid only upon the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each mortgage owned).

(B) Should the Veterans' Administration, the Federal Housing Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes.

(C) Any other amendments of this Declaration shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association as such classes are set forth in the By-Laws and this Declaration; or (ii) if a two-class voting structure is not in effect, the vote or written consent of both sixty-seven percent (67%) of the Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than Declarant; provided, however, that the percentage of the Voting Power (of each class of Members, of the Association, and of Members other than Declarant) necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

(D) Notwithstanding anything to the contrary contained in this Declaration, any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) right to use of the Common Area; (vi) responsibility for maintenance and repair of the Project; (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project

(other than as specifically permitted hereby), (viii) the boundaries of any Lot; (ix) interests in the Common Area; (x) leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (xii) any provisions which are for the express benefit of Mortgagees; or (xiii) any other material amendment, shall require (y) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members, or (z) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association, and the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each Mortgage owned). Any Mortgagee who does not respond within thirty (30) days request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request.

(E) Any instrument amending this Declaration must be recorded in the Register's Office of the County, and in the case of an amendment made by the Owners, such amendment shall contain, a certification by the President and Secretary of the Association that the amendment has been correctly adopted in accordance with the provisions of this Declaration. Any such amendment shall be effective upon the date of recordation.

(F) Notwithstanding any other provision hereof to the contrary, the Declarant may, without the joinder or consent of any Owner, Member, Mortgagee or any other party, (i) amend this Declaration at any time that Declarant owns all Lots within the Project, or (ii) amend this Declaration at any time to comply with the specific requirements of the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other governmental agency or quasi-governmental agency which insures, guaranties, or purchases Mortgages.

17.09. FHA, VA Approval. If any Mortgage is guaranteed or insured by the Federal Housing Administration or by the Veterans Administration, then upon written demand to the Association by either such agency, the following action, if made by Declarant or if made while a two-class voting structure is in effect, must be approved by either such agency: (i) any annexation of additional property; (ii) any mortgage, transfer or dedication of any Common Area; (iii) any amendment to this Declaration, the Articles or the By-Laws, if such amendment materially and adversely affects the Owners or materially and adversely affects the general scheme of development created by this Declaration, or (iv) any merger, consolidation or dissolution; of the Association; provided however such approval shall specifically not be required where the amendment is made to add any property specifically identified in this Declaration, or to correct errors or omissions, or is required to comply with the requirements of any Mortgagee, or is required by any governmental authority. Such approval shall be deemed given if either agency fails to give written notice of its disapproval of any such action to Declarant or to the Association within thirty (30) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval may be conclusively evidenced by a certificate of Declarant or the Association that the approval was given or deemed given.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration as of the date first above set forth.

DECLARANT/OWNER

Ronald B Merville, Jr.  
RONALD B. MERVILLE, JR.

LaDonna M Merville  
LADONNA M. MERVILLE

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

Personally appeared before me, a Notary Public in and for said County and State, the within named Ronald B. Merville, Jr. and LaDonna M. Merville, the bargainors, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence) and who acknowledged that they executed the within instrument for the purpose therein contained.

Witness my hand and official seal at Nashville, Tennessee, this 5th day of March, 2007.

[Signature]  
NOTARY PUBLIC

My Commission Expires: 2-10-08



My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

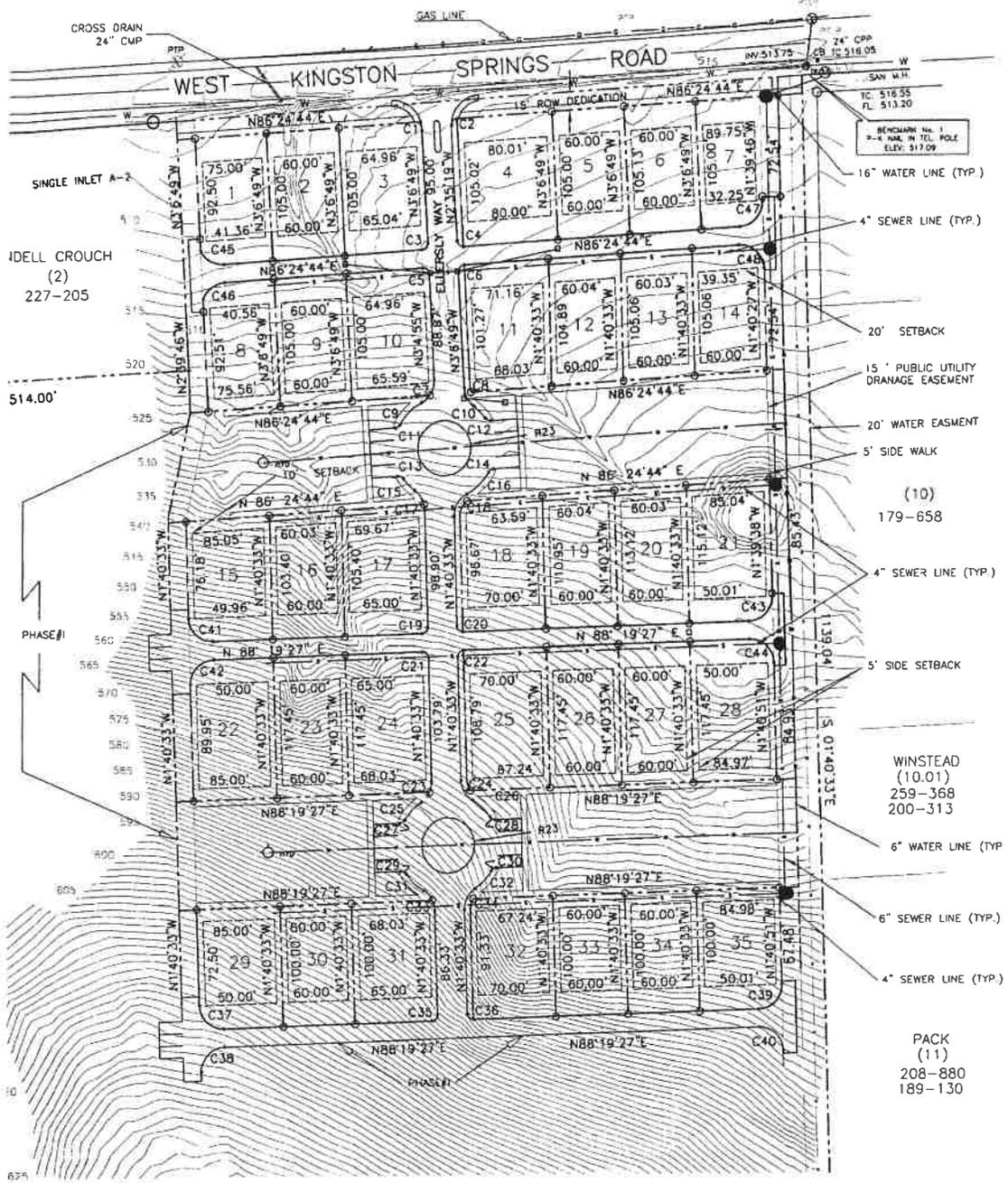
Being a tract of land in the Eleventh Councilmanic District of Cheatham County, Tennessee, and located in the Town of Kingston Springs on the south margin of West Kingston Springs Road, west of north main street (Aiken Ave) and being more particularly described as follows:

Beginning on a iron pin on the south margin of West Kingston Springs Road; and being westerly 800 feet, more or less, from intersection of the westerly right-of-way of North Main Street and the south right-of-way of West Kingston Springs Road and said iron pin being the northeast corner of the herein described tract and the northwest corner of Wahl as evidenced in Deed Book 363, Page 23, in the Register's Office for Cheatham County, Tennessee (ROCC), thence leaving said margin and along Wahl's line and along the west line of Moore Circle Subdivision Lots 4, 5 and 6, also being the east line of the herein described Tract S 01 deg. 40' 33" E a distance of 1139.04 feet to an iron pin, said pin being the southeast corner of the herein described tract, thence along the south line of the herein described tract, N 88 deg. 25' 08" W a distance of 957.00 feet to an iron pin, said pin being in the east line of Finch as evidenced in Deed Book 96, Page 42 (ROCC) and said pin being the southwest corner of the herein described tract, thence; along the common line of Finch and the herein described tract N 12 deg. 26' 10" W a distance of 297.00 feet to an iron pin, said pin being the northeast corner of Finch and the southeast corner of Baker as evidence in Deed Book 283, Page 119 (ROCC), thence; along the common line of Baker and the herein described Tract N 02 deg. 44' 22" W a distance of 289.00 feet to an iron pin said iron pin being the southwest corner of Marvin Crouch as evidenced in Deed Book 217, Page 877 (ROCC), thence along the south line of Marvin Crouch passing Marvin Crouch's southeast corner at 296 feet more or less and continuing with Wendell Crouch's south line and passing Wendell Crouch's southeast corner at an additional 199 feet, more or less, and continuing along with the south line of a 19 foot wide strip, all being with the north line of the herein described tract N 87 deg. 14' 30" E a total distance of 514.00 feet to an iron pin being the southwest corner of Plunkett as evidenced in Deed Book 75, Page 317, (ROCC), thence; along the east line of the 19 foot wide strip, being the west line of the herein described tract N 03 deg. 26' 13" W a distance of 205.33 feet to an iron pin, said pin being in the south margin of West Kingston Springs Road, thence; along the south margin of West Kingston Springs Road and the north line of the herein described tract N 86 deg. 24' 44" E, a distance of 526.80 feet to an iron pin, the point of beginning, containing 23.123 acres, more or less, according to a survey by Jesse E. Walker, RLS, PE, dated 07/25/96, RLS #1486.

Being the same property conveyed to Ronald B. Merville, Jr. and wife, LaDonna M. Merville, by deed of record in Record Book 203, Page 565, Register's Office for Cheatham County, Tennessee.

**Phase One is a portion of the aforescribed property.**

EXHIBIT "A-1"



LAW OFFICES  
**CRAIG & DRAKE**  
An Association of Attorneys

305 FOURTEENTH AVENUE NORTH - NASHVILLE, TENNESSEE 37203-3416  
(615) 320-5577 • FAX (615) 320-5597

LARRY D. CRAIG  
THOMAS J. DRAKE, JR.

**EXHIBIT "B"**

March 8, 2007

Mr. Ronald B. Merville, Jr.  
Mrs. LaDonna M. Merville  
8 Westlake Drive  
Nashville, Tennessee 37205

Mr. David Clark, Chairman  
Kingston Springs Municipal Regional Planning Commission  
P.O. Box 256  
Kingston Springs, Tennessee 37082

RE: Ellersly, a Planned Unit Development

Dear Lady and Gentlemen:

For purposes of compliance of the subdivision regulations for the Town of Kingston Springs, Tennessee and its municipal-regional planning commission, the declaration of covenants, conditions and restrictions, together with appended by-laws, are in compliance for filing in the Register's Office for Cheatham County, Tennessee.

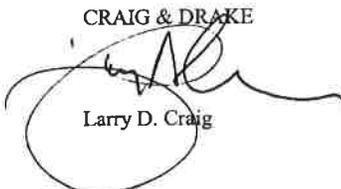
The charter for Ellersly Homeowners Association, Inc., a Tennessee not-for-profit mutual benefit corporation, issued by the Secretary of State of Tennessee on January 22, 2007, has been filed in the county of the initial registered office and has further been recorded in Record Book 234, Page 139, Register's Office for Cheatham County, Tennessee.

The final plat for the first phase of this development with all requisite signatures should be placed of record in the Register's Office for Cheatham County, Tennessee. Likewise, the declaration with appended by-laws shall then be recorded, followed by a quitclaim deed to Ellersly Homeowners Association, Inc. conveying all of the "common area" set forth on the final plat.

Based upon all of the foregoing and requisite review thereof, I am of the opinion that all legal documents required for the creation of a planned unit development under applicable law have been complied with.

Sincerely,

CRAIG & DRAKE



Larry D. Craig

LDC/jm

EXHIBIT "C"

**COPY**

Secretary of State  
Division of Business Services  
312 Eighth Avenue North  
6th Floor, William R. Snodgrass Tower  
Nashville, Tennessee 37243

DATE: 01/22/07  
REQUEST NUMBER: 5922-0498  
TELEPHONE CONTACT: (615) 741-2286  
FILE DATE/TIME: 01/22/07 1314  
EFFECTIVE DATE/TIME: 01/22/07 1314  
CONTROL NUMBER: 0539227

TO:  
ELLERSLY HOMEOWNERS ASSOCIATION INC  
8 WESTLAKE DRIVE  
NASHVILLE, TN 37205

Davidson County CHARTER  
Recvd: 01/24/07 06:38 4 pgs  
Fees: 7.00 Taxes: 0.00

20070124-0009537

RE:  
ELLERSLY HOMEOWNERS ASSOCIATION, INC.  
CHARTER - NONPROFIT

CONGRATULATIONS UPON THE INCORPORATION OF THE ABOVE ENTITY IN THE STATE OF TENNESSEE, WHICH IS EFFECTIVE AS INDICATED.

A CORPORATION ANNUAL REPORT MUST BE FILED WITH THE SECRETARY OF STATE ON OR BEFORE THE FIRST DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE CORPORATION'S FISCAL YEAR. ONCE THE FISCAL YEAR HAS BEEN ESTABLISHED, PLEASE PROVIDE THIS OFFICE WITH THE WRITTEN NOTIFICATION. THIS OFFICE WILL MAIL THE REPORT DURING THE LAST MONTH OF SAID FISCAL YEAR TO THE CORPORATION AT THE ADDRESS OF ITS PRINCIPAL OFFICE OR TO A MAILING ADDRESS PROVIDED TO THIS OFFICE IN WRITING. FAILURE TO FILE THIS REPORT OR TO MAINTAIN A REGISTERED AGENT AND OFFICE WILL SUBJECT THE CORPORATION TO ADMINISTRATIVE DISSOLUTION.

WHEN CORRESPONDING WITH THIS OFFICE OR SUBMITTING DOCUMENTS FOR FILING, PLEASE REFER TO THE CORPORATION CONTROL NUMBER GIVEN ABOVE. PLEASE BE ADVISED THAT THIS DOCUMENT MUST ALSO BE FILED IN THE OFFICE OF THE REGISTER OF DEEDS IN THE COUNTY WHEREIN A CORPORATION HAS ITS PRINCIPAL OFFICE IF SUCH PRINCIPAL OFFICE IS IN TENNESSEE.

Dolores Moulton, Registrar  
Cheatham County Tennessee  
Rec #: 140926  
Rec'd: 3.00 Instrument #: 96276  
Fees: 3.00 Recorded  
Sfrk: 0.00 1/31/2007 at 9:00 AM  
EDP: 2.00 in Record Book  
Total: 7.00 234  
Pgs 139-142

Original in this  
Book & Page  
ROCC, TN

FOR: CHARTER - NONPROFIT

DN DATE: 01/22/07

FROM:  
RONALD B HERVILLE, JR  
8 WEST LAKE DRIVE  
NASHVILLE, TN 37205-0000

FEES  
RECEIVED: \$100.00 \$0.00  
TOTAL PAYMENT RECEIVED: \$100.00

RECEIPT NUMBER: 00004076690  
ACCOUNT NUMBER: 00547660



*Riley C Darnell*  
RILEY C. DARNELL  
SECRETARY OF STATE

**FILED**  
RECEIVED  
STATE OF TENNESSEE

2007 JAN 22 PM 1:14

**CHARTER  
OF  
ELLERSLY HOMEOWNERS ASSOCIATION, INC.  
A NONPROFIT MUTUAL BENEFIT CORPORATION**

RILEY DARNELL  
SECRETARY OF STATE

In compliance with the requirements of the Tennessee Nonprofit Corporation Act (the "Act"), the undersigned, having the capacity to contract and acting as the Incorporator of a non-profit property owners association under the Act, adopts the following Charter for Articles of Incorporation for such association.

5922-898

**ARTICLE I  
NAME**

The name of the corporation is ELLERSLY HOMEOWNERS ASSOCIATION, INC., hereunder the "Corporation".

**ARTICLE II  
MUTUAL BENEFIT CORPORATION**

The Corporation is a mutual benefit corporation and its duration is perpetual.

**ARTICLE III  
INITIAL REGISTERED OFFICE AND REGISTERED AGENT**

The street address and zip code of the Corporation's initial registered office, the county in which the office is located, and the name of its initial registered agent at that office is:

Ronald B. Merville, Jr.  
8 Westlake Drive  
Nashville, Tennessee 37205  
Davidson County

**ARTICLE IV  
INCORPORATOR**

The name and address and zip code of each incorporator is as follows:

Ronald B. Merville, Jr.  
8 Westlake Drive  
Nashville, Tennessee 37205

**ARTICLE V  
PRINCIPAL OFFICE**

The street address and zip code of the principal office of the Corporation is as follows:

8 Westlake Drive  
Nashville, Tennessee 37205

The ~~Asso~~ Corporation will have members.  
JM

**ARTICLE VI  
NOT FOR PROFIT CORPORATION**

The corporation is not for profit.

No part of the net earnings shall inure to the benefit of, or be distributed to, its directors, officers or private individual person or entity, except the corporation shall be authorized and empowered to (a) pay reasonable compensation for goods and services rendered, (b) rebate excess membership dues, fees or assessments, and make payments in furtherance of the purposes herein.

**ARTICLE VII  
PURPOSE AND POWERS OF THE CORPORATION**

This Corporation does not contemplate pecuniary gain or profit to the members thereof. The purpose for which the Corporation is organized is to maintain the common area and facilities of Ellersly, a Planned Unit Development in Cheatham County, Tennessee and perform all duties and functions of the Ellersly Homeowners Association, Inc., as described in the Declaration of Easements, Covenants, Conditions and Restrictions for the development, together with appended by-laws, to be recorded in the Register's Office for Cheatham County, Tennessee, hereinafter called the "Declaration", and any additions and amendments thereto as may hereafter be brought within the jurisdiction of the Corporation, and for the purpose to:

- (a) exercise all of the powers, rights and privileges and to perform all of the duties and obligations of the Corporation as set forth in the Declaration, as the same may be amended from time to time as therein provided;
- (b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Corporation, including all licenses, taxes or governmental charges levied or imposed against the property of the Corporation;
- (c) 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 Corporation;
- (d) borrow money, and with the assent of two-thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (e) have and to exercise any and all powers, rights and privileges which a corporation organized under the Act by law may now or hereafter have or exercise;
- (f) except for those amendments which the Tennessee Non-Profit Corporation Act expressly permits to be made by the Directors of the Corporation, any amendment to these Articles of Incorporation of the Corporation to be adopted must be approved by not less than two-thirds (2/3) of each class of members of the Corporation.
- (g) act in any other legal endeavor which yields to further the care and maintenance of association property.

All of the foregoing purposes incidental to the operation of the horizontal property regime management association activities shall be permitted so long as the endeavor or activity does not prevent the corporation from being, or maintaining its status as a homeowners association as defined by Section 528(c)(1) of the Internal Revenue Code of 1986, or amendment hereafter thereto.

522-899

**ARTICLE VII  
MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to assessment by the Corporation, shall be a member of the Corporation. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Corporation. Upon the conveyance or transfer of the ownership interest of a lot in the horizontal property regime, a Planned Unit Development, the new owner or owners shall succeed to the former's membership, and the membership of the former owner or owners shall terminate.

**ARTICLE IX  
BOARD OF DIRECTORS**

The affairs of this Corporation shall be managed by a Board of Directors. The number of directors and the method of electing the same shall be provided in the By-Laws of the Corporation.

As provided in Tennessee Code Annotated Section 48-58-501 et seq. all directors and officers of the Corporation shall be immune from suit and no present or former director or officer of the Corporation shall have any personal liability to the Corporation or its members for monetary damages arising from the conduct of the affairs of the Corporation, except when such conduct amounts to willful, wanton or gross negligence. The Corporation shall indemnify all current and former directors and officers of the Corporation to the maximum extent allowed by law, including without limitation advancing expenses pursuant to Tennessee Code Annotated Section 48-58-504, for any and all claims brought against such persons in connection with their actions or inactions in their official capacity as directors and officers of the Corporation.

**ARTICLE X  
DISSOLUTION**

Upon the dissolution, all of the assets of the corporation shall be distributed to a non-profit organization with similar purpose(s) to those of this corporation, such organization shall be chosen by the Board of Directors as a part of the plan of dissolution.

**ARTICLE XI  
AMENDMENT AND ANNEXATION**

Amendment to these Articles of Incorporation and annexation shall require a vote of two-thirds (2/3) of the Lot Owners, except as otherwise stated in the Declaration.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Tennessee, the undersigned, constituting the incorporator of this Corporation, has executed these Articles of Incorporation this 19<sup>th</sup> day of January, 2007.

Ronald B. Merville, Jr.  
RONALD B. MERVILLE, JR., INCORPORATOR

5922-0500

**BY-LAWS  
OF  
ELLERSLY HOMEOWNERS ASSOCIATION, INC.  
APPENDED TO THE DECLARATION**

**ARTICLE I**

**Member (Lot Owners)**

**Section 1. Eligibility:** The members of the Ellersly Homeowners Association, Inc., a Tennessee mutual benefit not-for-profit corporation (the "Association"), shall consist of the respective Lot Owners of Ellersly, a Planned Unit Development (P.U.D.), (the "Property"). These and other terms are used in these By-Laws as they are defined in the Declaration of Covenants, Conditions and Restrictions for Ellersly, a P.U.D., (the "Declaration"), which Declaration is recorded in the Register's Office for Cheatham County, Tennessee. The words "member" or "members" as used in the By-Laws mean and shall refer to "Lot Owner" or "Lot Owners", as the case may be, as defined in the Declaration. If a Lot Owner is a land title holding trust under the terms of which all powers of management, operation and control of the Lot remains vested in the trust beneficiary, then the member shall be the beneficiary of such trust.

**Section 2. Succession:** The membership of each Lot Owner shall terminate when such Owner ceases to be a Lot Owner, and upon the sale, transfer or other disposition of such Owner's ownership interest in the Property, such Owner's membership in the Association shall automatically be transferred to the new Lot Owner succeeding to such ownership interest.

**Section 3. Annual Meetings:** The annual meeting of Lot Owners shall be held at the time and place specified in the notice of such meeting, but such place shall be within fifteen (15) miles of the Property. The annual meeting of Lot Owners shall be held within sixty (60) and one hundred twenty (120) days following the end of the Association's fiscal year. At the annual meeting, the Lot Owners shall elect Directors, receive reports on the activities and financial condition of the Corporation, and transact such other business as may properly come before the meeting.

**Section 4. Special Meetings:** The Association shall hold a special meeting of its Lot Owners upon the call of the Board of Directors or the President, or upon the written demands to the Secretary by Lot Owners holding at least ten (10%) percent of all votes entitled to be cast on any issue to be considered at the proposed special meeting. Any call or demand for a special meeting shall describe the purpose(s) for which the special meeting is to be held. Only business within the purpose(s) described in the meeting notice for the special meeting may be conducted at such meeting.

**Section 5. Notice of Meetings:** The Association shall notify its Lot Owners of the date, time and place of each annual and special meeting of Lot Owners no fewer than ten (10), nor more than forty-five (45), days before the meeting date. The notice of a meeting shall also contain such information that may be required by these By-Laws.

Section 6. Waiver of Notice: A Lot Owner's attendance at a meeting:

- (A) Waives objection to lack of notice or defective notice of the meeting unless the Lot Owner at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and
- (B) Waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice, unless the Lot Owner objects to considering the matter when it is presented.

Section 7. Voting: The aggregate number of votes of all Lot Owners shall be as follows:

**Class A.** Class A members shall be all Lot Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) when ninety (90%) percent of the Lots of Ellersly which are contemplated to be platted have been sold by the Developer by various phases and sections per the Master Plan filed with the governing jurisdiction; or
- (ii) January 1, 2014; or
- (iii) Declarant relinquishing control to members at large.

Notwithstanding the foregoing, no Lot Owner who is in default in the payment of assessments hereunder shall be entitled to exercise the right to vote hereunder until such Owner has cured such default. A Lot Owner shall be deemed to be in default if such Owner has not paid his or her assessments to the Board, or their agent, within ten (10) days after the date such assessments are due. A Lot Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

Section 8. Quorum: Unless otherwise required by law, one-third of the votes entitled to be cast by Lot Owners must be represented at any meeting of the Lot Owners to constitute a quorum on that matter. If, however, such quorum is not represented at any such meeting, the Lot Owners present at the meeting in person or represented by proxy shall have the power to adjourn the meeting and schedule a follow-up meeting at which the quorum requirement shall be one-half of that required for the previous meeting. Notice of the follow-up meeting shall be given in similar manner to the previous meeting. At such time as a quorum is present, the meeting shall be held when any business

may be transacted which might have been transacted at the meeting as provided in the original notice.

Section 9. Voting Requirements: Except as otherwise provided in these By-Laws, the Declaration or the Act, action on any matter voted upon at a meeting of the Lot Owners is approved if a majority of the Lot Owners vote in favor of the action. However, Directors shall be elected by a plurality of the votes cast by the Lot Owners entitled to vote in the election at a meeting of the Lot Owners at which a quorum is present. Lot Owner shall vote in person or by proxy executed in writing by the Lot Owner. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Lot Owner of his Lot. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Lot Owner's vote shall be cast by the President of the Lot Owner corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation. Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Lot Owners present at the meeting shall, prior to the voting on any matters, demand a ballot vote on that particular matter. Where such directors or officers are to be elected by the Lot Owner, the official solicitation of proxies for such elections may be conducted by mail.

Section 10. Action by Written Consent: Action which is required or permitted to be taken at a meeting of the Lot Owners may be taken without such a meeting if all Lot Owners entitled to vote on the action consent to taking such action without a meeting. If all of such Lot Owners so consent, the affirmative vote of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Lot Owners, except as otherwise provided in these By-Laws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, to be signed by each Lot Owner entitled to vote on the action, indicate each signing Lot Owner's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes or Association records.

Section 11. Action by Written Ballot: Any action which may be taken at any annual or special meeting of the Lot Owners may be taken without a meeting if the Association delivers a written ballot to every Lot Owner entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

- (a) indicate the number of responses needed to meet the quorum requirements;
- (b) state the percentage of approvals necessary to approve each matter other than election of Directors; and

- (c) specify the time by which the ballot must be received by the Association in order to be counted.

## ARTICLE II

### Board of Directors

Section 1. Number, Election and Term of Office: The Board of Directors of the Association (referred to herein as the "Board") shall consist of five (5) persons (hereinafter referred to as "Directors"). Directors shall be elected at the annual meeting of Association's Lot Owners by the vote of Lot Owners (including the Developer and any builders) as hereinafter provided, except that the Developer shall appoint the interim Board of Directors ("Interim Board") until the first meeting. The Interim Board shall terminate at the time twenty-four (24) Lots have been sold by the Developer. At the first meeting, the Lot Owners (including the Developer and any builders) shall among other business elect the members of the first Board of Directors ("First Board"). Those candidates for election as director receiving the greatest number of votes cast either in person, by ballot or by proxy at the meeting shall be elected. Directors, except for members of the First Board and Interim Board shall hold office for the term of two (2) years and until his or her successor shall be elected and qualified. Two (2) members of the First Board shall hold office until the second annual meeting of the Association's Lot Owners, and three (3) members of the First Board shall hold office until the third annual meeting of the Association's Lot Owners. Nothing in this Declaration shall be construed to mean that the Developer and any builder do not have voting rights as a Lot Owner, and the Developer hereby specifically declares that the Developer, together with its successors and any builder(s) shall have and maintain the voting rights applicable to the Lots owned by them (and any weighted voting rights shall remain applicable.)

Section 2. Qualification: Except for those persons making up the Interim Board, each Director shall be a Lot Owner or the spouse of a Lot Owner (or, if a Lot Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Lot Owner or such beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such Lot Owner or beneficiary). If a Director shall cease to meet such qualifications during his term, such Director shall cease to be a Director and his or her place on the Board shall be deemed vacant. Notwithstanding the above, until such time as the Developer has sold each and every Lot owned by the Developer, any person designated by the Developer as a qualified candidate for a Director position shall be deemed to be so qualified without regard to their ownership or non-ownership of a Lot.

Section 3. Vacancies: Any vacancy occurring in the Board shall be filled by majority vote of the remaining Directors. Any Director so elected to fill a vacancy shall hold office for a term equal to the one unexpired term of the Director succeeded.

Section 4. Regular Meetings: Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

Section 5. Special Meetings: Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 6. Notice of Meetings: Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

Section 7. Waiver of Notice: If a Director attends or participates in a meeting, he or she waives any required notice to him or her of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to the action taken at the meeting.

Section 8. Quorum and Voting: A quorum of the Board of Directors consists of a majority (but no fewer than two (2)) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, except as otherwise provided in these By-Laws.

Section 9. Vacancies: If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors or a vacancy resulting from a removal of a Director with or without cause:

- (a) the Lot Owners may fill the vacancy;
- (b) the Board of Directors may fill the vacancy; or
- (c) if the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all Directors remaining in office.

Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded.

Section 10. Removal of Directors: The Lot Owners may remove any one (1) or more Directors, with or without cause, at any special meeting which is specifically called for that purpose.

Section 11. Action Without Meeting: Action which is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of

the Board, except as otherwise provided in these By-Laws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes filed with the Association's records.

Section 12. Indemnification: With respect to claims or liabilities arising out of service as a Director of the Association, the Association shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 13. Immunity: To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

Section 14. Compensation: Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by the Lot Owners.

Section 15. Powers and Duties: The Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property;
- (c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Lot Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that the First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act a Managing Agent, for the Property for a term as approved by said First Board, but not to exceed one (1) year, and in accordance with the Declaration; provided further, that the Board shall not have the authority to adopt any form of management of the Property which excludes professional management by an independent agent without prior approval of a majority of all first mortgages of Lots.
- (d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;
- (e) to adopt rules and regulations, with written notice thereof to all Lot Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;

- (f) to provide for the maintenance, repair, and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;
- (g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);
- (h) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- (i) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable, but only as allowed by law;
- (j) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Lot Owners their respective shares of such estimated expenses, as hereinafter provided;
- (k) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Lot Owners (as said majority is defined in the Declaration), as expressed in a resolution duly adopted at any annual or special meeting of the Lot Owners;
- (l) to resolve or mediate disputes, conflicts or problems between Lot Owners;
- (m) when necessary, to interpret the rules and regulations of the Association and the Declaration;
- (n) to exercise all other powers and duties of the Board of Directors, referred to in the Declaration or these By-Laws.

**Section 16. Non-Delegation:** Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association, or to the officers of the Association any powers or duties which, by law, have been delegated to the Lot Owners.

## ARTICLE III

### Officers

Section 1. Designation: Each regular meeting, the Directors present at said meeting shall elect the following officers of the Association by a majority vote, provided a quorum exists:

- (a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Lot Owners, and who shall be the chief executive officer of the Association;
- (b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Lot Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent;
- (c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and
- (d) such additional officers as the Board shall see fit to elect.

Section 2. Powers: The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office: Each officer shall hold office for the term of one (1) year and until a successor shall have been appointed or elected and qualified.

Section 4. Vacancies: Vacancies in any office shall be filled by the Board by a majority vote of the remaining Directors at a special meeting of said Board. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded.

Section 5. Compensation: The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Lot Owners.

Section 6. Removal: The Board of Directors may remove any officer at any time with or without cause.

Section 7. Indemnification: With respect to claims or liabilities arising out of service as an officer of the Association, the Association shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as not in effect and as hereafter adopted or amended.

## ARTICLE IV

### Assessments

Section 1. Annual Budget: The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power and all other common expenses. To the extent that the assessments and other cash income collected from the Lot Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account any estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

Section 2. Assessments: The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Lot Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Lot Owner shall pay, as such Owner's respective monthly assessment for the common expenses, one-twelfth (1/12) of such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Lot Owner shall be in accordance with the proportion the Lot (as one Lot) owned by such Lot Owner bears to the total number of Lots subject to this Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Lot Owner shall continue to pay each month the amount of such Owner's respective monthly assessment as last determined. Each Lot Owner shall pay such Owner's monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Lot Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Lot, the Common Elements, or the Private Elements. Nothing herein shall prohibit the Association from requiring said monthly assessments to be collected in advance on a quarterly, semi-annually or annual basis.

The Board of Directors of the Association shall fix the commencement date for monthly or annual assessments on the first day of the month following the conveyance of the Lot from Developer (or a builder), to an Owner (other than a builder), as set forth in the Declaration, and shall provide for a partial assessment between the commencement date and the end of the calendar year next following, as may be applicable. Thereafter, monthly or annual assessments shall be levied by the Board of Directors of the Association, by action taken on or before December 1 of each year for the ensuing year. The Board, in its discretion, may provide for the periodic payment of such assessments at some intervals other than monthly. Special assessments may be levied in any year for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, repair or

replacement of a capital improvements upon the Common Areas, if any, including fixtures and personal property related thereto; provided that the same are first approved by affirmative vote of Members entitled to cast at least two-thirds (2/3) of the votes at a meeting of the Members duly held for that purpose. Written notice of the monthly, annual or special assessment shall be mailed (by U.S. first class mail) to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner, but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

The Assessments provided for herein shall be allocated according to Lots. Until otherwise established by the Board of Directors of the Association as set forth herein, the maximum annual assessment per Lot shall be Four Hundred Eighty (\$480.00) Dollars. The Association at its option may allow the payment of the annual assessment on a monthly or quarterly basis. From and after one year from the date hereof, the maximum annual assessment may be increased by the Board of Directors each year by an amount up to, but not in excess of ten (10%) percent of the maximum annual assessment for the previous year without a vote of the membership.

All Lots within a group of contiguous Lots (each grouping a "Pod", as within a Phase and Section) shall commence to bear their assessments on the first day of the month following the conveyance of the first Lot within a Pod from Developer or a home builder to an Owner (other than a builder), and then the assessments shall only apply to the Lots in such Pod. Notwithstanding anything in this Declaration to the contrary, the obligation of the Developer and any builder holding Lot(s) for the purpose of developing or constructing residence(s) thereon to pay assessments shall be subject to the provisions of the following paragraph.

Notwithstanding any provision to the contrary in these By-Laws or the Declaration to which they are attached, and except for the contribution required in this paragraph, the Developer and any Successor Developer shall be exempt from the payment of assessments for any Lots owned by the Developer, and any Successor developer until such time as the weighted voting rights provided within the Declaration no longer provide an automatic majority to the Developer or any Successor developer. During the time that the Developer and any Successor Developer is exempt from the payment of assessments, the Developer, and any Successor Developer shall fund and pay any shortfall between the annual budget for the Association and the actual costs of operating and maintaining the Common Area and administering the Association. In order to secure payment of any such shortfall, there shall arise a continuing lien and charge in favor of the Association against all of the property owned by the Developer within the Property, the amount of which shall include interest at the maximum effective rate allowed by the law, costs and reasonable attorney's fees to the extent permissible by law. Said obligation to fund shortfalls, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Developer or Successor Developer at the time the shortfall occurred. The lien shall survive any transfer of title and the property shall remain subject to levy and execution. The Developer's, and any Successor

Developer's, obligation to fund any such shortfall shall terminate at such time as the Developer's, and any Successor Developer's, weighted voting rights no longer provide an automatic majority to the Developer or any Successor Developer.

Section 3. Partial Year Or Month: For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Lot Owner shall be proportionate to the number of months and days in such period covered by such budget. Each Lot Owner shall pay such Owner's assessment for the following month or fraction of a month, which assessment shall be in proportion to the Owner's respective ownership interest in the Association and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

Section 4. Annual Report: Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Lot Owner, and to any other party required by the Declaration, a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Supplemental Budget: In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated common expenses and limited common expenses for the remainder of such year will be inadequate, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Lot Owner, and thereupon, a supplemental assessment shall be made to each Lot Owner for such Owner's proportionate share of such supplemental budget.

Section 6. Lien: It shall be the duty of every Lot Owner to pay such Owner's proportionate share of the common expenses and limited common expenses, as provided in the Declaration, and as assessed in the manner herein provided.

If any Lot Owner shall fail or refuse to make any such payment of the common expenses or limited common expenses when due, the amount thereof, together with interest thereon at the rate of ten (10%) percent per annum after said common expenses become due and payable and also together with a one time (per payment or per month) late fee in a minimum amount of \$25.00 or such higher amount as the Association may determine, said late fee being assessed upon any payment received more than ten (10) days after its due date, and shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Lot Owner in the Property, provided, however, that such lien shall be subordinate to the lien of the recorded deed of trust on the interest of such Lot Owner, except for the amount of the proportionate share of common expenses and limited common expenses which are due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Lot, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose on its deed of trust. The provisions of this paragraph of this

Section 6 shall not be amended, changed, modified or rescinded in any way without the prior written consent of all such lien holders of record.

The Association or its successors and assigns, and the Board or its agents, shall have the right to enforce the lien as provided in this Declaration, and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and reasonable attorney's fees. Furthermore, if any Lot Owner shall fail or refuse to pay when due such Owner's proportionate share of the common expenses or limited common expenses and such Lot Owner withhold possession of such Owner's Lot after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Lot. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for by law, the Declaration or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 7. Records and Statement of Account: The Board shall cause to be kept detailed and accurate records in a book in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing the expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. Said book and the vouchers shall be available for examination by all Lot Owners at convenient hours on working days which shall be set and announced for general knowledge.

The Board shall, upon receipt of ten (10) days' written notice to it or the Association and upon payment of a reasonable fee, furnish to any Lot Owner a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Lot Owner.

Section 8. Discharge of Liens: The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Lot ownership. When fewer than all the Lot Owners are responsible for the existence of any such lien, the Lot Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorney's fees, incurred by reason of such lien.

Section 9. Holding of Funds: All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Lot Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Lot Owners.

Section 10. Association Records: The Association shall keep as permanent records minutes of all meetings of its Lot Owners and Board of Directors, a record of all actions taken by the Lot Owners or Board of Directors without a meeting and all appropriate accounting records.

Section 11. Records at Principal Office: The Association shall keep at all times a copy of the following records at its principal office.

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These By-Laws and all amendments thereto;
- (c) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of Lot Owners or any class or category of Lot Owners;
- (d) The minutes of all meetings of Lot Owners and the records of all actions taken by Lot Owners without a meeting for the past three (3) years;
- (e) All written communications to Lot Owners generally within the past three (3) years, including the past three (3) years' annual financial statements;
- (f) A list of the names and business or home addresses of its current Directors and officers;
- (g) The most recent annual report delivered to the Tennessee Secretary of State; and
- (h) Its Declaration and all amendments thereto.

Section 12. Annual Financial Statements: The Association shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

#### ARTICLE V

##### Contractual Powers

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors of the Association are directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board of a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

- (a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purposes without counting the vote or votes of such Director or Directors; or

- (b) the contract or transaction is just and reasonable as to the corporation at the time it is authorized or approved.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

## ARTICLE VI

### Amendments

These By-Laws may be amended or modified from time to time by action or approval of two-thirds (2/3) of the Lot Owners casting one (1) vote for each Lot owned, as provided in Article I, Section 7 of these By-Laws. Such amendment(s) shall not be operative until they are recorded in the office of the Register of Deeds for Cheatham County, Tennessee. These By-Laws may not be amended by the Board of Directors.

## ARTICLE VII

### Deeds of Trust

Section 1. Notice to Board: A Lot Owner who mortgages his Lot shall notify the Board of the name and address of the deed of trust beneficiary and shall file a copy of the deed of trust with the Board. The Board shall maintain such information in a book entitled "Deeds of Trust on Lots".

Section 2. Notice of Unpaid Common Charges: The Board, whenever so requested in writing by a deed of trust beneficiary of a Lot, shall promptly report any then unpaid assessments, fees or common charges due from, or any default by, the Owner of the mortgaged Lot.

Section 3. Notice of Default: The Board, when giving notice to a Lot Owner of a default in paying common charges or other default, shall send a copy of such notice to each deed of trust beneficiary of record covering such Lot whose name and address has theretofore been furnished to the Board and which has requested in writing to be sent a copy of such notice(s).

Section 4. Examination of Books: Each Lot Owner, and others as specified in the Declaration, shall be permitted to examine the books and records of the Association, current copies of the Declaration and By-Laws, and rules and regulations of the Association during normal business hours and upon request.

Section 5. Interest of Valid First Lien Deed of Trust. The interest of a valid first lien deed of trust shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first lien deed of trust has incorporated the terms of these By-Laws, the Declaration and the contract in its deed of trust, then said first lien deed of

trust may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust notwithstanding any enforcement instituted by the Board.

## ARTICLE VIII

### Definition of Terms

The terms used in these By-Laws, to the extent they are defined herein, shall have the same definition as set forth in the Declaration, as such may be amended from time to time, which Declaration is recorded in the office of the Register of Deeds for Cheatham County, Tennessee.

The term "member", as used in these By-Laws, generally means "Lot Owner" as defined in the Declaration. The term "deed of trust", as used herein, includes a mortgage; and "deed of trust beneficiary" includes a mortgagee and a holder of a deed of trust.

## ARTICLE IX

### Miscellaneous Provisions

Section 1. No Seal: The Association shall have no seal

Section 2. Notices: Whenever notice is required to be given to Lot Owners, Directors or officers, unless otherwise provided by law, the Declaration, the Charter or these By-Laws, such notice may be given in person or by telephone, telegraph, mail or private carrier. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address which appears of each such person on the books of the Corporation. Written notice sent by mail to Lot Owners shall be deemed to have been given when it is mailed. Any other written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid, or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Section 3. Waiver of Notice. Whenever any notice is required to be given under the provisions of any statute, or of the Declaration, the Charter or these By-Laws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon,

and delivered to the Secretary of the Association and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 4. Negotiable Instruments. All checks, drafts, notes or other obligations of the Association shall be signed by such of the officers of the Association, or by such other person(s), as may be authorized by the Board of Directors.

Section 5. Deposits. The monies of the Association may be deposited in the name of the Association in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

Section 6. Committee Members. With respect to claims or liabilities arising out of service as a member of a committee duly appointed by the Board of Directors of the Association, the Association shall indemnify and advance expenses to each such present and future committee member (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 7. Developer. With respect to claims or liabilities arising out of service as an agent of the Association, the Association shall indemnify and advance expenses to the Developer (its officers, employees and successors) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect or as hereafter adopted or amended.

#### ARTICLE X

##### Conflicts

These By-Laws are set forth to comply with the requirements of Chapter 27 of Title 66, Tennessee Code Annotated, as it may be amended from time to time, and to allow the By-Laws to control in specific situations where such laws allows. In case any of the By-Laws conflict with the provisions of said statute or of this Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.

The undersigned hereby certifies that the foregoing By-Laws were duly adopted as the By-Laws of Ellersly Homeowners Association, Inc.

DATED this 8<sup>th</sup> day of March, 2007.

Ronald B. Merville  
RONALD B. MERVILLE, JR.

Ladonna M Merville  
LADONNA M. MERVILLE

SITE PLAN FOR

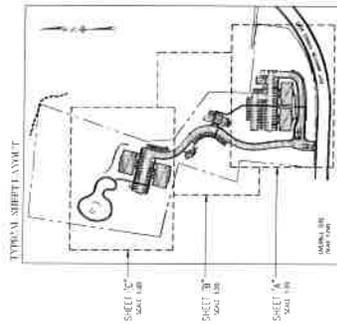
# MCPHERSON SITE

115 EAST KINGSTON SPRINGS ROAD  
 KINGSTON SPRINGS, TN  
 CHEATHAM COUNTY

TNR#240517

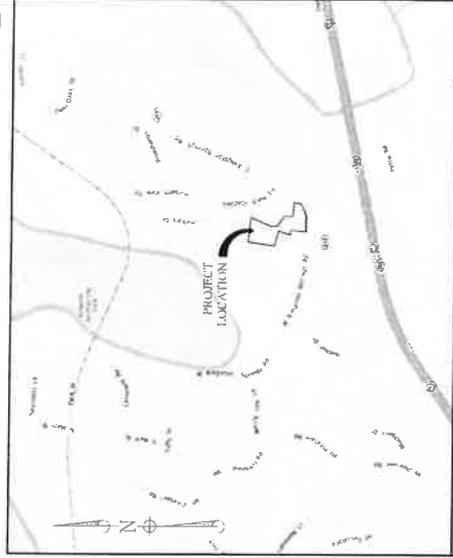
MCPHERSON SITE DEVELOPMENT

DATE: 08/04/21



### SHEET INDEX

FMDDP	FINAL MASTER DEVELOPMENT PLAN
NOTES	PROJECT NOTES
C1.01a-c	DEMO AND INITIAL E.P.S.C.
C1.02a-c	SITE PLAN
C1.03a-c	GRADING PLAN
C1.04a-c	DRAINAGE PLAN
C1.04d	DRAINAGE TABLES
C1.05a-c	INTERMEDIATE E.P.S.C.
C1.06a-c	FINAL STABILIZATION
C1.07	OVERALL LIGHTING PLAN
C1.07a-c	PHOTOMETRIC LAYOUT
C2.01a-b	ROAD PLAN & PROFILES
C2.02	INTERSECTION SIGHT DISTANCE P&P
C3.01	OVERALL UTILITY PLAN
C4.01a-c	RETAINING WALL PLAN & PROFILES
C4.02a-e	RETAINING WALL CROSS SECTIONS
C4.03a-b	WALL DETAILS & SPECIFICATIONS
C5.01-05	CONSTRUCTION DETAILS
L1.1	OVERALL LANDSCAPE PLAN
L1.2-4	LANDSCAPE PLAN
A1.01-03	ARCHITECTURAL ELEVATIONS



Vicinity Map  
1:8000 Scale

NOT FOR CONSTRUCTION



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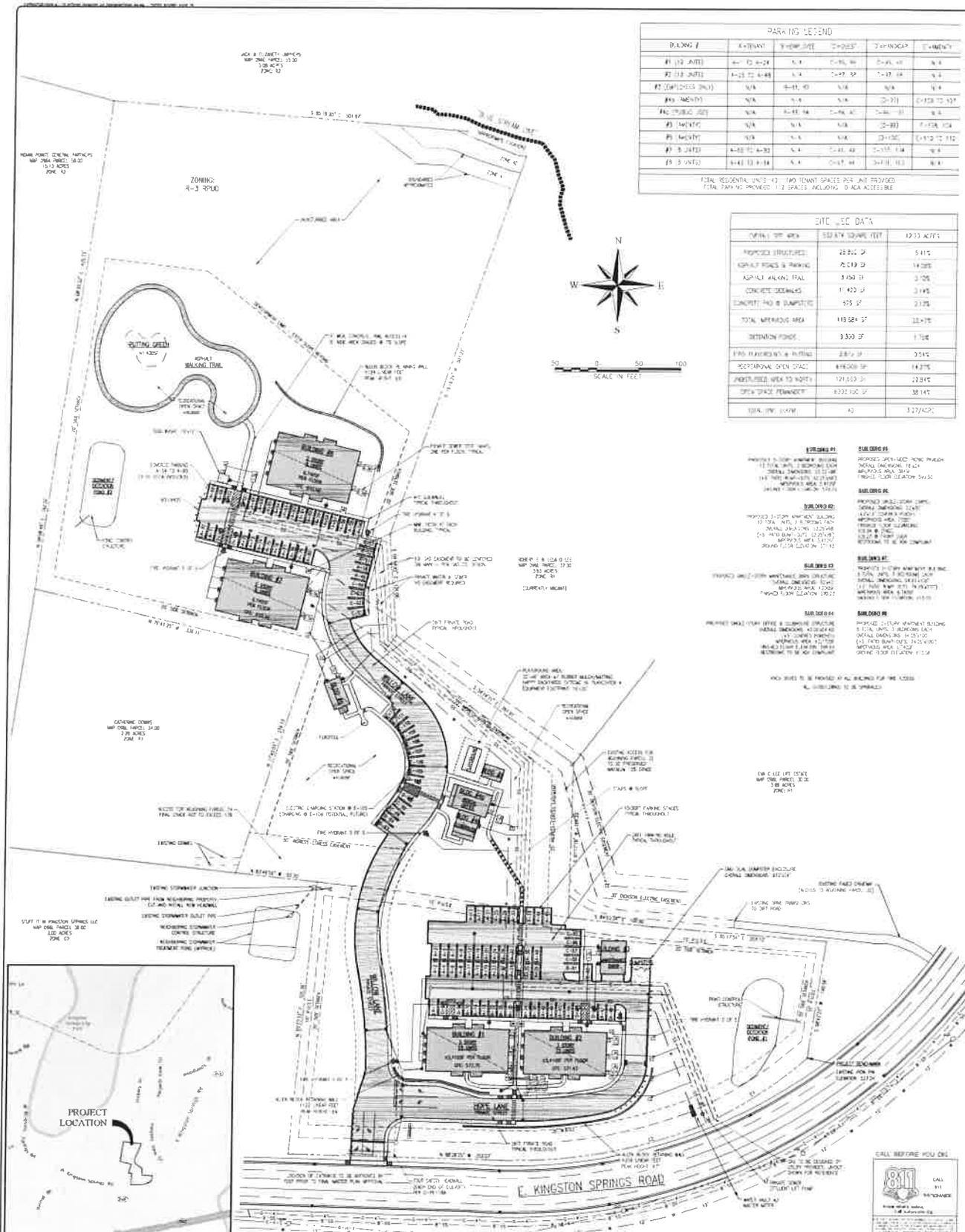
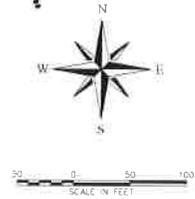
7.B

ACA & COUNTY MAPS  
MAP 206 (REV. 11-20)  
1.00 ACRES  
ZONING R-3

BUILDING #	CONTAIN	SCHEDULE	HEIGHT	AREA	PERMITS	COMMENTS
#1 (12 UNITS)	44' x 24'	1.1	12'-0"	1,056 SF	12-18'	1.1
#2 (12 UNITS)	44' x 24'	1.1	12'-0"	1,056 SF	12-18'	1.1
#3 (EMPLOYEE ONLY)	N/A	1.1	12'-0"	N/A	N/A	1.1
#4 (APARTMENT)	N/A	1.1	12'-0"	N/A	12-18'	1.1
#5 (PUBLIC USE)	N/A	1.1	12'-0"	N/A	12-18'	1.1
#6 (APARTMENT)	N/A	1.1	12'-0"	N/A	12-18'	1.1
#7 (APARTMENT)	N/A	1.1	12'-0"	N/A	12-18'	1.1
#8 (UNITS)	44' x 24'	1.1	12'-0"	1,056 SF	12-18'	1.1
#9 (UNITS)	44' x 24'	1.1	12'-0"	1,056 SF	12-18'	1.1

TOTAL RESIDENTIAL UNITS: 43  
TOTAL PARKING SPACES PER PLAN PROVIDED: 112 SPACES INCLUDING 8 ADA ACCESSIBLE

ITEM	QUANTITY	UNIT	AMOUNT
PROPOSED STRUCTURES	12,816	SF	5,415
ASPHALT PAVEMENT & PARKING	75,219	SF	14,008
ASPHALT WALKING TRAIL	3,750	SF	3,750
CONCRETE SIDEWALKS	11,422	SF	3,145
CONCRETE PAD & DAMPING	575	SF	2,375
TOTAL IMPROVED AREA	119,881	SF	22,793
DETENTION POND	9,350	SF	1,704
EROSION PREVENTION & RETENTION	2,875	SF	3,545
RECREATIONAL OPEN SPACE	8,160	SF	14,275
UNIMPROVED OPEN SPACE	121,553	SF	22,845
OPEN SPACE PERMANENT	8,032	SF	3,145
TOTAL IMPROV.	43		327,427



- BUILDING #1:** PROPOSED 12-UNIT APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #2:** PROPOSED 12-UNIT APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #3:** PROPOSED EMPLOYEE ONLY BUILDING WITH TOTAL AREA OF 1,056 SQ. FT. (44' x 24').
- BUILDING #4:** PROPOSED APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #5:** PROPOSED PUBLIC USE BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #6:** PROPOSED APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #7:** PROPOSED APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #8:** PROPOSED 12-UNIT APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').
- BUILDING #9:** PROPOSED 12-UNIT APARTMENT BUILDING WITH TOTAL AREA OF 10,560 SQ. FT. (44' x 24').

**APPLICANT/ PROPERTY OWNER/ DEVELOPER:**  
NOT NOTED  
SUG. CHECK SHOW NO. 14-00  
MCPHILL, R. 2022

**DEED REFERENCE:**  
MAP 15, GROUP C, PARCEL 15-01 PARCEL 15-02, 15-03, 15-04, 15-05, 15-06, 15-07, 15-08, 15-09, 15-10, 15-11, 15-12, 15-13, 15-14, 15-15, 15-16, 15-17, 15-18, 15-19, 15-20, 15-21, 15-22, 15-23, 15-24, 15-25, 15-26, 15-27, 15-28, 15-29, 15-30, 15-31, 15-32, 15-33, 15-34, 15-35, 15-36, 15-37, 15-38, 15-39, 15-40, 15-41, 15-42, 15-43, 15-44, 15-45, 15-46, 15-47, 15-48, 15-49, 15-50, 15-51, 15-52, 15-53, 15-54, 15-55, 15-56, 15-57, 15-58, 15-59, 15-60, 15-61, 15-62, 15-63, 15-64, 15-65, 15-66, 15-67, 15-68, 15-69, 15-70, 15-71, 15-72, 15-73, 15-74, 15-75, 15-76, 15-77, 15-78, 15-79, 15-80, 15-81, 15-82, 15-83, 15-84, 15-85, 15-86, 15-87, 15-88, 15-89, 15-90, 15-91, 15-92, 15-93, 15-94, 15-95, 15-96, 15-97, 15-98, 15-99, 15-100

**SITE USE:**  
EROSION PREVENTION & RETENTION  
PROPOSED USE: MULTIFAMILY RESIDENTIAL

**PROPOSED ZONING:**  
R-3 (RESIDENTIAL SINGLE-FAMILY)

**LEGEND:**

PROPOSED USE	PROPOSED STRUCTURE	PROPOSED DRIVEWAY	PROPOSED SIDEWALK
EXISTING USE	EXISTING STRUCTURE	EXISTING DRIVEWAY	EXISTING SIDEWALK
PROPOSED PARKING	PROPOSED WALKING TRAIL	PROPOSED BIKEWAY	PROPOSED BIKEWAY
PROPOSED DETENTION POND	PROPOSED EROSION CONTROL	PROPOSED EROSION CONTROL	PROPOSED EROSION CONTROL
PROPOSED UTILITY	PROPOSED UTILITY	PROPOSED UTILITY	PROPOSED UTILITY

**Vicinity Map**  
SEE SHEET 2000

**FMDDP**

FINAL MASTER DEVELOPMENT PLAN

**MCPHERSON SITE DEVELOPMENT**

1118 E. KINGSTON SPRINGS ROAD  
KINGSTON, TN 37020  
THE VILLAGE OF KINGSTON

**NOT FOR CONSTRUCTION**

JOHN W. LONN, P.E., ENGINEER

**KLOBER ENGINEERING SERVICES**

1118 E. KINGSTON SPRINGS ROAD, KINGSTON, TN 37020  
PHONE: (615) 382-2200 FAX: (615) 382-2445  
WWW.KLOBERENGINEERING.COM

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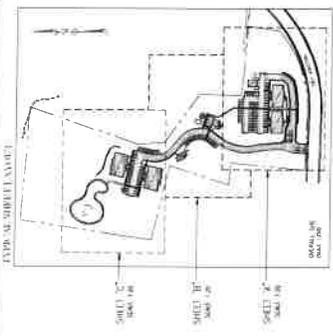


**MCPHERSON SITE  
 DEVELOPMENT**



NO.	DATE	REVISIONS

**KLOBBER**  
 ENGINEERING SERVICES  
 11111 W. GRAND AVENUE, SUITE 100  
 GRAND RAPIDS, MI 49508  
 TEL: 616.771.1111  
 FAX: 616.771.1112  
 WWW.KLOBBER.COM



THIS SHEET IS A PART OF THE PROJECT AND SHOULD BE USED IN CONJUNCTION WITH THE OTHER SHEETS OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.

**LEGEND**

[Symbol]	EXISTING LOT LINES
[Symbol]	EXISTING BUILDING FOOTPRINTS
[Symbol]	EXISTING DRIVEWAYS
[Symbol]	EXISTING SIDEWALKS
[Symbol]	EXISTING UTILITIES
[Symbol]	EXISTING EROSION CONTROL MEASURES
[Symbol]	EXISTING TREES
[Symbol]	EXISTING FENCES
[Symbol]	EXISTING DRIVEWAYS
[Symbol]	EXISTING SIDEWALKS
[Symbol]	EXISTING UTILITIES
[Symbol]	EXISTING EROSION CONTROL MEASURES
[Symbol]	EXISTING TREES
[Symbol]	EXISTING FENCES



MATCHLINE - SEE SHEET CI.01B  
 FOR CONTINUATION



SHEET NO. 1 OF 1  
 DATE: 08/15/2011

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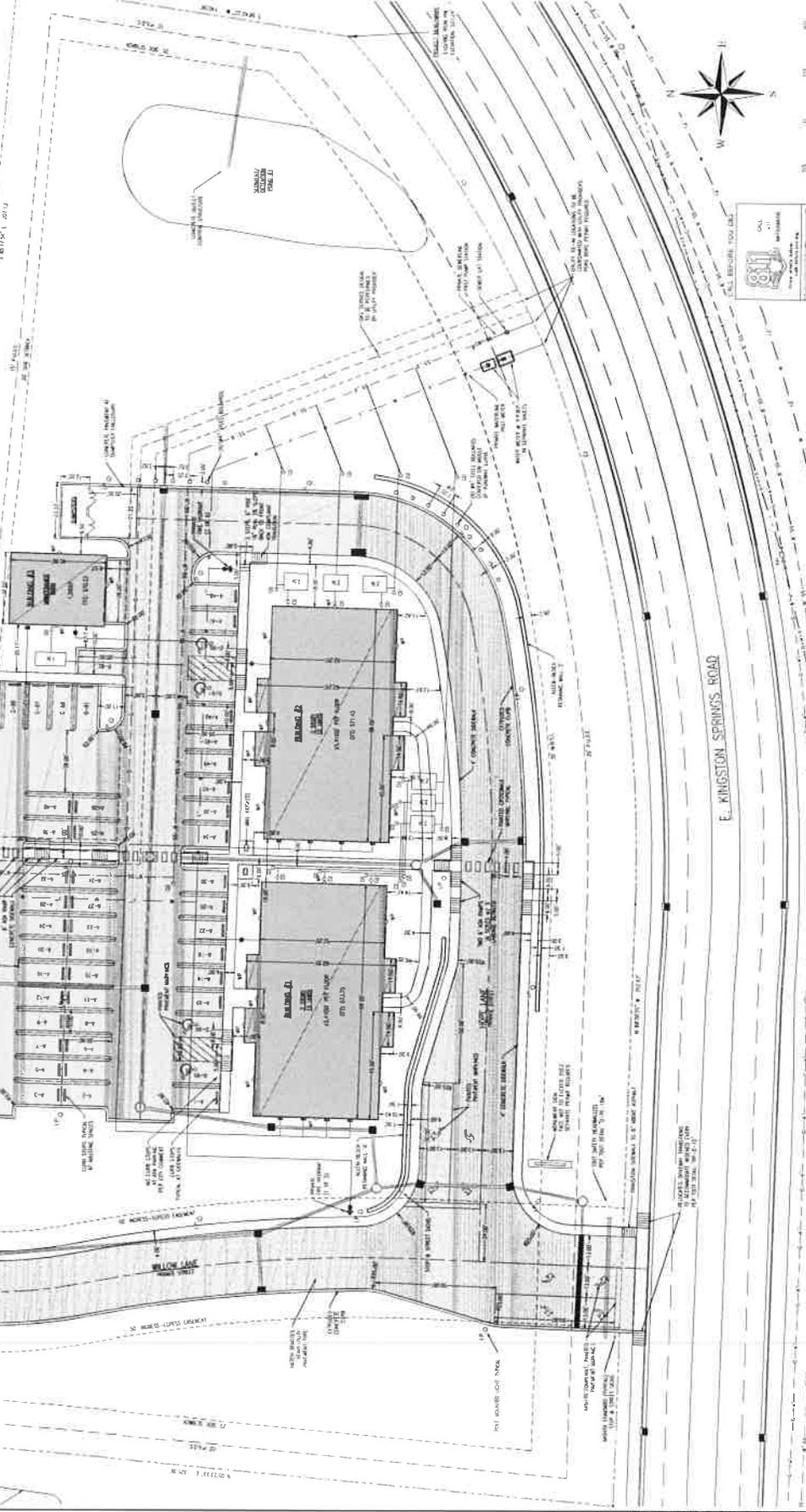
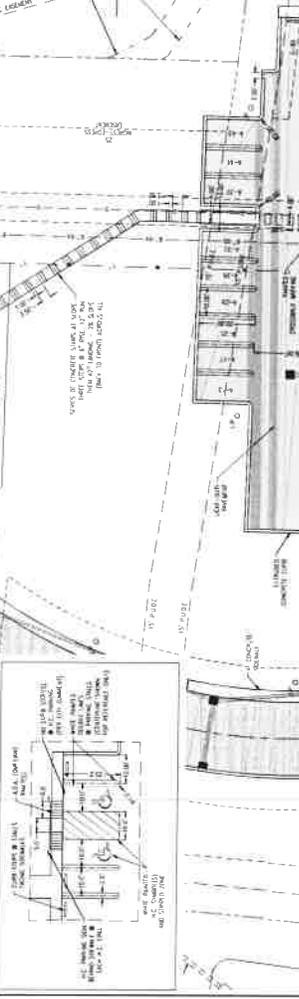
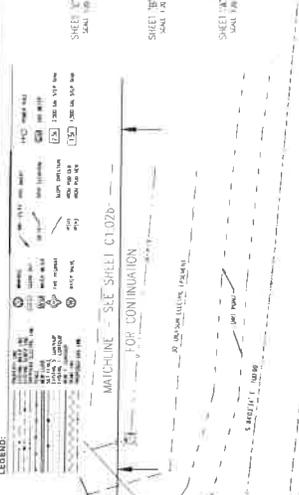
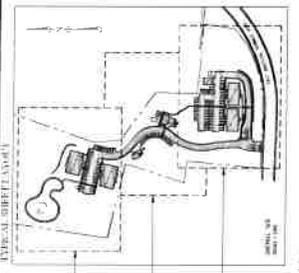


**NOT FOR CONSTRUCTION**

**MCPHERSON SITE DEVELOPMENT**

DATE: 01/15/2014	SCALE: AS SHOWN
DRAWN BY: J. KLOBBER	CHECKED BY: J. KLOBBER
<b>SITE LAYOUT</b>	

**C1.02a**



E. KINGSTON SPRINGS ROAD

10' PARK

15' PARK

20' PARK

25' PARK

30' PARK

35' PARK

40' PARK

45' PARK

50' PARK

55' PARK

60' PARK

65' PARK

70' PARK

75' PARK

80' PARK

85' PARK

90' PARK

95' PARK

100' PARK

105' PARK

110' PARK

115' PARK

120' PARK

125' PARK

130' PARK

135' PARK

140' PARK

145' PARK

150' PARK

155' PARK

160' PARK

165' PARK

170' PARK

175' PARK

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195' PARK

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815' PARK

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825' PARK

830' PARK

835' PARK

840' PARK

845' PARK

850' PARK

855' PARK

860' PARK

865' PARK

870' PARK

875' PARK

880' PARK

885' PARK

890' PARK

895' PARK

900' PARK

905' PARK

910' PARK

915' PARK

920' PARK

925' PARK

930' PARK

935' PARK

940' PARK

945' PARK

950' PARK

955' PARK

960' PARK

965' PARK

970' PARK

975' PARK

980' PARK

985' PARK

990' PARK

995' PARK

1000' PARK

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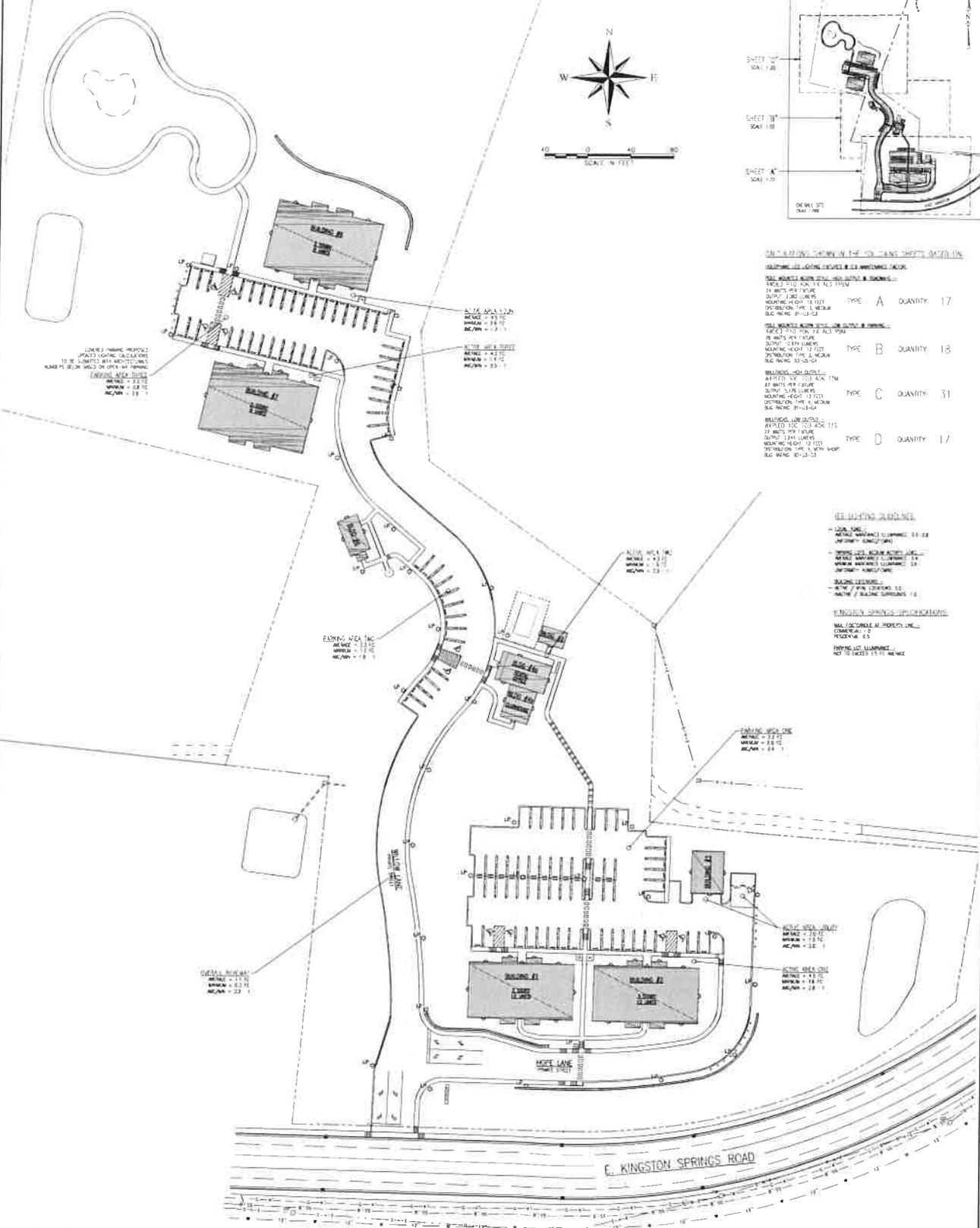
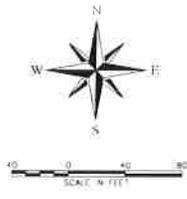
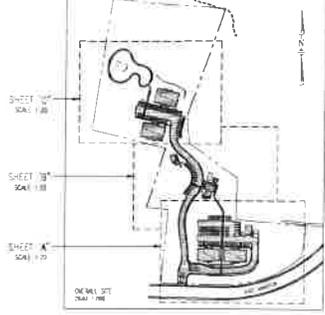








**TYPICAL SITE LAYOUT**



**ILLUMINATION DATA FOR FIXTURES LISTED IN THE FOLLOWING TABLES IS BASED ON THE FOLLOWING ASSUMPTIONS:**

**TYPE A** QUANTITY 17  
 24 WATT PER HOUR  
 OUTPUT 3,000 LUMENS  
 MOUNTING HEIGHT 18 FEET  
 DISTRIBUTION TYPE 3, MOUNT  
 BEAM ANGLE 30-150-30

**TYPE B** QUANTITY 18  
 24 WATT PER HOUR  
 OUTPUT 3,000 LUMENS  
 MOUNTING HEIGHT 17 FEET  
 DISTRIBUTION TYPE 3, MOUNT  
 BEAM ANGLE 30-150-30

**TYPE C** QUANTITY 31  
 40 WATT PER HOUR  
 OUTPUT 4,000 LUMENS  
 MOUNTING HEIGHT 17 FEET  
 DISTRIBUTION TYPE 3, MOUNT  
 BEAM ANGLE 30-150-30

**TYPE D** QUANTITY 17  
 40 WATT PER HOUR  
 OUTPUT 4,000 LUMENS  
 MOUNTING HEIGHT 17 FEET  
 DISTRIBUTION TYPE 3, MOUNT  
 BEAM ANGLE 30-150-30

**EXISTING CONDITIONS**

- LOCAL CODE
- MINIMUM MAINTENANCE LUMINOUS FLUX PER LAMP HOUR (LMH)
- MINIMUM MAINTENANCE LUMINOUS FLUX PER HOUR (LMFH)

**PROPOSED CONDITIONS**

- MINIMUM MAINTENANCE LUMINOUS FLUX PER HOUR (LMFH)

CALL BEFORE YOU DIG

CALL 811  
 ANYWHERE  
 ANYTIME  
 ANYWHERE

**LEGEND**

Symbol	Symbol	Symbol	Symbol
Symbol	Symbol	Symbol	Symbol
Symbol	Symbol	Symbol	Symbol
Symbol	Symbol	Symbol	Symbol

**C1.07**

OVERALL LIGHTING PLAN

**MCPHERSON SITE DEVELOPMENT**

1150 KINGSTON SPRINGS ROAD  
 KINGSTON SPRINGS, TN 37020  
 TEL: 615.596.7773

NOT FOR CONSTRUCTION

NO.	DATE	DESCRIPTION

**KLOBER ENGINEERING SERVICES**

1150 KINGSTON SPRINGS ROAD, SUITE 200, KINGSTON SPRINGS, TN 37020  
 PHONE: (615) 596-7773 FAX: (615) 596-7774  
 WWW.KLOBER.COM

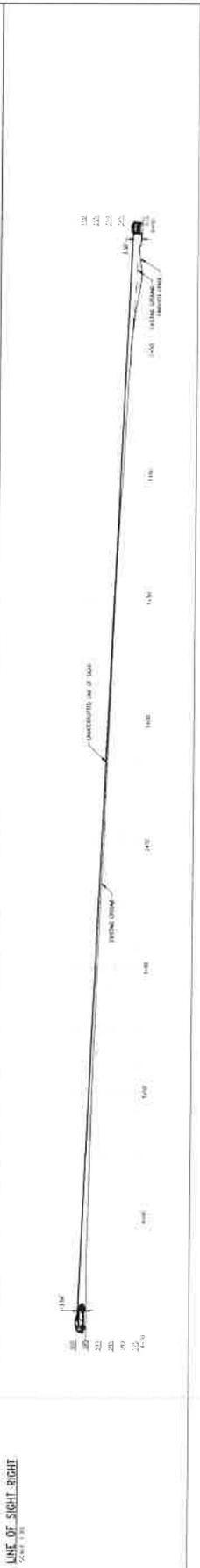
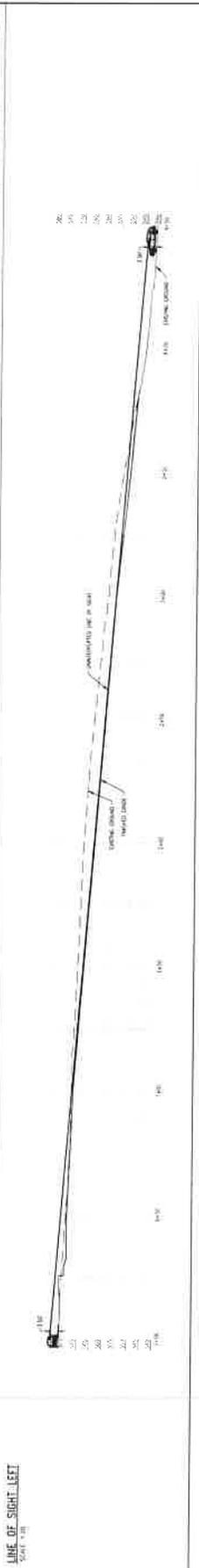
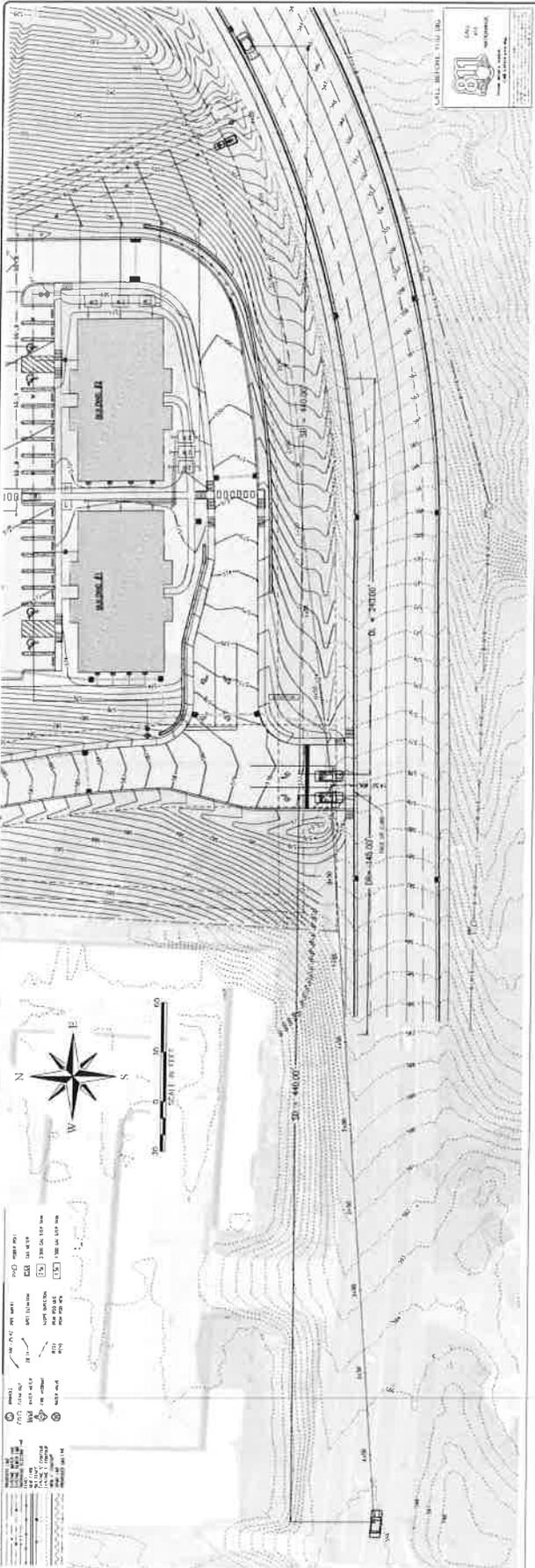


TABLE 1: SIGHT DISTANCE FOR TWO VEHICLES APPROACHING FROM OPPOSITE DIRECTIONS

Vehicle Type	Vehicle Height (ft)	Stopping Sight Distance (ft)	Required Sight Distance (ft)
Passenger Vehicle	5.5	115	230
Combination Vehicle	13.5	305	610



4 LANE UNDIVIDED FLARED - SYMMETRICAL

4 LANE UNDIVIDED FLARED - SYMMETRICAL

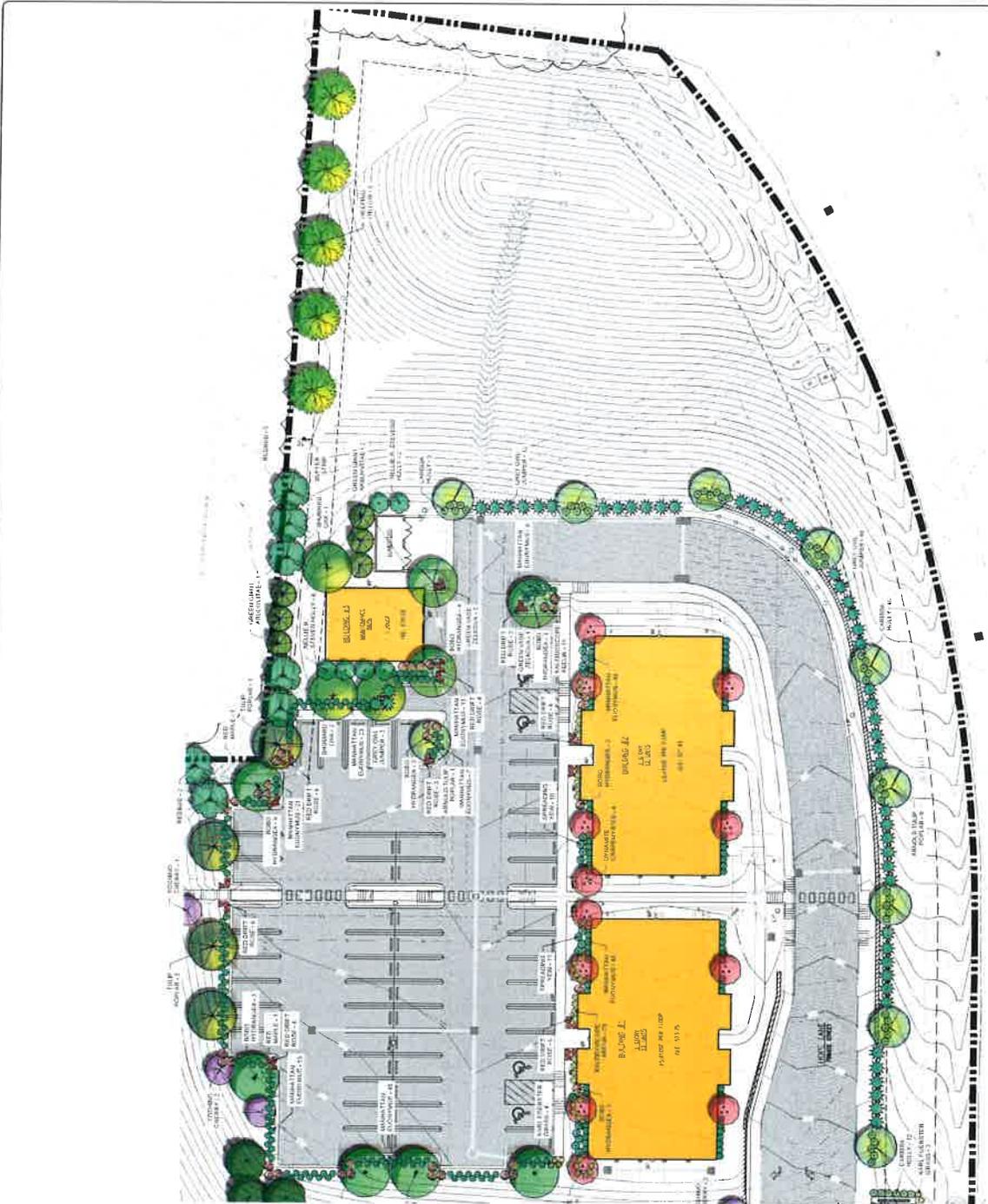












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ROAD





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**KLOBER**  
ENGINEERING SERVICES

1000 W. 10th Street, Suite 100  
Lawrence, KS 66044  
Phone: 785.840.1111  
Fax: 785.840.1112  
www.klober.com

DATE	DESCRIPTION

NOT FOR  
CONSTRUCTION

MCPHERSON SITE  
DEVELOPMENT

1000 W. 10th Street, Suite 100  
Lawrence, KS 66044  
Phone: 785.840.1111  
Fax: 785.840.1112  
www.klober.com

ARCHITECTURAL  
ELEVATIONS

PROJECT NO. **A1.01**



**SECTIONAL DETAILS**

1. FOUNDATION  
2. CONCRETE SLAB ON GRADE  
3. 4" EPS INSULATION  
4. 2" POLYSTYRENE INSULATION  
5. 4" CONCRETE SLAB ON GRADE

SCHEDULE OF MATERIALS

ITEM	DESCRIPTION	QUANTITY	UNIT
1	CONCRETE	10,000	YD <sup>3</sup>
2	INSULATION	20,000	YD <sup>3</sup>
3	WOOD	10,000	YD <sup>3</sup>
4	ROOFING	10,000	YD <sup>2</sup>
5	MECHANICAL	10,000	YD <sup>3</sup>

PROJECT: **BUILDINGS ONE & TWO**

DATE: 10/15/2020

SCALE: 1/8" = 1'-0"

**BUILDINGS ONE & TWO**  
NOT TO SCALE

**SECTIONAL DETAILS**

1. FOUNDATION  
2. CONCRETE SLAB ON GRADE  
3. 4" EPS INSULATION  
4. 2" POLYSTYRENE INSULATION  
5. 4" CONCRETE SLAB ON GRADE

SCHEDULE OF MATERIALS

ITEM	DESCRIPTION	QUANTITY	UNIT
1	CONCRETE	10,000	YD <sup>3</sup>
2	INSULATION	20,000	YD <sup>3</sup>
3	WOOD	10,000	YD <sup>3</sup>
4	ROOFING	10,000	YD <sup>2</sup>
5	MECHANICAL	10,000	YD <sup>3</sup>

PROJECT: **BUILDINGS SEVEN & EIGHT**

DATE: 10/15/2020

SCALE: 1/8" = 1'-0"

**BUILDINGS SEVEN & EIGHT**  
NOT TO SCALE







## KINGSTON SPRINGS PLANNING COMMISSION APPLICATION FOR REVIEW

Date of Application: 9/9/21  
 Property Address/Location: 380 Moores Circle  
 Property Owner's Name: Morris E. Hannah Jr & Virginia B. Hannah  
 Property Owner's Address: 4356 Hannah Ford Road, Pogram, TN 37143  
 Property Owner's Primary Phone #: 615-497-7207 Secondary #: \_\_\_\_\_  
 Property Owner's Email: hannahvb@hotmail.com  
 Applicant's Name: Brian McCain  
 Applicant's Email: brian@southernprecision.net Applicant's Phone #: 615-772-5481  
 Signature of Applicant: Brian McCain Signature of Owner: Morris E. Hannah Jr.  
Virginia B. Hannah

SELECT ITEM BELOW TO BE REVIEWED BY PLANNING COMMISSION:

**Residential:**

- Sketch Plan: \$100 (34125)
- Site Plan: \$150 (34125)
- Preliminary Plat (Minor Sub – 5 lots or less): \$350 (34125)
- Preliminary Plat (Major Sub – 6 lots or more): \$500 (34125)
- Final Plat (Minor Sub – 5 lots or less): \$150 (34125)
- Final Plat (Major Sub – 6 lots or more): \$300 (34125)
- Final Plat Revision (Minor Sub – less than 5 lots): \$350 (34125)
- Final Recorded Plat Revision (Minor Sub – less than 5 lots): \$150 (34125)

**Commercial:**

- Concept Site Plan: \$100 (34125)
- Preliminary Plat: \$500 (34125)
- Final Plat: \$300 (34125)
- Final Recorded Plat Revision: \$150 (34125)
- Construction Drawing Review: \$500 (34125)
- Plan Review: \$350 (34125)

**Other:**

- Rezone Request: \$150 (34125)
- Change of Use Request: \$50 (34125)
- Conditional Use Review: \$100 (34125)
- Final Plat Recording Fee: \$50 (34125)

**Design Review Committee Plan review (Commercial Construction):** Pass Thru fee from consultant. All new construction with the exception of single family and duplexes is subject to Design Review Pass Thru, including multi-family and major subdivisions.

**See Reverse Side for FINAL PLAT Requirements**





5.052.1. C-1, Central Business District

A. District Description

This district is designed to provide for a wide range of retail, office, amusement, service uses, and light industrial processes involving high performance standards. In addition, this district provides for governmental uses, and community facilities and utilities necessary to serve the district or which are required for the general community welfare. The regulations are structured to permit maximum freedom of pedestrian movement. Relative high density and high intensity of use is permitted in this district.

B. Uses Permitted

In the C-1, Central Business District, the following uses and their accessory uses are permitted:

1. Retail establishments.
2. Professional, finance, insurance, real estate, personal, business and repair services.

3. Manufacturing, provided it is incidental to the retail business or service which sells the made products on the premises and that such manufacturing activity occupied less than forty (40) percent of the floor area and employs not more than five (5) operators.
4. Hotels, motels and boarding houses.
5. Commercial amusement establishments.
6. Churches and other places of assembly.
7. Mortuaries.
8. Newspaper and printing plants.
9. Governmental buildings and community centers.
10. Utility facilities (without storage) necessary for the provision of public services.
11. Communication services.
12. Educational services.
13. Signs and billboards as regulated in City Sign Ordinance.
14. Medical offices, clinics, etc.
15. Nursing homes.
16. Florist shops.
17. Medical and dental laboratories.
18. Offices providing advice, design, or consultation of a professional nature, i.e., lawyers, accountants, engineers, architects, etc.<sup>1</sup>
19. Day care centers.

C. Uses Permitted as Special Exceptions:

In the C-1, Central Business District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with ARTICLE VII, SECTION 7.060.

1. Automotive parking lot.
2. Adult oriented business establishments such as adult arcades, adult bookstores, adult video stores, adult entertainment establishments, adult motion picture theaters, and adult cabarets.

D. Uses Prohibited:

Industrial uses; warehousing and storage uses, except those which are located within and incidental to permitted uses; automobile wrecking, junk, and salvage yards; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations:

All uses permitted in the C-1, Central Business District shall comply with the following requirements except as provided in ARTICLE VI.

1. Minimum Lot Size: No minimum lot size shall be required in the C-1, District.
2. Minimum Yard Requirements: Front yard- 25 feet. If a building or buildings on an adjacent lot or lots provide front yards less than 20 feet in depth, a front yard equal to the average of adjacent yards shall be provided. Rear yard - 20 feet. Side yard - none is required. However, if an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed.
3. Maximum Lot Coverage: There are no restrictions on the area occupied by all buildings including accessory buildings on a lot or parcel located in the C-1 District.
4. Height Requirement: The maximum height of all buildings located in the C-1 District shall be established as follows, except as provided in ARTICLE VI, SECTION 6.030.
  - a. The maximum building height at the street line shall be four stories or fifty (50) feet.
  - b. For each foot the building is set back from the street line, the height of the building may be increased by 1.5 feet to a maximum height of sixty-five (65) feet.
  - c. All buildings taller than three (3) stories or thirty-five (35) feet in height shall make on-site provisions for the installation of adequate fire protection facilities via a sprinkler system

and/or water storage tank(s), as are necessary. The Board of Zoning Appeals shall determine the adequacy of such system(s).

5. Parking Space Requirements: As regulated in ARTICLE N, SECTION 4.010.

State of Tennessee  Comptroller of the Treasury  
**Real Estate Assessment Data**

[Home](#)   [About](#)   [New Search](#)   [Return to List](#)

County Number: 011

County Name: CHEATHAM

Tax Year: 2021

### Property Owner and Mailing Address

**Jan 1 Owner:**

HANNAH MORRIS E JR & VIRGINIA B HANNAH  
TRUSTEES OF THE 380 MOORE LAND TRUST  
4356 HANNAH FORD RD  
PEGRAM, TN 37143

### Property Location

Address: MOORES CI 380

Map: 096B   Grp: B   Ctrl Map: 096B   Parcel: 007.00   Pl:   Sl: 000

### Value Information

Reappraisal Year: 2019

Land Mkt Value: \$72,800

Improvement Value: \$300,400

Total Market Appraisal: \$373,200

Assessment %: 40

Assessment: \$149,280

### General Information

Class:	08 - COMMERCIAL		
City #:	384	City:	KINGSTON SPRINGS
SSD1:	000	SSD2:	000
District:	11	Mkt Area:	K10
# Bldgs:	1	# Mobile Homes:	0
Utilities - Water / Sewer:	03 - PUBLIC / INDIVIDUAL	Utilities - Electricity:	01 - PUBLIC
Utilities - Gas / Gas Type:	01 - PUBLIC - NATURAL GAS	Zoning:	

### Subdivision Data

Subdivision: MOORE CIRCLE

Plat Bk: 2   Plat Pg: 52   Block:   Lot: 9

### Additional Description

### Building Information

**Building # 1**

Improvement Type: 31 - EDUC/RELIGIOUS   Stories: 1

Living/Business Sq. Ft.: 3,504

Exterior Wall: 04 - SIDING AVERAGE   Quality: 01 - AVERAGE

Act Yr Built: 1991   Condition: A - AVERAGE

**Building Areas:**

Area: 31   Sq Ft: 3,504

Area: OPF      Sq Ft: 132

### Extra Features

Bldg/Card#	Type	Description	Units
1	ASPHALT PAVING		11,320

### Sale Information

Sale Date	Price	Book	Page	Vac/Imp	Type Instrument	Qualification
06/29/2017		524	363		QC	
06/12/2000	\$382,500	509	107	IMPROVED	WD	R
07/21/1995	\$0	372	214			
07/21/1995	\$0	372	212			
06/25/1991	\$45,000	307	523	IMPROVED	WD	A
09/13/1966	\$0	0124	0315			

### Land Information

**Deed Acres:** 0.00      **Calc Acres:** 0.00      **Total Land Units:** 1.22  
**Land Type:** 10 - COMMERCIAL      **Soil Class:**      **Units:** 1.22

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4.11 AC MOL - 2 LOT SUBDIVISION ZONED C-1

S.B.

SR 249 Corridor Study  
Cheatham County

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# SR 249 Corridor Study

Kingston Springs, Cheatham County, TN

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For  
TDOT Long Range Planning Division  
& The Town of Kingston Springs

By  
Gresham Smith  
222 2<sup>nd</sup> Ave. S.  
Suite 1500  
Nashville, TN 37201

Gresham Smith Project No. 44606.02

July 13, 2021

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## **EXECUTIVE SUMMARY**

### **PURPOSE OF THE REPORT**

The purpose of this corridor study of State Route (SR) 249 is two-fold:

- 1) Review of access to I-40 via Exit 188; and
- 2) Examine the impact of SR 249 as a connector between I-40 and US Highway 70.

SR 249 is known locally as Luyben Hills Road. The Kingston Springs Regional Planning Commission is in the initial phase of updating a long-range growth plan for Kingston Springs and the surrounding area, and a study of this busy corridor will be a key component of this plan.

The *SR 249 Corridor Study* was initiated through a Tennessee Department of Transportation (TDOT) Community Transportation Planning Grant (CTPG). TDOT established the CTBG program to assist Tennessee's small and rural communities in developing plans to address transportation, land use, and growth management issues. The program is designed to better integrate multimodal transportation systems with local land use objectives and achieve statewide transportation goals.

The grant application, dated January 21, 2020, was submitted by John Lawless, the Town of Kingston Springs City Manager. The Kingston Springs Regional Planning Commission, as well as the Kingston Springs Board of Commissioners, are in support of this grant application.

### **OVERVIEW OF ADJOINING PROJECTS**

The Town of Kingston Springs is developing a multimodal access project along SR 249 within the study area that will construct a shared-use path along the northbound lane and a sidewalk along the southbound lane. These facilities extend from the I-40 Westbound Ramps to Kingston Springs Road and are included in the Build Option. SR 249 will be overlaid with asphalt pavement and fresh pavement markings. The project will maintain the existing three-lane typical section along SR 249. The project will include curb and grass buffers/utility strips.

A preliminary design plan was submitted in 2018 to Cheatham County for a Safe Routes to School (SRTS) project. The project focuses on the Harpeth View Trail, which links to Harpeth Middle School. Although the Safe Routes to School project is not within the study area, it is located adjacent to the study area and could eventually link the trail with the study area via sidewalks. The SRTS project includes sidewalks, crosswalks, curbs, and greenery to improve the walkability of the area for students walking or biking to school.

As part of the TDOT Nashville I-40 SmartWay Intelligent Transportation System Expansion Project, TDOT will expand the SmartWay along I-40 from US 70 in Bellevue to Hogan Road in Dickson County.

### **DESCRIPTION OF EXISTING CONDITIONS**

SR 249 is located at Exit 188 of the I-40 Interchange and serves as the only access to I-40 in Cheatham County. The next exits are six (6) miles west in Williamson County or four (4) miles east in Davidson County. This section of SR 249 is a main corridor linking I-40 and US 70. Local commuter traffic mixes with commercial truck traffic along the corridor. This section of SR 249 is a primary detour location for incidents on I-40.

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Within the 0.38-mile long study area, SR 249 is functionally classified as a rural major collector with one travel lane in each direction and a two-way left-turn lane. Each lane is twelve (12) feet wide. The typical shoulder width is seven (7) feet. SR 249 is a north-south route with a posted speed limit of 30 mph. The SR 249 intersections with the I-40 Ramps are unsignalized. The SR 249 intersection with Kingston Springs Road is signalized.

#### **EXISTING AND HORIZON TRAFFIC**

The Year 2026 Annual Average Daily Traffic (AADT) is projected to be 11,350. The Year 2046 AADT is projected to be 14,640.

#### **RECOMMENDED IMPROVEMENTS**

The Town of Kingston Springs's multimodal access project along SR 249 within the study area will construct a shared-use path along the northbound lane and a sidewalk along the southbound lane. These facilities extend from the I-40 Westbound Ramps to Kingston Springs Road and are included in the Build Option. The traffic analysis supports maintaining the existing three-lane typical section along SR 249. This is consistent with the typical section proposed in the Town's multimodal design project. The Build Option would signalize the two-way stop intersections of SR 249 with the I-40 Ramps. The Build Option would also extend the I-40 Eastbound Exit Ramp's right-turn lane from its existing length of 50 feet to 175 feet long. Lastly, the Build Option would interconnect the two new signals at the I-40 Ramps with the existing signal at Kingston Springs Road to provide coordinated operations.

When the SR 249 Bridge over I-40 requires major rehabilitation or replacement, it is recommended to replace the existing shoulders with a sidewalk and shared-use path, consistent with the improvements in the Build Option just to the north.

The total cost of improvements within the study area for the multimodal, signalization with turn lane, and bridge replacement costs is \$11.69 million in year 2026 dollars. The bridge replacement costs are only recommended with future regular maintenance and rehabilitation of the SR 249 Bridge over I-40. The total cost of improvements within the study area, excluding the bridge replacement, is \$3.82 million in year 2026 dollars. The Town may construct the multimodal improvements prior to other improvements with town or other funds. If only signalization and turn lane improvements are constructed, the cost is \$2.74 million in year 2026 dollars.

The Build Option focuses on constructed improvements within the study area. The *SR 249 Corridor Study* included a community survey, which received 413 responses. The public noted many items that require improvements to the transportation and land use policies within and outside of the study area. These needs include improved access management regulations, non-recurring congestion mitigation, and improved maintenance of the roadside.

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## **1.0 INTRODUCTION**

### **1.1 REPORT GOALS**

The purpose of this corridor study of State Route (SR) 249 is two-fold:

- 1) Review of access to I-40 via Exit 188; and
- 2) Examine the impact of SR 249 as a connector between I-40 and US Highway 70.

SR 249 is known locally as Luyben Hills Road. The Kingston Springs Regional Planning Commission is in the initial phase of updating a long-range growth plan for Kingston Springs and the surrounding area, and a study of this busy corridor will be a key component of this plan.

SR 249 is an important corridor for the town of Kingston Springs, surrounding communities, and Cheatham County. It serves as the link between I-40 and portions of Cheatham and Dickson Counties, including the communities of Kingston Springs, Pegram, White Bluff, Charlotte, and Ashland City. This corridor is a well-used interchange for commercial semi-tractor trailer (truck) traffic. Trucks use this interchange and corridor frequently to access truck stops/travel centers on both the north and south sides of I-40 as well as an access point to southern Cheatham County and US 70.

The town has developed Construction Plans for improvements along SR 249 within the study area. The plans maintain the existing three-lane typical section along SR 249 with one lane in each direction and a center two-way left-turn lane. The project will construct a five-foot wide sidewalk along the southbound side and a ten-foot wide shared-use path along the northbound side. The primary goals of the *SR 249 Corridor Study* are:

- to determine if the three-lane typical section will meet the needs of the community through a 20-year design life,
- determine if supplementary improvements are needed to maintain safe and efficient operations for all users, and
- recommend high-level options for alternative / improved access to Kingston Springs when there is a crash or other non-recurring instance that limits access between I-40 and SR 249.

### **1.2 PROJECT INITIATION**

The *SR 249 Corridor Study* was initiated through a Tennessee Department of Transportation (TDOT) Community Transportation Planning Grant (CTPG). TDOT established the CTBG program to assist Tennessee's small and rural communities in developing plans to address transportation, land use, and growth management issues. The program is designed to better integrate multimodal transportation systems with local land use objectives and achieve statewide transportation goals.

The grant application, dated January 21, 2020, was submitted by John Lawless, the Town of Kingston Springs City Manager. The Kingston Springs Regional Planning Commission as well as the Kingston Springs Board of Commissioners are in support of this grant application. The CTPG is provided in Appendix A: *Community Transportation Planning Grant Application*. The town supported their request for the CTPG with the following items:

- A TDOT traffic study (TPR) was conducted in July of 2009 for Exit 188 off I-40. In that study the Peak Hour LOS Analysis for the corridor was rated a “C” for 2009, anticipated to be a “D” in 2014, and a “D” in 2034.
- In this 2009 TPR the Traffic and LOS Analysis for the I-40 Exit 188 Eastbound Ramp was rated as an “F/C” for 2009, anticipated to be an “F/C” in 2014, and an “F/F” in 2034.
- In this 2009 TPR the Traffic and LOS Analysis for the I-40 Exit 188 Westbound Ramp was rated as a “B/C” for 2009, anticipated to be a “B/C” in 2014, and a “D/F” in 2034.
- Recent commercial development at Exit 188 on the north side of I-40 includes the addition of a Thornton's Travel Center catering to both car and commercial semi-tractor trailer patrons, an enlarged convenience store/gas station, additional fast food restaurant, and proposed multi-density residential development. This short corridor also includes three motels for overnight lodging.
- For eastbound commercial semi-tractor trailer traffic, Exit 188 is the last exit with a truck stop/travel center on the west side of Nashville. This generates heavy commercial traffic at the exit as drivers choose to stop prior to navigating the Nashville traffic.
- For westbound commercial semi-tractor trailer traffic, Exit 188 is the first exit with a truck stop/travel center on the west side of Nashville. This generates heavy commercial traffic at the exit as the first option for drivers to stop after navigating the Nashville traffic.
- Exit 188 is the only access to I-40 in Cheatham County. The next exits are six miles west (Exit 182 in Williamson County) or four miles east (Exit 192 in Davidson County).
- This section of SR 249 is a main corridor linking I-40 and US 70. Heavy volumes of local commuter traffic as well as commercial truck traffic use this route daily.
- This section of SR 249 is a primary detour for incidents on I-40. Cheatham County E-911 provided data indicating that from November 2018 to November 2019 the approximate seven mile stretch of I-40 in Cheatham County generated a total of 1,033 calls (including transfers, information calls, traffic hazards, etc.), with 156 of these calls involving crashes (non-injury, injury and unknown injuries). These vehicle crash calls are a 23-percent increase over the previous 2017-2018 time period total of 127. In addition, these numbers do not include calls received through Tennessee Highway Patrol or Metro Nashville. I-40 Exit 188 is the only exit available to detour interstate traffic from this area of I-40 to the east/west alternative route of US 70.
- As the only access to I-40 in Cheatham County, Exit 188 and this section of SR 249 regularly supports tourism in the area as a route to Narrows of the Harpeth State Park, Montgomery Bell State Park, the State Wildlife Management Area, Cheatham Dam, and several canoe outfitters that access the scenic Harpeth River.
- Undeveloped property adjacent to this SR 249 corridor is now being sold and developed that will introduce commercial and multi-density residential traffic.

### **1.3 STUDY AREA**

The study area is in Kingston Springs, Cheatham County, TN. The length of the study area is 0.38 mile long. Figure 1 provides an area map of the study area, Figure 2 provides a location map on aerial imagery, Figure 3 provides a vicinity map on topographic mapping, and Figure 4 provides Federal Emergency Management Agency flood mapping. The study area extends from the I-40

Luyben Hills Road within the study area is a continuous route composed of SR 249 (0.31 mile) and Local Route A372 (0.07 mile). This *SR 249 Corridor Study* hereto refers to the route as SR 249 for simplicity.

Eastbound Ramps (Log Mile 0.07 of Local Route A372) to Kingston Springs Road (Log Mile 0.31 of SR 249). Local Route A372 and SR 249 form a continuous route within the study area and are known locally as Luyben Hills Road. This *SR 249 Corridor Study* hereto refers to the route as SR 249 for simplicity. The following three routes intersect SR 249 within the study area:

1. I-40 Eastbound Ramps
2. I-40 Westbound Ramps
3. Kingston Springs Road

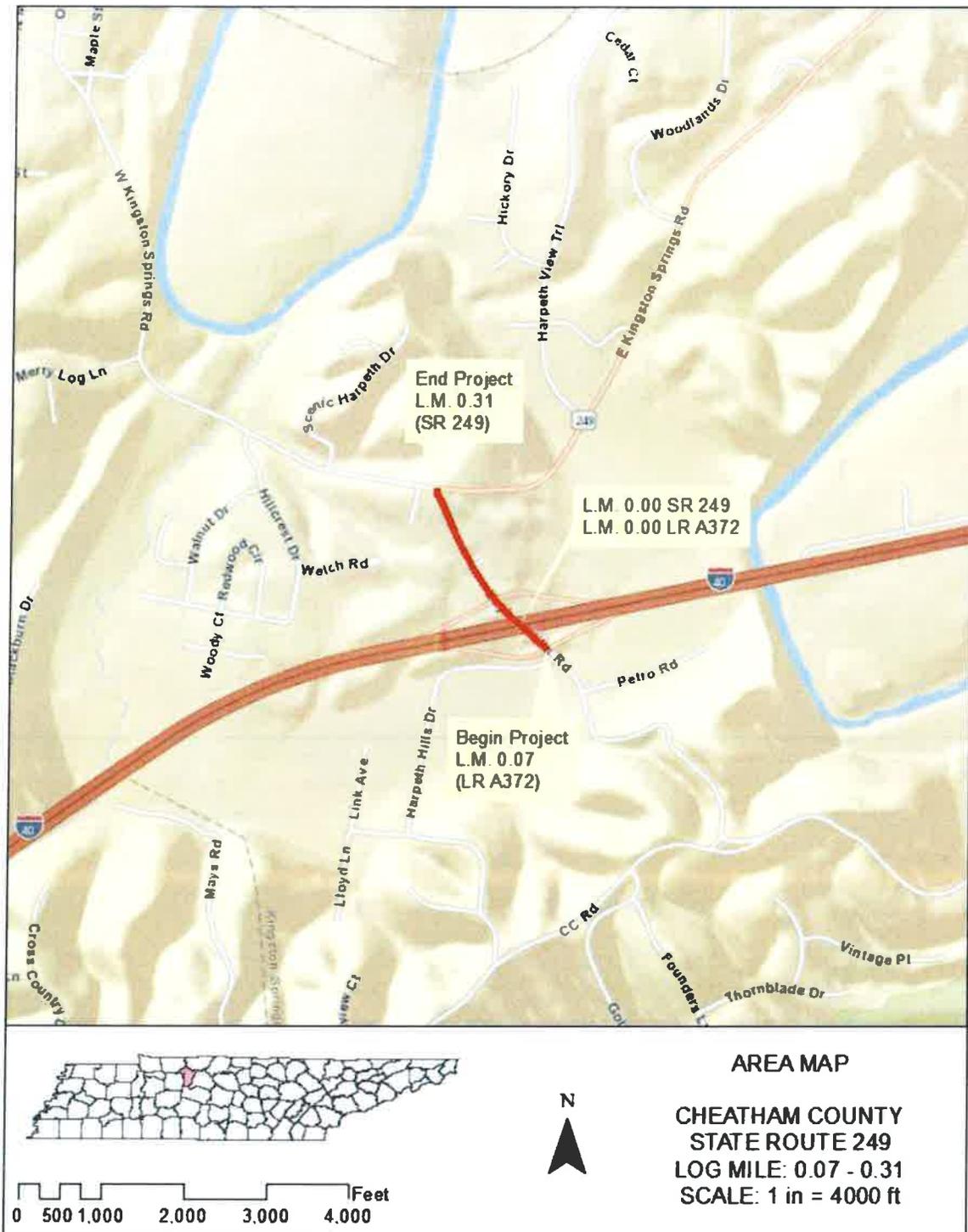


FIGURE 1: AREA MAP

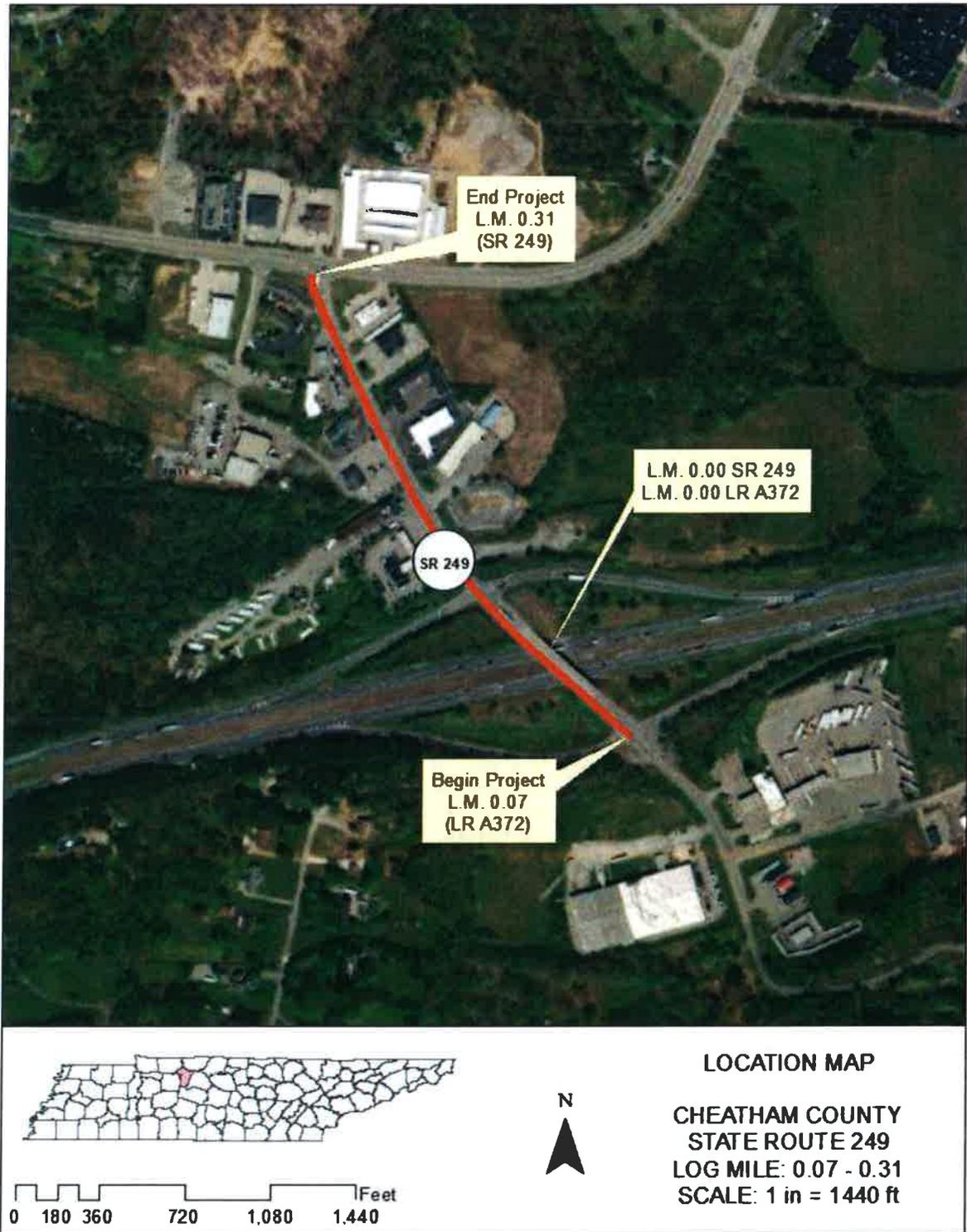


FIGURE 2: LOCATION MAP WITH AERIAL IMAGERY

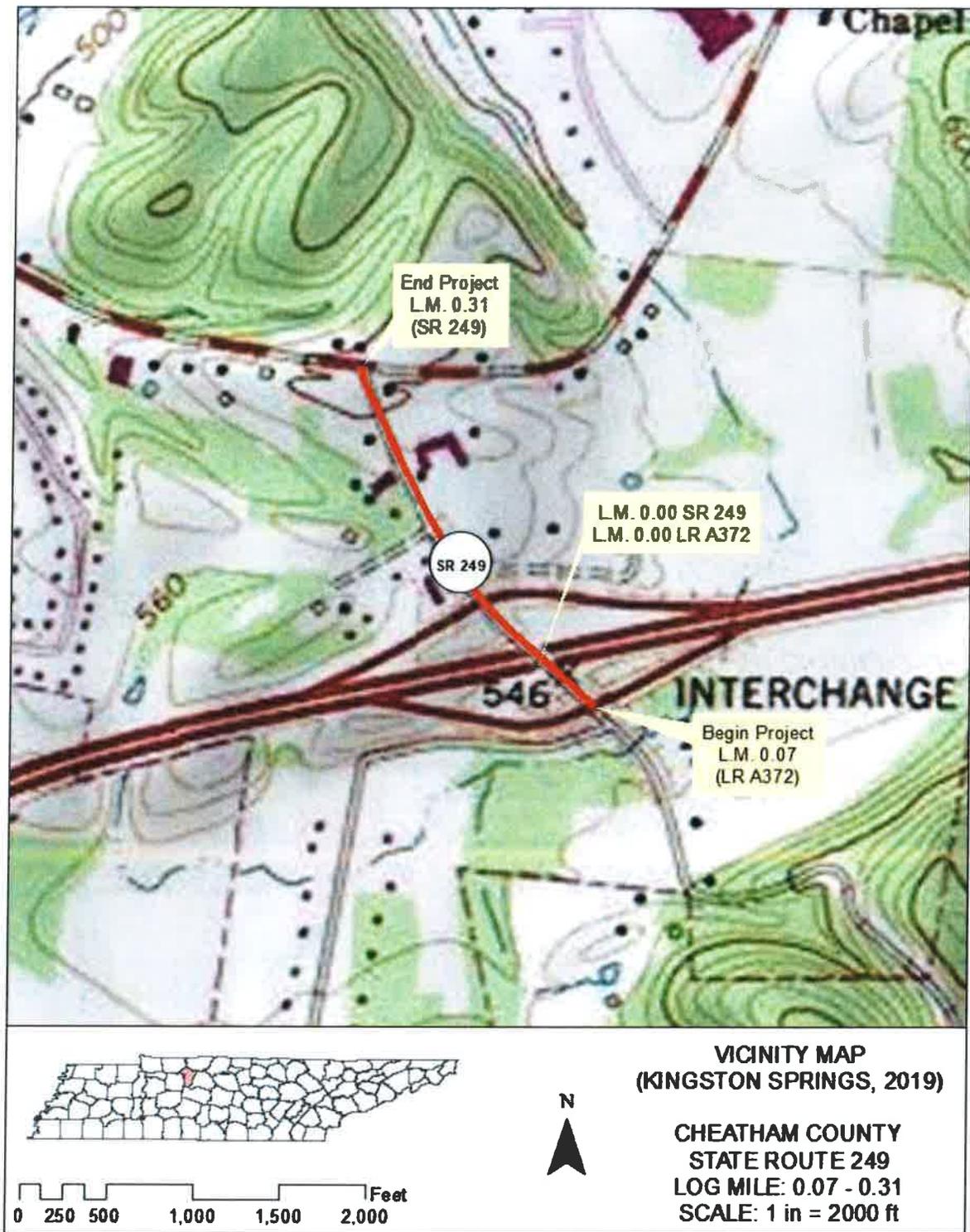
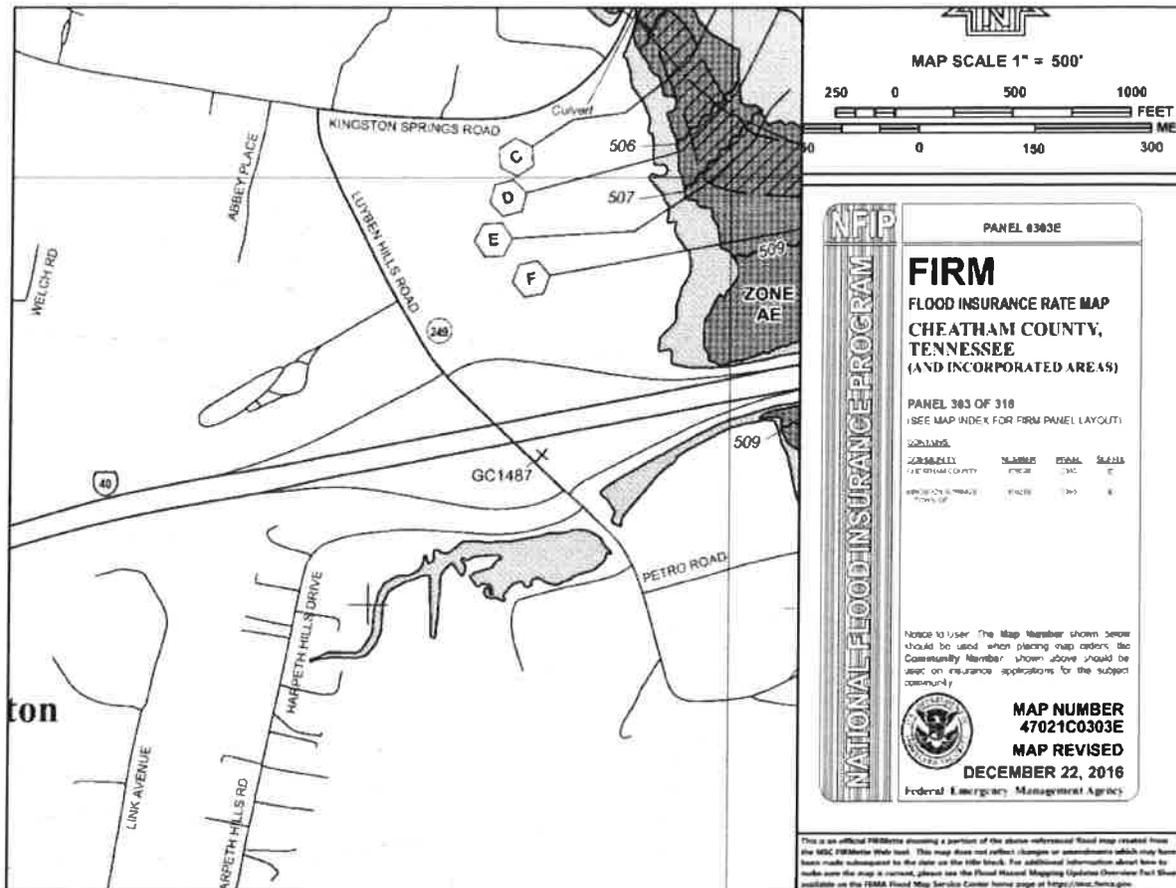


FIGURE 3: VICINITY MAP  
Source: USGS Quad Map (Kingston Springs)



**FIGURE 4: FLOOD MAP**  
Source: FIRMETTE 4021C0303E

## 2.0 PRELIMINARY PURPOSE AND NEED

The purpose of the proposed project is to provide safe pedestrian connections that do not currently exist within Kingston Springs' commercial district, to improve traffic operations at the I-40 Interchange with SR 249, and to provide transportation network options that will prove beneficial when non-recurring congestion along I-40 occurs.

The proposed project is needed to provide multimodal options within Kingston Springs by providing a connection from schools and residential areas along Kingston Springs Road to the Kingston Springs Commercial District along SR 249. SR 249 serves as the only access to I-40 in Cheatham County.

## 3.0 EXISTING CONDITIONS

SR 249 is located at Exit 188 of the I-40 Interchange and serves as the only access to I-40 in Cheatham County. The next exits are six (6) miles west in Williamson County or four (4) miles east in Davidson County. This section of SR 249 is a main corridor linking I-40 and US 70. Local commuter traffic mixes with commercial truck traffic along the corridor. This section of SR 249 is

a primary detour location for incidents on I-40. Cheatham County E-911 indicates that from November 2018 to November 2019 that the seven-mile long stretch of I-40 in Cheatham County generated a total of 1,033 calls with 156 of these calls involving crashes.

### **3.1 ROADWAY GEOMETRICS**

Within the 0.38-mile long study area, SR 249 is functionally classified as a rural major collector with one travel lane in each direction and a two-way left-turn lane. Each lane is twelve (12) feet wide. The typical shoulder width is seven (7) feet wide. SR 249 is a north-south route with a posted speed limit of 30 mph. Its northbound approach to the I-40 Eastbound Ramps consist of a shared through/right lane. It transitions to a dedicated left and through lane on the northbound approach to the I-40 Westbound Ramps. Its southbound approach to the I-40 Westbound Ramps consists of a shared through/right lane. It transitions to a dedicated left and through lane on the southbound approach to the I-40 Westbound Ramps. The SR 249 intersections with the I-40 Ramps are unsignalized. The SR 249 northbound approach to Kingston Springs Road consists of a shared through-left lane and a dedicated right lane. The SR 249 intersection with Kingston Springs Road is signalized. The terrain is rolling. The typical right-of-way width is 60 feet.

### **3.2 MULTIMODAL FACILITIES**

The study area has no bicycle facilities and few sidewalks. There are sidewalks at the intersection of SR 249 and Kingston Springs Road, which then extend east along Kingston Springs Road. There is one discontinuous strip of shared-use path fronting the newly developed Thornton's Convenience Store parcel midway along the northbound side of SR 249. This section of shared-use path was constructed with redevelopment of the parcel and will be incorporated into a future shared-use path project (see Section 6.1). Figure 5 maps the existing multimodal facilities within and adjacent to the study area.

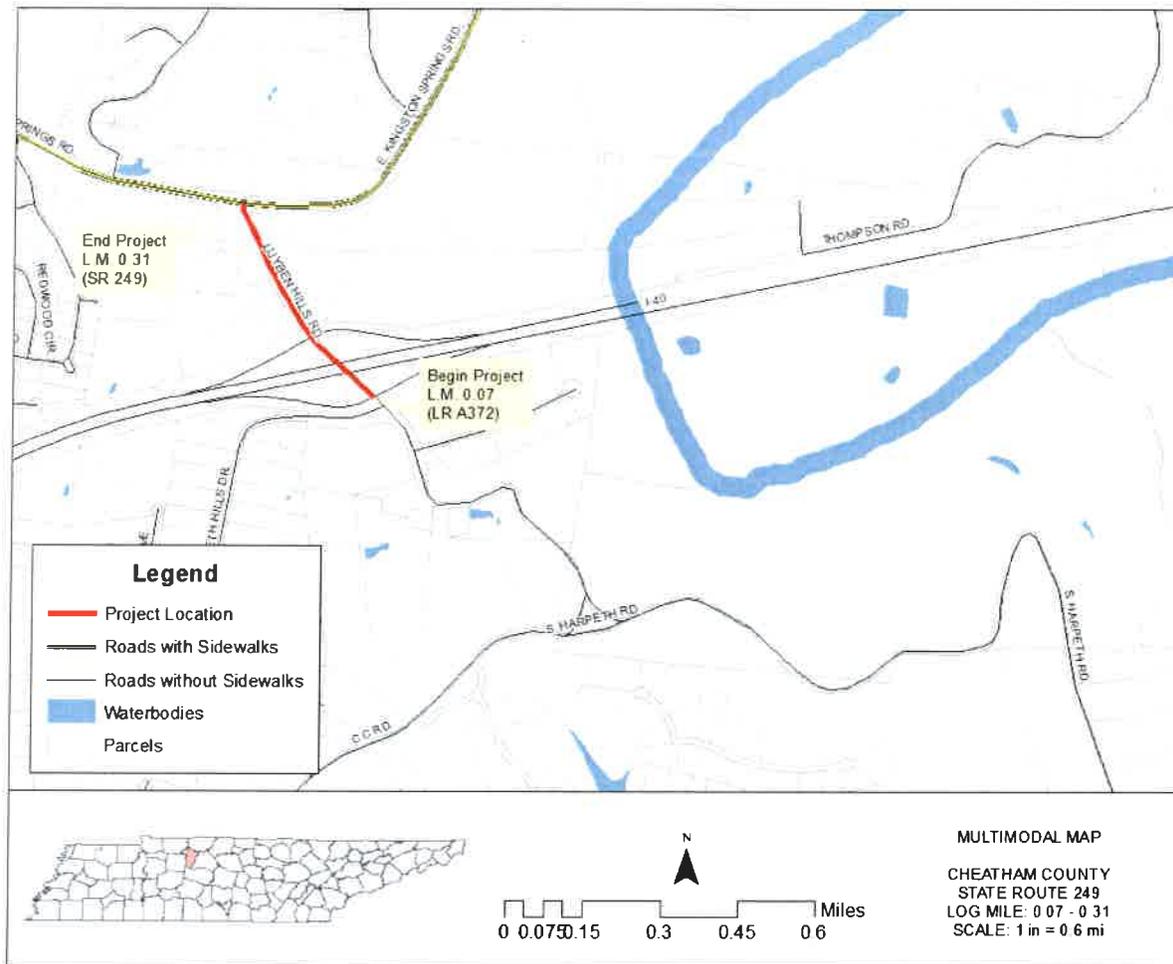


FIGURE 5: EXISTING MULTIMODAL FACILITIES

### 3.3 DEMOGRAPHICS

Per the US Census Bureau's 2019 American Community Survey (ACS) 5-Year Estimates, the 2019 population of Kingston Springs was 2,741, which equates to approximately 272.7 persons per square mile (based on estimated total area of 10.05 square miles). According to the ACS 2019 estimates, the population of Kingston Springs declined at an average rate of 0.11 percent since 2010. Table 1 summarizes key demographics of Cheatham County, and provides a comparison to Tennessee and the United States.

**TABLE 1: CHEATHAM COUNTY DEMOGRAPHICS**

<b>Characteristics</b>	<b>Cheatham County</b>	<b>Tennessee</b>	<b>United States</b>
Growth Rate (2015 – 2019)	0.39%	0.65%	0.52%
Unemployment (2019)	4.0%	5.3%	5.3%
Minority Population (2019)	5.4%	22.8%	28.0%
Median Household Income (2019)	\$61,913	\$56,071	\$65,712
Persons Below Poverty Level (2019)	10.6%	13.9%	12.3%
Median Age (2019)	40.3	39.0	38.5

Sources: U.S. Census Bureau American Community Survey 2019 5-Year Estimates

Although Kingston Springs has not experienced past residential growth, the immediate study area is experiencing residential and commercial growth. Undeveloped property adjacent to the SR 249 corridor is being sold and developed at an increasing rate and will introduce additional commercial and multi-residential homes to the area. Currently there are seven (7) developments planned to be located along the corridor or adjacent to it. These developments include multiple residential developments, two manufacturing sites, and a golf course. Table 2 lists and Figure 6 shows the planned developments located within or adjacent to the study area.

**TABLE 2: PLANNED DEVELOPMENTS**

<b>Planned Development</b>	<b>Quantity</b>	<b>Units</b>	<b>Business Type</b>	<b>Primary Access Point</b>
McPherson Site Development	40	Homes	Residential	E. Kingston Springs Rd
Kingston Springs Homes	33	Homes	Residential	E. Kingston Springs Rd
Indian Pointe Subdivision	0	N/A	Subdivide	W. Kingston Springs Rd
Harpeth industries	15	Jobs	Manufacturing	E. Kingston Springs Rd
DBI Golf Club	18	Holes	Recreational	S. Harpeth Rd
Ferrin Iron Works	6,000	S.F.	Manufacturing	Luyben Hills Rd
Indian Pointe Condominiums	52	Homes	Residential	W. Kingston Springs Rd

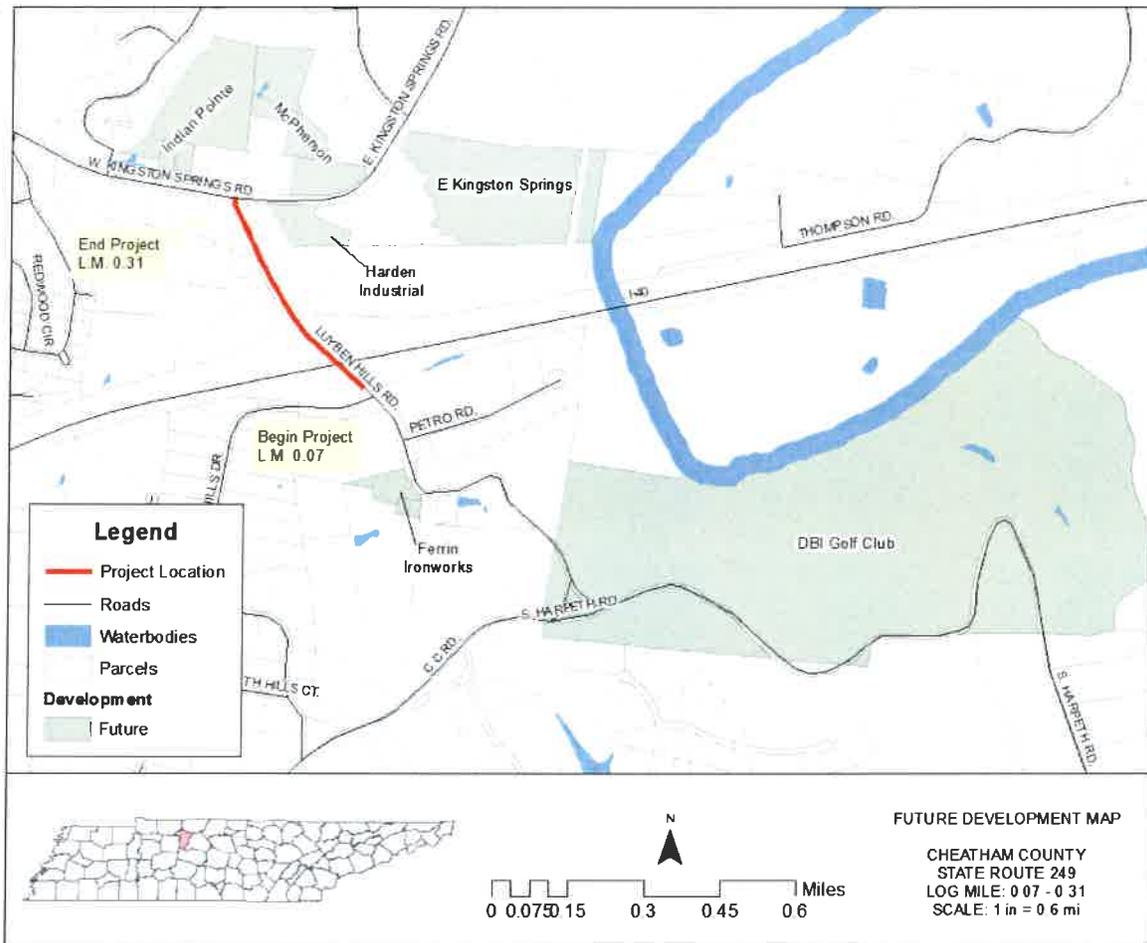


FIGURE 6: PLANNED DEVELOPMENTS

### 3.4 EXISTING LAND USE AND ZONING

The land surrounding the study area is primarily zoned commercial, with some industrial and residentially zoned parcels. Gas stations, truck stops, and fast-food restaurants servicing travelers along I-40 compose a significant percentage of the businesses. Kingston Spring's zoning map is shown in Figure 7.



FIGURE 7: KINGSTON SPRINGS ZONING

### 3.5 PRELIMINARY ENVIRONMENTAL CONSTRAINTS

There are no known environmental constraints within the study area. The study area has a planned sidewalk and shared-use path project (see Section 6.1). This study area has undergone a Tennessee Environmental Evaluation Report (TEER) screening. TDOT determined in the TEER that "no significant environmental impacts will result from this action." The TEER was approved in October 2017 and is provided in Appendix B: *SR 249 TEER*.

### 3.6 UTILITY INFRASTRUCTURE

Underground gas and water lines are present along SR 249, along with above-ground power lines. Many of the utility poles have overhead streetlighting attachments. The utilities are mapped in Figure 8.

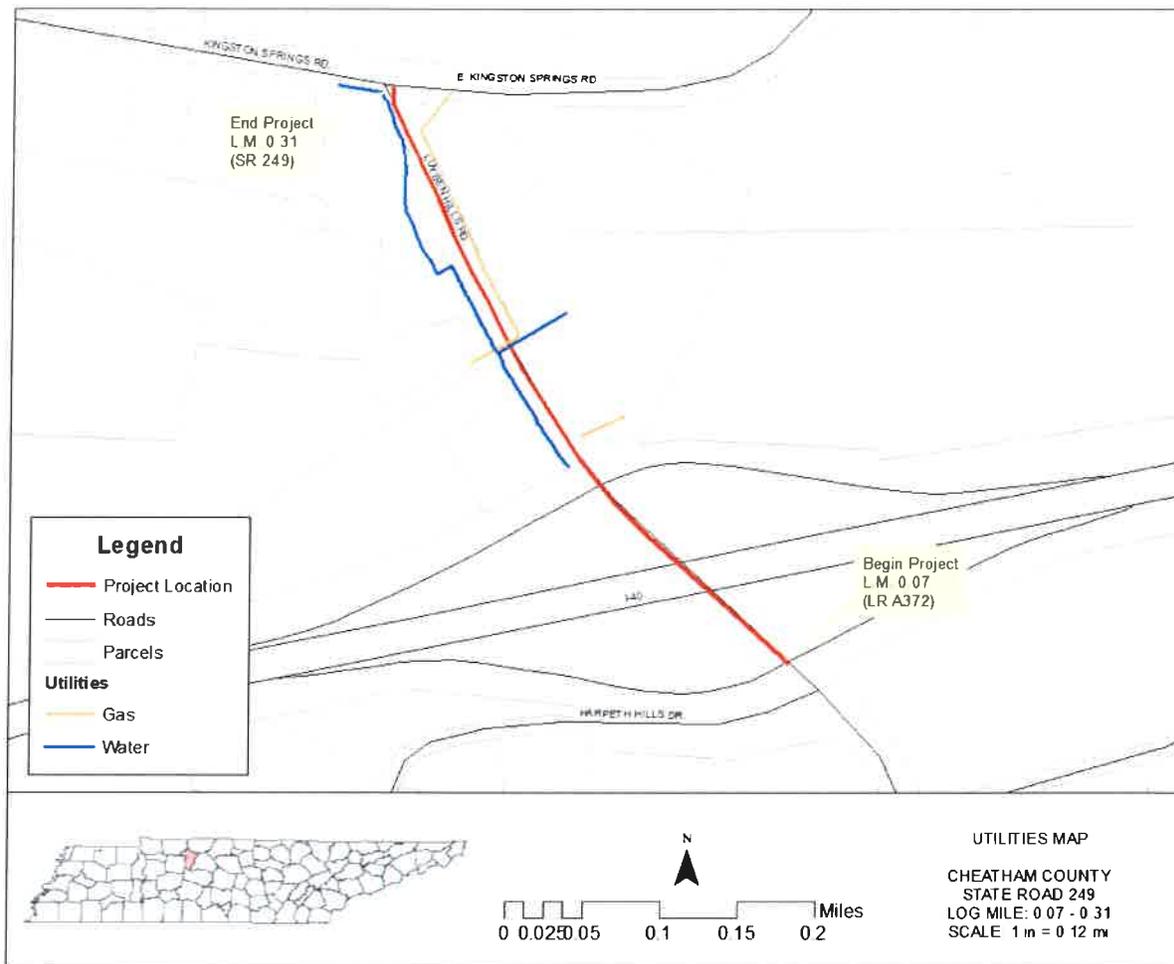


FIGURE 8: SR 249 UTILITIES

### 3.7 MAJOR STRUCTURES

The study area includes a bridge along SR 249 over I-40 (Bridge ID 11-A372-0.00). It is a three-lane bridge with twelve-foot wide lanes and eight-foot wide shoulders. The bridge is 305 feet long with a steel beams and a concrete deck. It was constructed in 1960 and underwent major widening and rehabilitation in 2007. The bridge is listed in "Fair" condition with a 92.2 sufficiency rating. The bridge inspection report is provided in Appendix C: *SR 249 Bridge Inspection Report*.

### 3.8 CRASH HISTORY

The study area includes SR 249 and Local Route 0A372 (together known locally as Luyben Hills Road) from the I-40 Eastbound Ramps to Kingston Springs Road in Cheatham County. Luyben Hills Road is designated as SR 249 north of the I-40 Overpass and LR 0A372 south of the I-40 Overpass. The crashes associated with Harpeth Hills Drive were also considered in the crash history analysis because Harpeth Hills Drive is located within the functional area of the I-40 Eastbound Ramps intersection. This extended the crash analysis 0.014 miles (74 feet) south of the I-40 Eastbound Ramps. SR 249/ LR 0A372 is a three-lane (one-lane in each direction with a two-way left turn lane) rural major collector. The speed limit is 30 miles per hour (mph).

For the three-year crash analysis study period from March 1, 2017 to March 1, 2020, for L.M. 0.00 to L.M. 0.084 (LR 0A372), the overall crash rate is 2.718 and the statewide rate is 1.596. For L.M. 0.00 to L.M. 0.031 (SR 249), the overall crash rate is 3.557 and the statewide rate is 1.888. The overall crash rates for both of the segments are above the statewide rate. There were no fatal or incapacitating injury crashes in the study segment. The crash analysis study period ending in March of 2020 was selected to avoid the effects of the COVID 19 pandemic on traffic and crash patterns.

The stop sign-controlled intersection of the westbound I-40 Ramps with Luyben Hills Road has a crash rate of 0.30 and the statewide rate is 0.099. The crash rate is above the statewide rate.

The actual crash rates were also compared to the critical crash rates. The critical crash rate is a statistical control used to be reasonably certain that an observed crash rate differs significantly from the statewide average rate. The statistical control indicates that any actual to critical ratio greater than one (1.0) is most likely not due to chance but to some unfavorable characteristic of the local conditions. TDOT utilizes a ninety-nine percent confidence level in their critical crash rate calculations. All crash rates within the study area are below the critical crash rates with actual to critical crash ratios (A/C) below 1.0.

#### **Segment Overview**

- The crash analysis study area is between L.M. 0.00 (I-40 Overpass) and L.M. 0.084 (Harpeth Hills Drive just south of the I-40 Eastbound Ramps) and L.M. 0.00 (I-40 Overpass) and L.M. 0.31 (Kingston Springs Road). The total length is 0.394 miles.
- State Route 249 is classified as a rural major collector.
- The posted speed limit on Luyben Hills Road is 30 mph.
- Within the three-year crash analysis period there have been 22 total crashes (20 property damage and 2 non-incapacitating injury).
- 73% of the crashes involved multiple vehicles.
- 82% of the crashes occurred during dry condition.
- 27% of the crashes involved a fixed object (roadway departure).
- 23% were rear end crashes and 23% were angle crashes.

The crash statistics are summarized in Table 3 to Table 5 and Figure 9 and Figure 10. Additional crash data are provided in Appendix D: *Prebrief / Crash Summary*.

**TABLE 3: CRASH STATISTICS**  
**Luyben Hills Road**  
**Harpeth Hills Dr. to Kingston Springs Rd.**  
**Crash Statistics 3/1/17 to 3/1/20**

Condition	Study Area	
	Number of Crashes	Percentage of Total
	Severity	
Fatal	0	0%
Incap. Injury	0	0%
Other Injury	2	9%
PDO	20	91%
	Manner of Collision	
Angle	5	23%
Rear-End	5	23%
Sideswipe Opp. Dir.	1	5%
Sideswipe Same Dir.	2	9%
Head-On	0	0%
Rear-to-Rear	0	0%
Unknown	9	41%
	Road Conditions	
Ice	0	0%
Snow	0	0%
Sand/Mud/Dirt	0	0%
Wet	1	5%
Dry	18	82%
	Light Condition	
Daylight	14	64%
Dusk	0	0%
Dark/Lighted	5	23%
Dark/Not Lighted	0	0%
Not Indicated	0	0%
	Crash Location	
Along Roadway	12	55%
At Intersection	10	45%
<b>Total</b>	<b>22</b>	



**TABLE 5: INTERSECTION CRASH RATES**

Intersection Crash Rates Luyben Hills Road (March 1, 2017 to March 1, 2020) (Intersections with 5 or More Crashes)													
LM	Route	Side Road	Entering Daily Traffic			Entering Daily Traffic		Three Year Total		Statewide Rate	Actual/Statewide	Actual/Critical	
			North	South	East	West	# Crashes	Rate					
0.06	Luyben Hills Rd. (SR 249)	I-40 WB Ramps	4,555	4,555	6,101	0	5	0.30	0.099	3.03	0.97		

**Notes:**

SW Rate for rural "Other Intersections" on two-lane with turn lane (2017-2019): 0.099

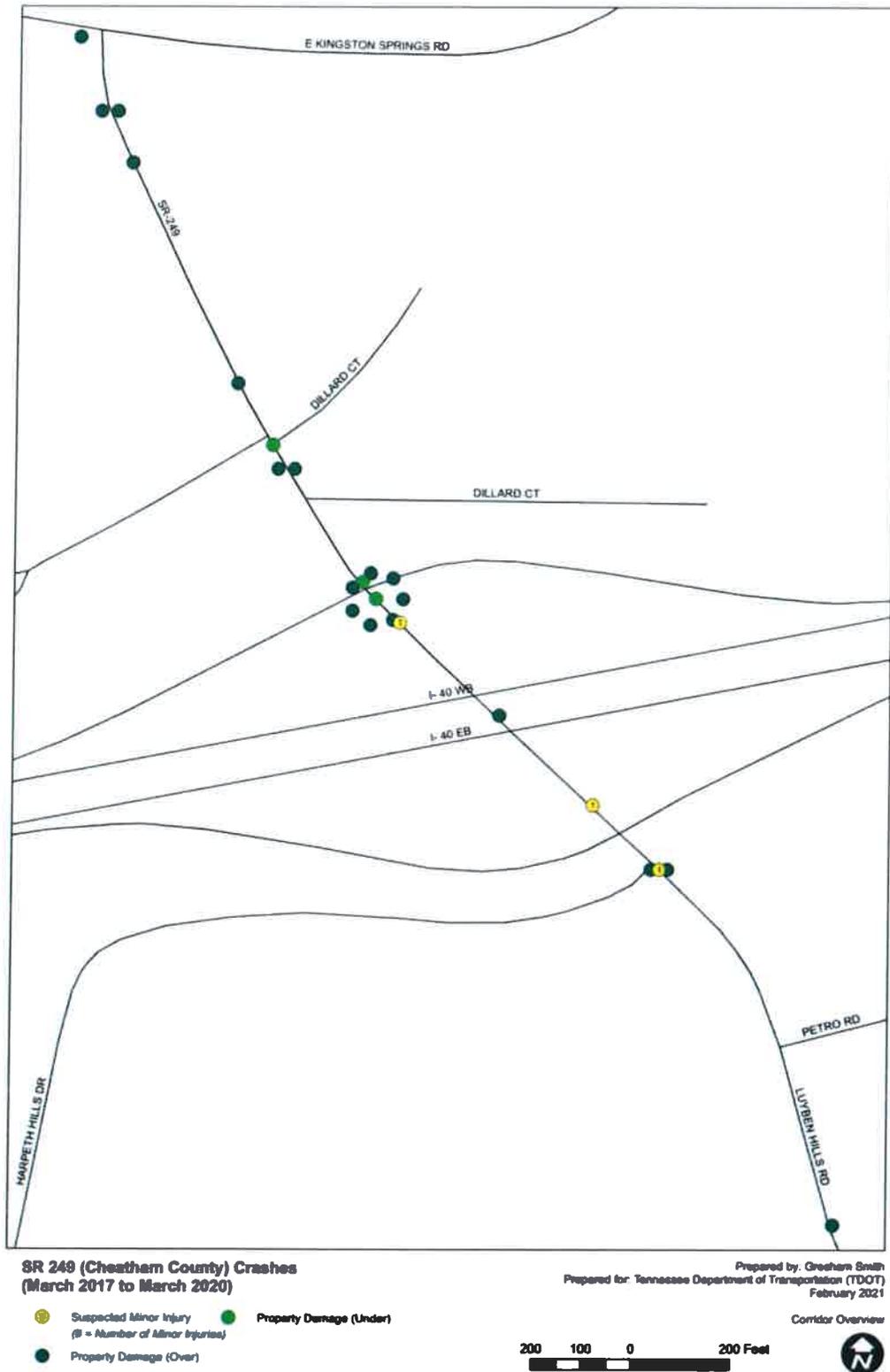


FIGURE 9: CRASH PLOT (SIMPLE MAP)



**SR 249 (Cheatham County) Crashes  
(March 2017 to March 2020)**

Prepared by: Graham Smith  
Prepared for: Tennessee Department of Transportation (TDDT)  
February 2021

- Suspected Minor Injury  
(# = Number of Minor Injuries)
- Property Damage (Under)
- Property Damage (Over)

Corridor Overview



**FIGURE 10: CRASH PLOT (AERIAL PHOTOGRAPHY)**

## 4.0 COMMUNITY SURVEY RESULTS

To obtain community input, the SR 249 Corridor Study survey was introduced to the public on April 8, 2021, during Kingston Springs' Regional Planning Commission meeting. The survey was also placed on the Kingston Springs website that evening and flyers were distributed including the QR code linking to the SurveyMonkey website. There were 413 responses collected when the survey closed on April 30, 2021. Survey results are summarized below and the full survey results are provided in Appendix E: *Community Survey*.

- 93-percent of respondents were residents
- 41-percent of respondents use the corridor to commute to work
- 49-percent of respondents travel the corridor six or seven days a week
- 60-percent of respondents noted the corridor has too much freight/truck traffic
- 69-percent of respondents feel very safe or safe driving along the corridor
- No respondents walk or bike along the corridor
- 88-percent of respondents would feel very unsafe or unsafe walking along the corridor
- 94-percent of respondents would feel very unsafe or unsafe biking along the corridor
- 27-percent of respondents avoid the corridor during rush hour
- US 70 is the primary alternate route when there is a crash on I-40 or SR 249
- The primary improvement desired along the corridor is signalization of the I-40 Ramps
- The second improvement desired along the corridor is to add sidewalks
- Litter along the corridor and interstate ramps is a concern
- 56-percent of respondents expressed a need for another route to cross I-40

## 5.0 EXISTING AND FUTURE TRAFFIC PROJECTIONS

Turning movement traffic projections were developed for the *SR 249 Corridor Study*. The traffic projection calculations are provided in Appendix F: *Traffic Data and Project Summary Technical Memorandum*. The following intersections were included in the projections:

1. I-40 Eastbound Ramps
2. I-40 Westbound Ramps
3. Kingston Springs Road

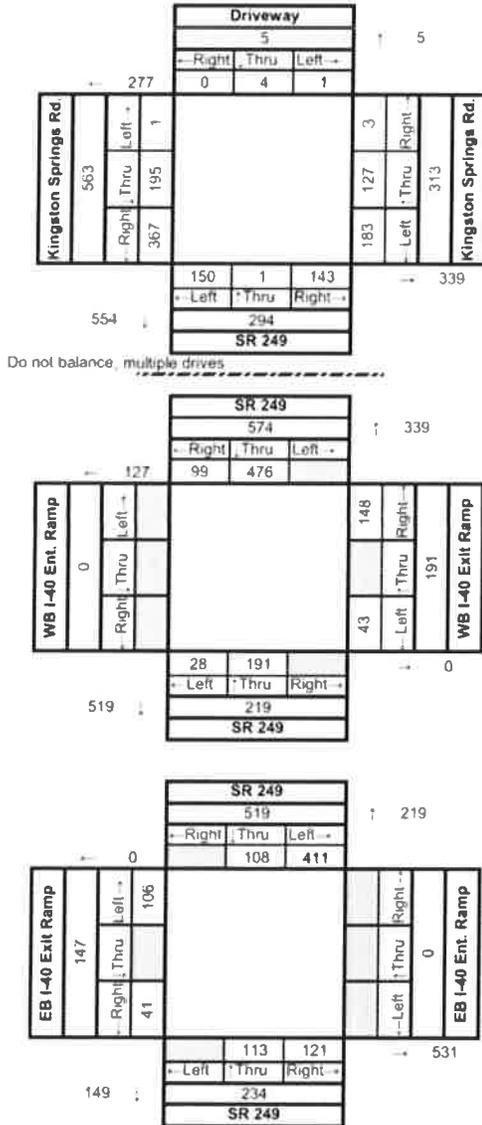
Traffic was projected to the Initial Study Year of 2026 and the Design Year of 2046. Figure 11 summarizes the Initial Study Year of 2026. Figure 12 summarizes the Design Year of 2046. Traffic data from three primary sources were utilized in the traffic projections:

- Tennessee Department of Transportation (TDOT) Annual Average Daily Traffic (AADT) Data
- Field Collected Data (collected Thursday, February 4, 2021)
- Planned developments, as provided by the City of Kingston Springs

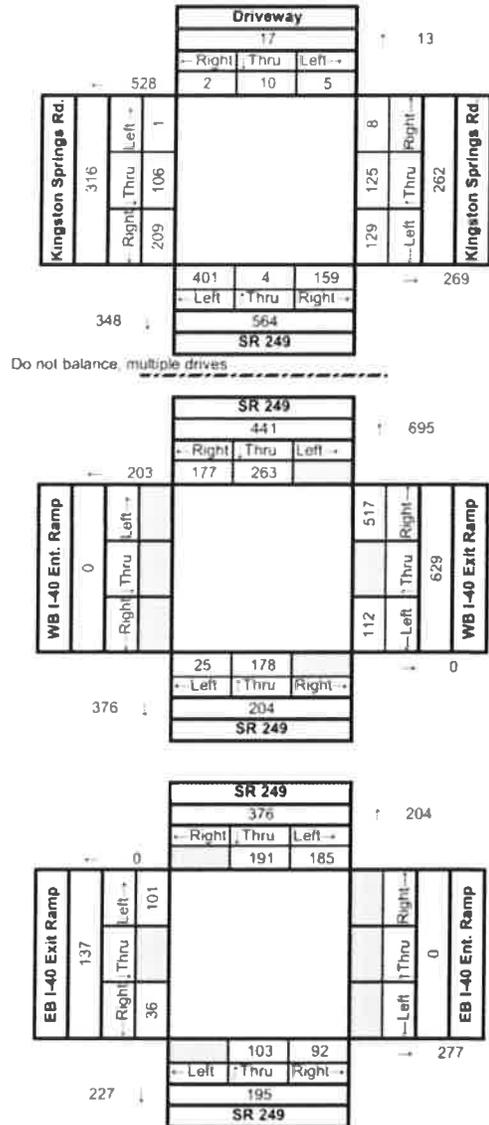
The 2026 projections account for historical/background growth of the traffic network. The 2046 projections account for the historical/background growth plus the planned future developments located within the immediate study corridor. The planned future developments are described in Section 3.3.

# SR 249 Corridor Study Cheatham County

Location: SR 249 (Luyben Hills Rd ) from I-40 EB to Kingston Springs Rd  
Condition: AM 2026



Location: SR 249 (Luyben Hills Rd ) from I-40 EB to Kingston Springs Rd  
Condition: PM 2026

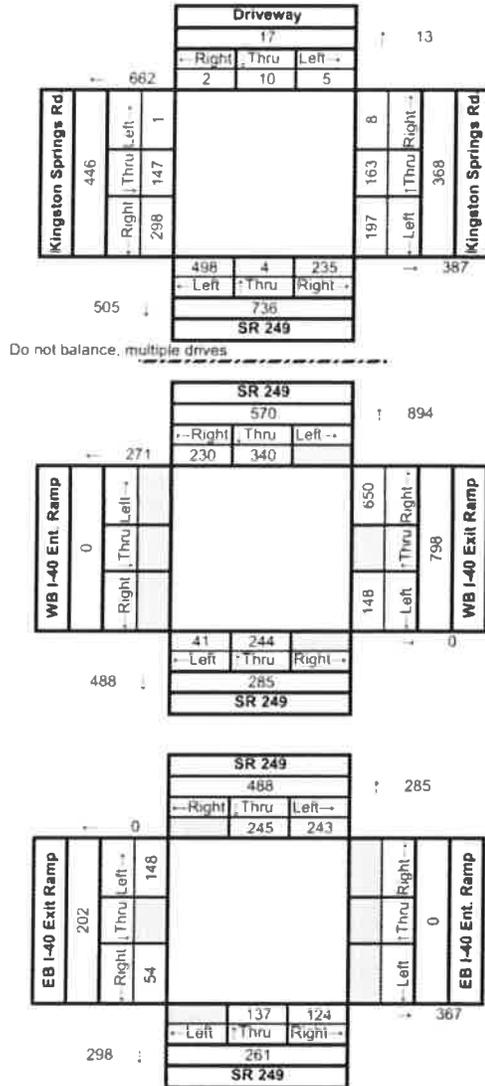
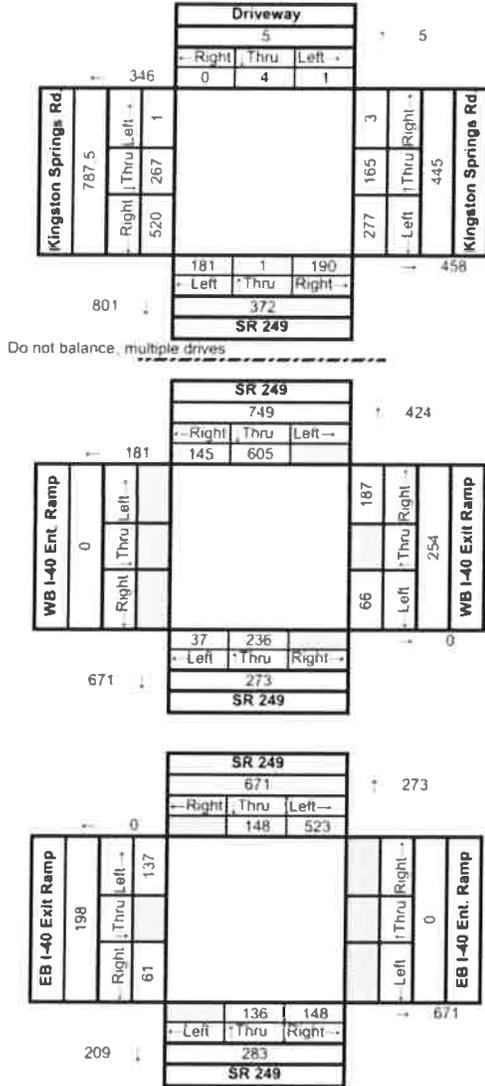


**FIGURE 11: 2026 SR 249 PROJECTED TRAFFIC**

**SR 249 Corridor Study  
Cheatham County**

Location: SR 249 (Luyben Hills Rd.) from I-40 EB to Kingston Springs Rd.  
Condition: AM 2046 (Background + Development)

Location: SR 249 (Luyben Hills Rd.) from I-40 EB to Kingston Springs Rd.  
Condition: PM 2046 (Background + Development)



**FIGURE 12: 2046 SR 249 PROJECTED TRAFFIC**

## 6.0 CONCEPTUAL ALTERNATIVE

The responses to the community survey (see Section 4.0) demonstrated the community's emphasis on improving safety and traffic operations at the interstate ramps and improving safety for pedestrians within the study area. The crash analysis (see Section 3.8) and traffic analysis (see Section 7.0) supported the community's input that the intersections formed by SR 249 with the interstate ramps should be an area of emphasis. The traffic analysis supports maintaining the existing three-lane typical section along SR 249.

The proposed condition, also called the Build Option, would incorporate the Town's ongoing project to construct a sidewalk and shared-use path along SR 249. The Build Option would also signalize the two-way stop intersections of SR 249 with the I-40 Ramps. The Build Option would extend the I-40 Eastbound Exit Ramp's right-turn lane from its existing length of 50 feet to 175 feet long. Lastly, the Build Option would interconnect the two new signals at the I-40 Ramps with the existing signal at Kingston Springs Road to provide coordinated operations.

### 6.1 OVERVIEW OF ADJOINING PROJECTS

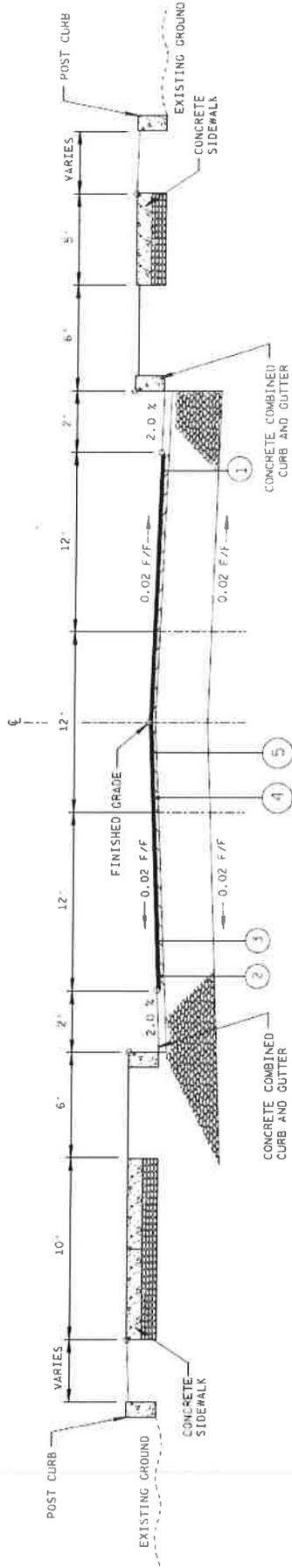
The Town of Kingston Springs is developing a multimodal access project along SR 249 within the study area that will construct a shared-use path along the northbound lane and a sidewalk along the southbound lane. These facilities extend from the I-40 Westbound Ramps to Kingston Springs Road and are included in the Build Option. SR 249 will be overlaid with asphalt pavement and fresh pavement markings. The project will maintain the existing three-lane typical section along SR 249. The project will include curb and grass buffers/utility strips. Appendix G: *SR 249 Construction Plans* includes the plans.

A preliminary design plan was submitted in 2018 to Cheatham County for a Safe Routes to School (SRTS) project. The project focuses on the Harpeth View Trail, which links to Harpeth Middle School. Although the Safe Routes to School project is not within the study area, it is located adjacent to the study area and could eventually link the trail with the study area via sidewalks. The SRTS project includes sidewalks, crosswalks, curbs, and greenery to improve the walkability of the area for students walking or biking to school. Appendix H: *Cheatham County SRTS Plans* includes the plans.

As part of the TDOT Nashville I-40 SmartWay Intelligent Transportation System Expansion Project, TDOT will expand the SmartWay along I-40 from US 70 in Bellevue to Hogan Road in Dickson County. This project is described in more detail in Section 8.2.1.

### 6.2 TYPICAL SECTION

The traffic analysis supports maintaining the existing three-lane typical section along SR 249. This is consistent with the typical section proposed in the Town's ongoing multimodal design project (Project Identification Number / PIN 123630.00). The typical section in the plans is shown in Figure 13. The full plan set is provided in Appendix G: *SR 249 Construction Plans*.



TANGENT SECTION - NEW CONSTRUCTION PLUS CURB & SIDEWALK

(BASED ON STD. DWG. R001-TS-1)

FIGURE 13: SR 249 PROPOSED TYPICAL SECTION

Source: PIN 123630 Construction Plans

### **6.3 HORIZONTAL ALIGNMENT**

The Build Option's horizontal alignment will follow existing SR 249. The corridor is a tangent section.

### **6.4 MAINTENANCE OF TRAFFIC AND CONSTRUCTABILITY**

Maintenance of traffic should be relatively simple, with the existing lanes open during construction of the new sidewalk and shared-use path. Signal and turn lane construction at the I-40 Interchange Ramps should be relatively simple, also. Minimal disruption to motorists is anticipated.

### **6.5 INTERSECTION AND SIGNALIZATION IMPROVEMENTS**

The Build Option would signalize the two-way stop intersections of SR 249 with the I-40 Ramps. The Build Option would also extend the I-40 Eastbound Exit Ramp's right-turn lane from its existing length of 50 feet to 175 feet long. Lastly, the Build Option would interconnect the two new signals at the I-40 Ramps with the existing signal at Kingston Springs Road to provide coordinated operations.

### **6.6 FUTURE BRIDGE CONSIDERATION**

The SR 249 over I-40 is a three-lane bridge with twelve-foot wide lanes and eight-foot wide shoulders. It was constructed in 1960 and underwent major widening and rehabilitation in 2007. The bridge is listed in "Fair" condition and not anticipated to need replacement or major rehabilitation soon. However, when that time comes, it is recommended to replace the existing shoulders with a sidewalk and shared-use path, consistent with the improvements in the Build Option just to the north. This would extend multimodal facilities across I-40, connecting businesses and residences on both sides of the interstate.

### **6.7 DESIGN EXCEPTIONS, RETAINING WALLS, SLOPE ADJUSTMENTS**

No design exceptions, retaining walls, or notable slope adjustments are anticipated with the Build Option along SR 249.

### **6.8 COST ESTIMATE**

#### **Multimodal Improvements**

The Town of Kingston Springs's multimodal access project along SR 249 within the study area will construct a shared-use path along the northbound lane and a sidewalk along the southbound lane. These facilities extend from the I-40 Westbound Ramps to Kingston Springs Road and are included in the Build Option. SR 249 will be overlaid with asphalt pavement and fresh pavement markings. Bids for this project were opened in October 2020 with the low bid of \$843,102.00. While the town agreed to accept this bid it was higher than initially anticipated and TDOT did not concur. The town is awaiting TDOT's approval to rebid the project. The cost is not anticipated to change significantly. Design fees have already been absorbed and no right-of-way acquisition is anticipated. The estimated costs of improvements totaling \$1.08 million in year 2026 dollars are summarized in Table 6.

**TABLE 6: MULTIMODAL IMPROVEMENT COST**

<b>COST ESTIMATE SUMMARY (2020)</b>						
<b>PIN</b>	<b>Project Type of Work</b>	<b>Preliminary Engineering:</b>	<b>Right-of-Way:</b>	<b>Utilities:</b>	<b>Construction:</b>	<b>Total Project Cost (2018):</b>
15PR1-F7-00	Multimodal	\$ -	\$ -	\$ -	\$ 843,102	\$ 843,102

<b>INFLATED COST ESTIMATE SUMMARY</b>						<b>Report Type:</b>	<b>Technical Report</b>
<b>No. of Years</b>	<b>Year</b>	<b>Preliminary Engineering:</b>	<b>Right-of-Way:</b>	<b>Utilities:</b>	<b>Construction:</b>	<b>Total Inflated Project Cost</b>	
5	2026	\$ -	\$ -	\$ -	\$ 1,080,000	\$	1,080,000
10	2031	\$ -	\$ -	\$ -	\$ 1,370,000	\$	1,370,000

**Signalization with Turn Lane Improvements**

The Build Option would also signalize the two-way stop intersections of SR 249 with the I-40 Ramps. The Build Option would extend the I-40 Eastbound Exit Ramp's right-turn lane from its existing length of 50 feet to 175 feet long. Lastly, the Build Option would interconnect the two new signals at the I-40 Ramps with the existing signal at Kingston Springs Road to provide coordinated operations. The estimated costs of improvements totaling \$2.74 million in year 2026 dollars are summarized in Table 7. Appendix I: *Cost Estimates* provides the cost calculations.

**SR 249 Bridge Replacement with Sidewalk/Shared-Use Path Improvements**

When the SR 249 Bridge over I-40 requires major rehabilitation or replacement, it is recommended to replace the existing shoulders with a sidewalk and shared-use path, consistent with the improvements in the Build Option just to the north. The estimated costs of improvements totaling \$7.87 million in year 2026 dollars are summarized in Table 8. Appendix I: *Cost Estimates* provides the cost calculations.

**Cost Summary**

The total cost of improvements within the study area for the multimodal, signalization with turn lane, and bridge replacement costs is \$11.69 million in year 2026 dollars. The bridge replacement costs are only recommended with future regular maintenance and rehabilitation of the SR 249 Bridge over I-40. The total cost of improvements within the study area, excluding the bridge replacement, is \$3.82 million in year 2026 dollars. The Town may construct the multimodal improvement prior to other improvements with town or other funds. If only signalization and turn lane improvements are constructed, the cost is \$2.74 million in year 2026 dollars. The total cost of improvements is summarized in Table 9.

TABLE 7: SIGNALIZATION WITH TURN LANE IMPROVEMENT COST

Route:	SR 249	
Description:	Signalization of I-40 Ramp Intersections with Communications to Kingston Springs Road and Extend I-40 EB Exit Ramp Turn Lane to 175	
Project Type of Work:	Widen	
County:	Cheatham	
Length:	0.04 Miles	
Date:	July 6, 2021	
Estimate Type:	Concept	

DESCRIPTION	LOCAL	STATE	FEDERAL	TOTAL
	0%	0%	0%	
<b>Construction Items</b>				
Removal Items	\$0	\$0	\$0	\$0
Asphalt Paving	\$0	\$0	\$0	\$13,600
Concrete Pavement	\$0	\$0	\$0	\$105,000
Drainage	\$0	\$0	\$0	\$6,900
Appurtenances	\$0	\$0	\$0	\$0
Structures	\$0	\$0	\$0	\$0
Fencing	\$0	\$0	\$0	\$0
Signalization & Lighting	\$0	\$0	\$0	\$500,000
Railroad Crossing	\$0	\$0	\$0	\$0
Earthwork	\$0	\$0	\$0	\$128,000
Clearing and Grubbing	\$0	\$0	\$0	\$0
Seeding & Sodding	\$0	\$0	\$0	\$1,100
Rip-Rap or Slope Protection	\$0	\$0	\$0	\$0
Guardrail	\$0	\$0	\$0	\$6,100
Signing	\$0	\$0	\$0	\$800
Pavement Markings	\$0	\$0	\$0	\$16,600
Maintenance of Traffic	\$0	\$0	\$0	\$31,200
Mobilization	5%	\$0	\$0	\$40,500
Other Items	10%	\$0	\$0	\$85,000
Const. Contingency	15%	\$0	\$0	\$140,000
Const. Eng. & Inspec.	10%	\$0	\$0	\$107,000
<b>Construction Estimate</b>		\$0	\$0	\$1,180,000
<b>Interchanges &amp; Unique Intersections</b>				
Roundabouts	\$0	\$0	\$0	\$0
Interchanges	\$0	\$0	\$0	\$0
<b>Right-of-Way &amp; Utilities</b>				
	LOCAL	STATE	FEDERAL	TOTAL
	0%	0%	0%	
Right-of-Way	\$0	\$0	\$0	\$0
Utilities	\$0	\$0	\$0	\$855,000
<b>Preliminary &amp; Construction Engineering and Inspection</b>				
Prelim. Eng.	10%	\$0	\$0	\$118,000
<b>Total Project Cost (2020)</b>	\$	\$	\$	\$ 2,150,000

COST ESTIMATE SUMMARY (2020)						
PIN	Project Type of Work	Preliminary Engineering:	Right-of-Way:	Utilities:	Construction:	Total Project Cost (2018):
11SPR1-F7-00	Widen	\$ 118,000	\$ -	\$ 855,000	\$ 1,180,000	\$ 2,150,000

INFLATED COST ESTIMATE SUMMARY						Report Type:	Technical Report
No. of Years	Year	Preliminary Engineering:	Right-of-Way:	Utilities:	Construction:	Total Inflated Project Cost	
5	2026	\$ 151,000	\$ -	\$ 1,090,000	\$ 1,510,000	\$ 2,740,000	
10	2031	\$ 192,000	\$ -	\$ 1,390,000	\$ 1,920,000	\$ 3,500,000	

TABLE 8: BRIDGE REPLACEMENT COST

Route:	SR 249	
Description:	Bridge over I-40 Replacement Cost	
Project Type of Work:	Widen	
County:	Cheatham	
Length:	0.00 Miles	
Date:	July 6, 2021	
Estimate Type:	Concept	

DESCRIPTION	LOCAL 0%	STATE 0%	FEDERAL 0%	TOTAL
<b>Construction Items</b>				
Removal Items	\$0	\$0	\$0	\$0
Asphalt Paving	\$0	\$0	\$0	\$0
Concrete Pavement	\$0	\$0	\$0	\$0
Drainage	\$0	\$0	\$0	\$0
Appurtenances	\$0	\$0	\$0	\$0
Structures	\$0	\$0	\$0	\$4,120,000
Fencing	\$0	\$0	\$0	\$0
Signalization & Lighting	\$0	\$0	\$0	\$0
Railroad Crossing	\$0	\$0	\$0	\$0
Earthwork	\$0	\$0	\$0	\$0
Clearing and Grubbing	\$0	\$0	\$0	\$0
Seeding & Sodding	\$0	\$0	\$0	\$0
Rip-Rap or Slope Protection	\$0	\$0	\$0	\$0
Guardrail	\$0	\$0	\$0	\$0
Signage	\$0	\$0	\$0	\$4,100
Pavement Markings	\$0	\$0	\$0	\$0
Maintenance of Traffic	\$0	\$0	\$0	\$82,200
Mobilization 5%	\$0	\$0	\$0	\$211,000
Other Items 10%	\$0	\$0	\$0	\$443,000
Const. Contingency 30%	\$0	\$0	\$0	\$225,000
Const. Eng. & Inspec. 10%	\$0	\$0	\$0	\$510,000
<b>Construction Estimate</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,610,000</b>
<b>Interchanges &amp; Unique Intersections</b>				
Roundabouts	\$0	\$0	\$0	\$0
Interchanges	\$0	\$0	\$0	\$0
<b>Right-of-Way &amp; Utilities</b>				
	LOCAL 0%	STATE 0%	FEDERAL 0%	TOTAL
Right-of-Way	\$0	\$0	\$0	\$0
Utilities	\$0	\$0	\$0	\$0
<b>Preliminary &amp; Construction Engineering and Inspection</b>				
Prelim. Eng. 10%	\$0	\$0	\$0	\$561,000
<b>Total Project Cost (2020)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 6,170,000</b>

COST ESTIMATE SUMMARY (2020)						
PIN	Project Type of Work	Preliminary Engineering:	Right-of-Way:	Utilities:	Construction:	Total Project Cost (2018):
1SPR-1-F7-00	Widen	\$ 561,000	\$ -	\$ -	\$ 5,610,000	\$ 6,170,000

INFLATED COST ESTIMATE SUMMARY						Report Type:	Technical Report
No. of Years	Year	Preliminary Engineering:	Right-of-Way:	Utilities:	Construction:	Total Inflated Project Cost	
5	2026	\$ 716,000	\$ -	\$ -	\$ 7,160,000	\$ 7,876,000	
10	2031	\$ 914,000	\$ -	\$ -	\$ 9,140,000	\$ 10,054,000	

**TABLE 9: TOTAL COST OF IMPROVEMENTS WITH STUDY AREA (YEAR 2026 \$)**

<b>Improvement</b>	<b>Preliminary Engineering</b>	<b>Right-of-Way</b>	<b>Utilities</b>	<b>Construction</b>	<b>Total Cost</b>
Multimodal	\$0*	\$0	\$0	\$1,080,000	\$1,080,000
Signalization with Turn Lane	\$151,000	\$0	\$1,090,000	\$1,510,000	\$2,740,000
Bridge Replacement	\$716,000	\$0	\$0	\$7,160,000	\$7,870,000
<b>Totals</b>	<b>\$867,000</b>	<b>\$0</b>	<b>\$1,090,000</b>	<b>\$9,750,000</b>	<b>\$11,690,000</b>

\*Cost already encumbered

### 6.9 CONCEPTUAL PLANS

The SR 249 conceptual plans are provided on following pages. The plan sheets show both the existing condition and the Build Option.



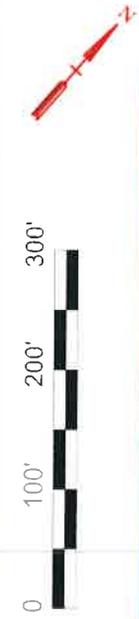
CHEATHAM  
CORR

STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION  
S.C.I.D.

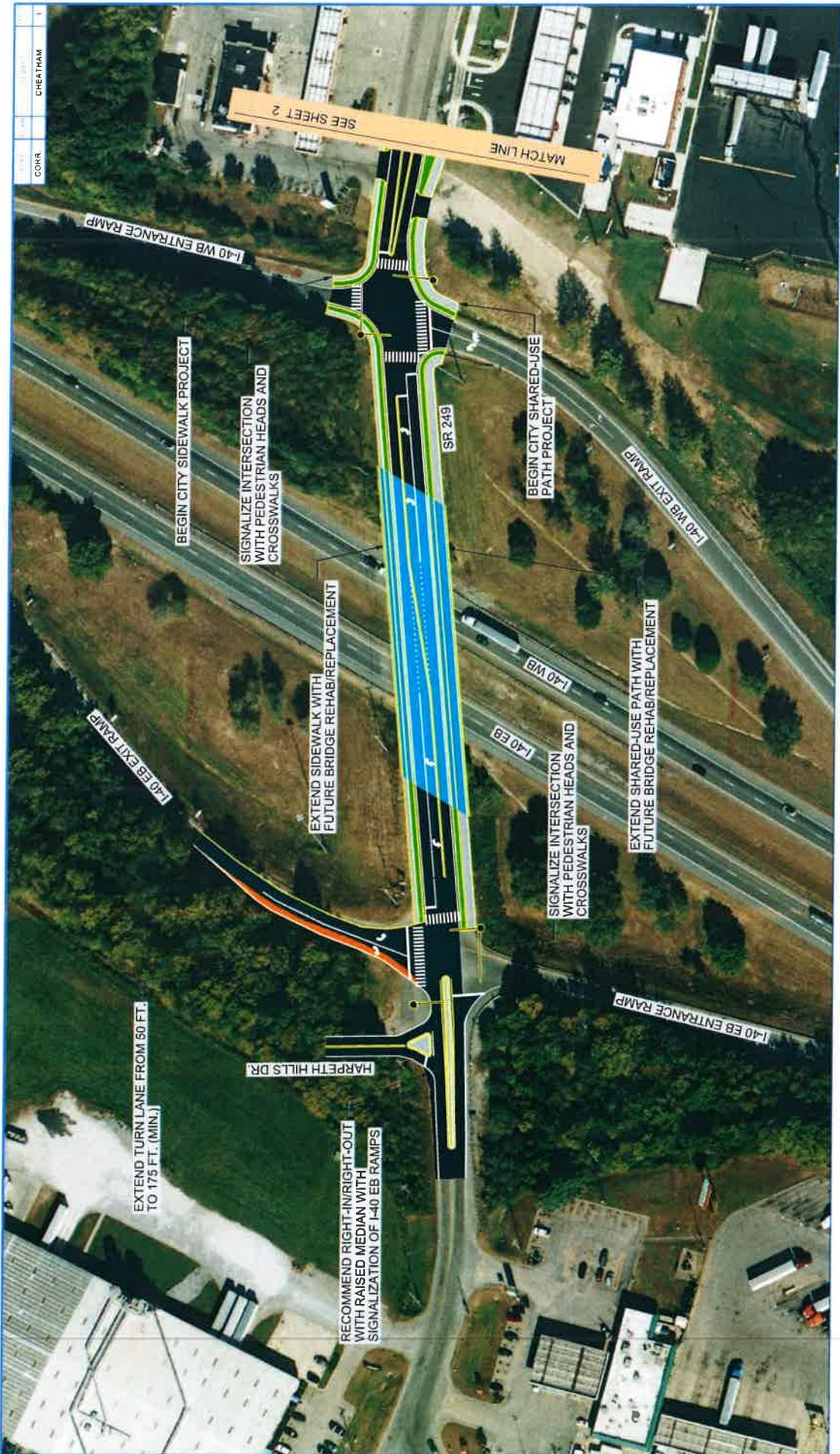
FIGURE 1  
STATE ROUTE 249

**CORRIDOR STUDY**

STATE ROUTE 249  
CHEATHAM COUNTY



DATE	DESCRIPTION	BY
CORR	CHEATHAM	L



STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION  
S.T.L.B.

# CORRIDOR STUDY

STATE ROUTE 249  
CHEATHAM COUNTY

FIGURE 1  
STATE ROUTE 249



DATE	PROJECT	SHEET
02/11/2011	CHEATHAM	2

STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION  
S.T.P.D.

FIGURE 2  
STATE ROUTE 249

CORRIDOR STUDY  
STATE ROUTE 249  
CHEATHAM COUNTY



DATE	DESCRIPTION	BY
07/11/2021	UPPER TRAIL	2



STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION  
R.T.D.

FIGURE 2  
STATE ROUTE 249

CORRIDOR STUDY  
STATE ROUTE 249  
CHEATHAM COUNTY

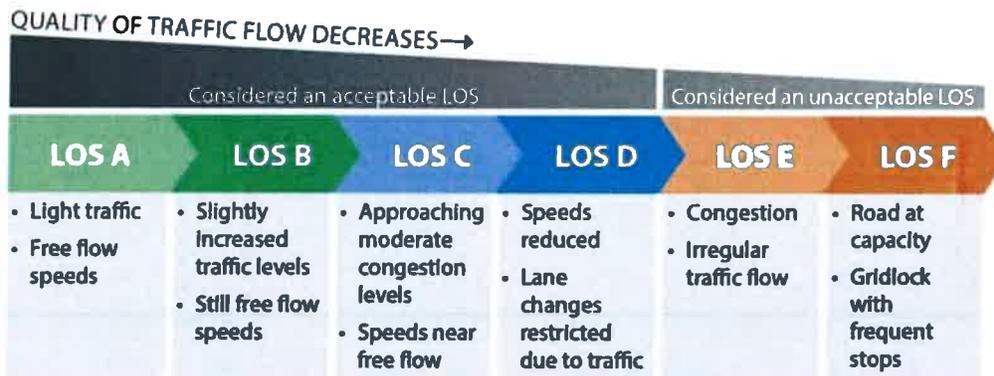


## 7.0 TRAFFIC ANALYSIS

The intersections within the study area were analyzed with the Synchro software application, Version 11. Synchro follows the methodology found in the 6th Edition of the Highway Capacity Manual (HCM). The traffic analysis output is provided in Appendix J: *Traffic Analysis Technical Memorandum*.

A “Level of Service” (LOS) index was used to gauge the operational performance at each intersection/roadway segment. The LOS is a qualitative measure that describes traffic conditions related to speed and travel time, freedom to maneuver, traffic interruptions, etc. There are six levels ranging from “A” to “F,” with “F” being the worst. Each level represents a range of operating conditions. Table 10 shows the traffic flow conditions and approximate driver comfort level at each level of service. More specifically, Table 11 defines the traffic flow conditions and approximate driver comfort at each LOS for signalized and unsignalized intersections.

**TABLE 10: LEVEL OF SERVICE DESCRIPTION**



**TABLE 11: LEVEL OF SERVICE INDEX FOR INTERSECTIONS**

LOS	TRAFFIC FLOW CONDITIONS	SIGNALIZED INTERSECTIONS DELAY (SEC/VEH)	UNSIGNALIZED INTERSECTIONS DELAY (SEC/VEH)
A	Progression is extremely favorable and most vehicles do not stop at all.	0-10	0-10
B	Good progression, some delay.	10-20	10-15
C	Fair progression, higher delay.	20-35	15-25
D	Unfavorable progression, congestion becomes apparent.	35-55	25-35
E	Poor progression, significant delay.	55-80	35-50
F	Poor progression, extreme delay.	>80	>50

### **7.1 LEVEL OF SERVICE ANALYSIS (EXISTING CONDITION)**

Table 12 summarizes the traffic analysis for the existing conditions, also called the No Build Option. The LOS are reported for the entire intersection and for each approach. The years 2026 and 2046 AM and PM Peak Hours were analyzed. For two-way stop intersections, there is no "entire intersection" LOS, just the stop-controlled approaches are assigned a LOS.

The LOS are B or higher through the 2046 Design Year for the signalized intersection of SR 249 (Luyben Hills Road) at Kingston Springs Road (also SR 249). The stop-controlled intersections of SR 249 (Luyben Hills Road) with the I-40 Ramps operate at LOS as poor as F in the Initial Study Year of 2026.

### **7.2 LEVEL OF SERVICE ANALYSIS (BUILD OPTION)**

The proposed condition, also called the Build Option, would incorporate the Town's ongoing project to construct a sidewalk and shared-use path along SR 249. The Build Option would also signalize the two-way stop intersections of SR 249 with the I-40 Ramps. The Build Option would extend the I-40 Eastbound Exit Ramp's right-turn lane from its existing length of 50 feet to 175 feet long. Lastly, the Build Option would interconnect the two new signals at the I-40 Ramps with the existing signal at Kingston Springs Road to provide coordinated operations.

Table 13 summarizes the traffic analysis for the Build Option. The LOS are reported for the entire intersection and for each approach. The years 2026 and 2046 AM and PM Peak Hours were analyzed. The LOS are C or higher through the 2046 Design Year for all intersections in the study area.

TABLE 12: TRAFFIC ANALYSIS – 2026 AND 2046 NO BUILD OPTION

2026		AM						PM									
		Overall Intersection			Approach LOS			Overall Intersection			Approach LOS						
		ID	Intersection	Type	LOS	Delay	Max v/c	EB	WB	NB	SB	LOS	Delay	Max v/c	EB	WB	NB
1	SR 249 at I-40 EB Ramps	Stop	-	13.1	0.74	F	-	-	-	-	-	5.4	0.32	C	-	-	-
2	SR 249 at I-40 WB Ramps	Stop	-	2.4	0.19	-	B	-	-	-	-	8.3	0.66	-	C	-	-
3	SR 249 at Kingston Springs Road	Signal	B	10.2	0.50	A	B	B	C	B	12.7	0.47	B	B	B	B	C

Note: Signal is signalized intersection; TWSC is Two-Way Stop Sign Control  
SR 249 is the Northbound / Southbound Route

2046		AM						PM									
		Overall Intersection			Approach LOS			Overall Intersection			Approach LOS						
		ID	Intersection	Type	LOS	Delay	Max v/c	EB	WB	NB	SB	LOS	Delay	Max v/c	EB	WB	NB
1	SR 249 at I-40 EB Ramps	Stop	-	56.6	1.70	F	-	-	-	-	-	10	0.68	E	-	-	-
2	SR 249 at I-40 WB Ramps	Stop	-	2.8	0.26	-	B	-	-	-	-	16.6	0.91	-	D	-	-
3	SR 249 at Kingston Springs Road	Signal	B	12.9	0.61	B	B	B	D	B	18.2	0.61	B	C	B	B	D

TABLE 13: TRAFFIC ANALYSIS – 2026 AND 2046 BUILD OPTION

2026		AM						PM								
		Overall Intersection			Approach LOS			Overall Intersection			Approach LOS					
ID	Intersection	Type	LOS	Delay	Max v/c	EB	WB	NB	SB	LOS	Delay	Max v/c	EB	WB	NB	SB
1	SR 249 at I-40 EB Ramps	Signal	A	8.6	0.51	C	-	A	A	A	7.4	0.43	C	-	A	A
2	SR 249 at I-40 WB Ramps	Signal	A	8.1	0.52	-	B	A	A	A	9.8	0.76	-	B	A	A
3	SR 249 at Kingston Springs Road	Signal	B	10.2	0.50	A	B	B	C	B	12.6	0.47	B	B	B	C

Note: Signal is signalized intersection; TWSC is Two-Way Stop Sign Control  
SR 249 is the Northbound / Southbound Route

2046		AM						PM								
		Overall Intersection			Approach LOS			Overall Intersection			Approach LOS					
ID	Intersection	Type	LOS	Delay	Max v/c	EB	WB	NB	SB	LOS	Delay	Max v/c	EB	WB	NB	SB
1	SR 249 at I-40 EB Ramps	Signal	B	13.4	0.66	D	-	B	A	B	12.7	0.65	D	-	A	A
2	SR 249 at I-40 WB Ramps	Signal	B	10.7	0.62	-	C	A	A	B	16.5	0.89	-	C	A	B
3	SR 249 at Kingston Springs Road	Signal	B	14.0	0.68	B	B	B	C	C	21.4	0.65	B	C	B	D

### 7.3 SIGNAL WARRANT ANALYSIS

The traffic operations analysis in Section 7.1 demonstrates an existing and future need for signaling the I-40 at SR 249 Interchange Ramps. The traffic volumes were then analyzed with the Manual on Uniform Traffic Control (MUTCD) signal warrant analysis. The MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public travel. The MUTCD is published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F. A warrant is a condition that an intersection must meet to justify a signal installation. The MUTCD specifies three (3) volume-related warrants that typically determine whether or not an intersection is eligible for signalization. If either of the I-40 Eastbound or Westbound Ramps meet MUTCD warrants, then both ramps should be signalized due to their close proximity and for coordinated operations.

The intersection of the I-40 Eastbound Ramps with SR 249 does not meet traffic volume warrants for signalization. The intersection of the I-40 Westbound Ramps with SR 249 meets all three (3) MUTCD volume warrants for signalization if all right turn volumes are included in the analysis. The three MUTCD volume warrants are 8-hour, 4-hour, and Peak hour. However, TDOT's standard practice is to discount the right turn volumes when a dedicated right turn lane is present. When the I-40 Westbound Exit Ramp's right turn volumes are discounted, the intersection does not meet traffic volume warrants for signalization. The ramps should continue to be monitored and the MUTCD warrants evaluated as traffic increases. If delays become excessive or if queues approach the I-40 mainline, then the right turn volumes should no longer be discounted in the analysis and the ramps should be signalized. The MUTCD warrant analysis is provided in Appendix K: *Signal Warrant Analysis*.

## 8.0 ADDITIONAL RECOMMENDATIONS

Through the community survey (see Section 4.0), the public noted many items that require improvements to the transportation system and land use policies outside of the study area. These needs include improved access management regulations, non-recurring congestion mitigation, and improved maintenance of the roadside.

### 8.1 ACCESS MANAGEMENT REGULATIONS

Access management regulations and zoning ordinances can address many concerns expressed by survey respondents. TDOT has developed a Highway System Access Manual (HSAM) that may prove beneficial for the Town to develop stricter regulations and ordinances. The HSAM Volume 1 includes model land development regulations. The HSAM is available on TDOT's website at <https://www.tn.gov/tdot/traffic-operations-division/traffic-engineering-office/operations-and-safety/access-manual.html>.

Many survey respondents expressed concerns with trash and truck traffic associated with the large number of trucks at the interchange. Gas stations, truck stops, and fast-food restaurants servicing travelers along I-40, including many focused-on truck traffic, compose a significant percentage of the businesses along SR 249. The Town may, in the future, elect to limit such businesses through their zoning ordinances or an overlay district for the SR 249 corridor.

The commercial driveways are currently ill-defined with considerable open frontage along SR 249. The Town's multimodal access project along SR 249 within the study area will construct a shared-use path along the northbound lane and a sidewalk along the southbound lane. This project will

have a supplemental benefit of better defining commercial driveways by use of curb cuts and driveway aprons. This should improve traffic operations and safety along the corridor. The Town should also consider additional tools such as regulations to promote cross access and joint access of commercial driveways to limit the number of access points along SR 249.

Lastly, the intersection of Harpeth Hills Drive with SR 249 is located within the functional area of the intersection of the I-40 Eastbound Ramps with SR 249 (see Figure 14). The Town should not permit any land development that would increase traffic along Harpeth Hills Drive. With proposed signalization of the intersection of the I-40 Eastbound Ramps with SR 249 it may be necessary to dead-end Harpeth Hills Drive or make it right-in/right-out. Otherwise it will create safety and operational concerns with the proposed signalized intersection.



**FIGURE 14: HARPETH HILLS DRIVE INTERSECTION**

## **8.2 NON-RECURRING CONGESTION MITIGATION**

Discussions with residents and local officials indicate the most significant congestion-related concern is associated with non-recurring congestion. When there is a crash or similar incident

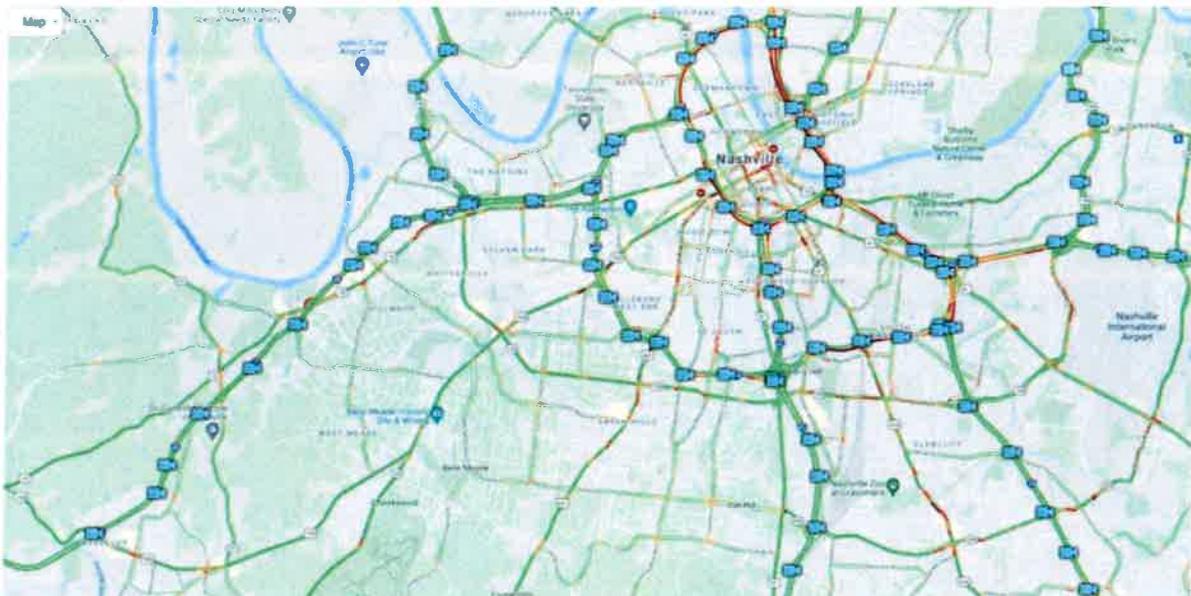
along I-40 or SR 249, it creates exceptional delays for residents accessing their homes or places of employment. Several options follow to help non-recurring congestion including Intelligent Transportation Systems improvements, improving SR 249 outside of the study area, and consideration for an additional interchange to lessen the traffic burden along SR 249.

### **8.2.1 ITS Improvements**

Intelligent Transportation Systems (ITS) improvements will help motorists avoid non-recurring congestion created by incidents such as crashes. A robust ITS System will provide information as motorists plan their trip via desktop and mobile phone applications and messages to travelling motorists via Digital Message Signs (DMS). The information will be beneficial to alter motorists' routes to avoid congestion. Fortunately, TDOT is in the process of expanding their ITS network along I-40 adjacent to the Town of Kingston Springs.

As part of the TDOT Nashville I-40 SmartWay Expansion Project (TDOT Project Number 98302-3150-44) TDOT will expand the SmartWay from US 70 in Bellevue/Davidson County to Hogan Road in Dickson County. This project includes the installation of various ITS devices that will be used to help manage traffic along I-40, including closed-circuit television (CCTV) cameras, radar detector sensors (RDS), DMS and fiber optic communications. The existing SmartWay system in the Nashville area is shown in Figure 15. In addition to helping TDOT manage incidents along I-40, the video streams from the CCTV cameras and the messages from the DMS are available to the public via the SmartWay website ([smartway.tn.gov](http://smartway.tn.gov)). Figure 16 provides examples CCTV feeds on the SmartWay website and DMS messages provided to motorists.

Specific to the Kingston Springs study area, along I-40, TDOT plans to install nine (9) CCTV cameras, ten (10) RDS, two westbound DMS and two eastbound DMS between the SR 249 Interchange and the US 70 Interchange to the east, in Bellevue. The Nashville I-40 SmartWay Expansion Project is anticipated to let in October 2021 and the construction timeframe is approximately 24 months.



**FIGURE 15: EXISTING TDOT SMARTWAY CCTV CAMERA LOCATIONS – NASHVILLE AREA**

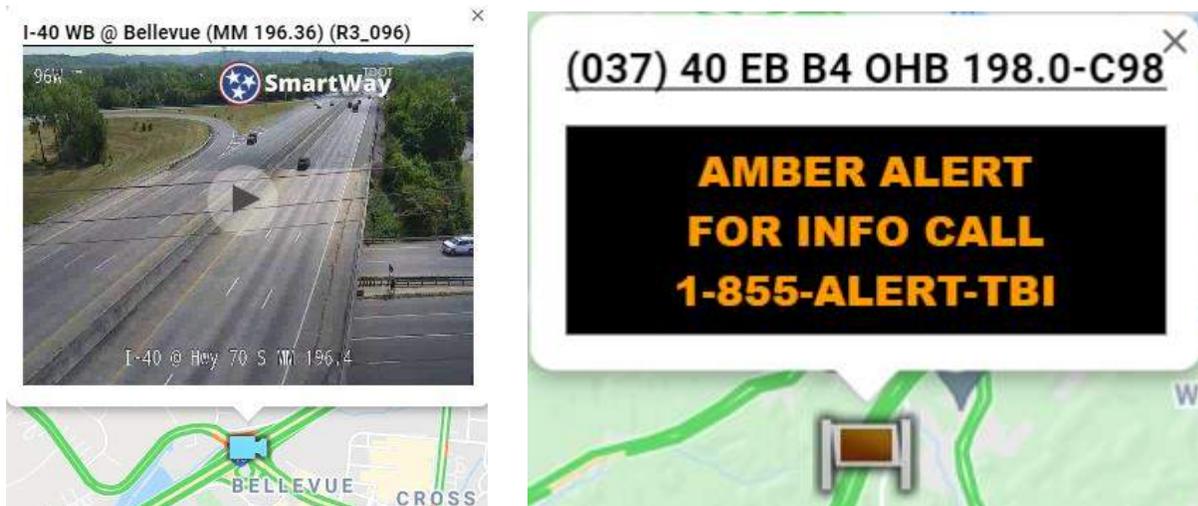


FIGURE 16: EXAMPLE CCTV FEED AND DMS MESSAGE

### 8.2.2 SR 249 Improvements (Outside of Study Area)

When there is a crash or other non-recurring congestion along I-40, most residents divert to US 70 and Kingston Springs Road (SR 249). The ITS improvements described in Section 8.2.1 will provide more benefit when coupled with alternate routes to direct motorists. Proposing improvements along US 70 in Davidson County is outside the scope and limits of this *SR 249 Corridor Study*. However, from US 70, most residents would access the Town of Kingston Springs via Kingston Springs Road (SR 249). Kingston Springs Road has been improved to a three-lane typical section from the northern terminus of the study area to Woodlands Drive, which is located one (1) mile to the east. The remaining 1.6 miles of Kingston Springs Road connecting to US 70 consist of a two-lane road with narrow shoulders and deficient vertical and horizontal curvature. It cannot carry the volume of traffic that a three-lane typical section can. Improving SR 249 to a three-lane typical section would remain in context of the adjacent land use and traffic volumes but allow it to more efficiently accommodate rerouted traffic when there is an incident along I-40. This section of Kingston Springs Road includes a 400-foot long bridge over the Harpeth River, one railroad crossing, and would be anticipated to require three (3) residential relocations. Kingston Springs Road is shown in Figure 17. The opinion of probable cost to improve Kingston Springs Road to a three-lane typical section is \$41.7 million in year 2026 dollars.

At the City's request, the planning team has developed an opinion of probable cost that stops the widening west of the Harpeth River, near Harpeth Meadows Drive. The widening would be 1.1 miles long. The curve along SR 249 at Garden Lane would not be realigned. Terminating at Harpeth Meadows, the bridge over the Harpeth River would not be widened and the intersection at US 70 would not be improved. Under these conditions, the estimated improvements cost is reduced to \$26 million (in 2026). It should be noted that the eastern terminus may not be considered a logical terminus, creating complications should federal or state funds be desired. However, the lack of driveways along this segment may make the City's proposed terminus acceptable. TDOT's Environmental Division should be consulted for guidance.

Appendix I: *Cost Estimates* provides the cost calculations.

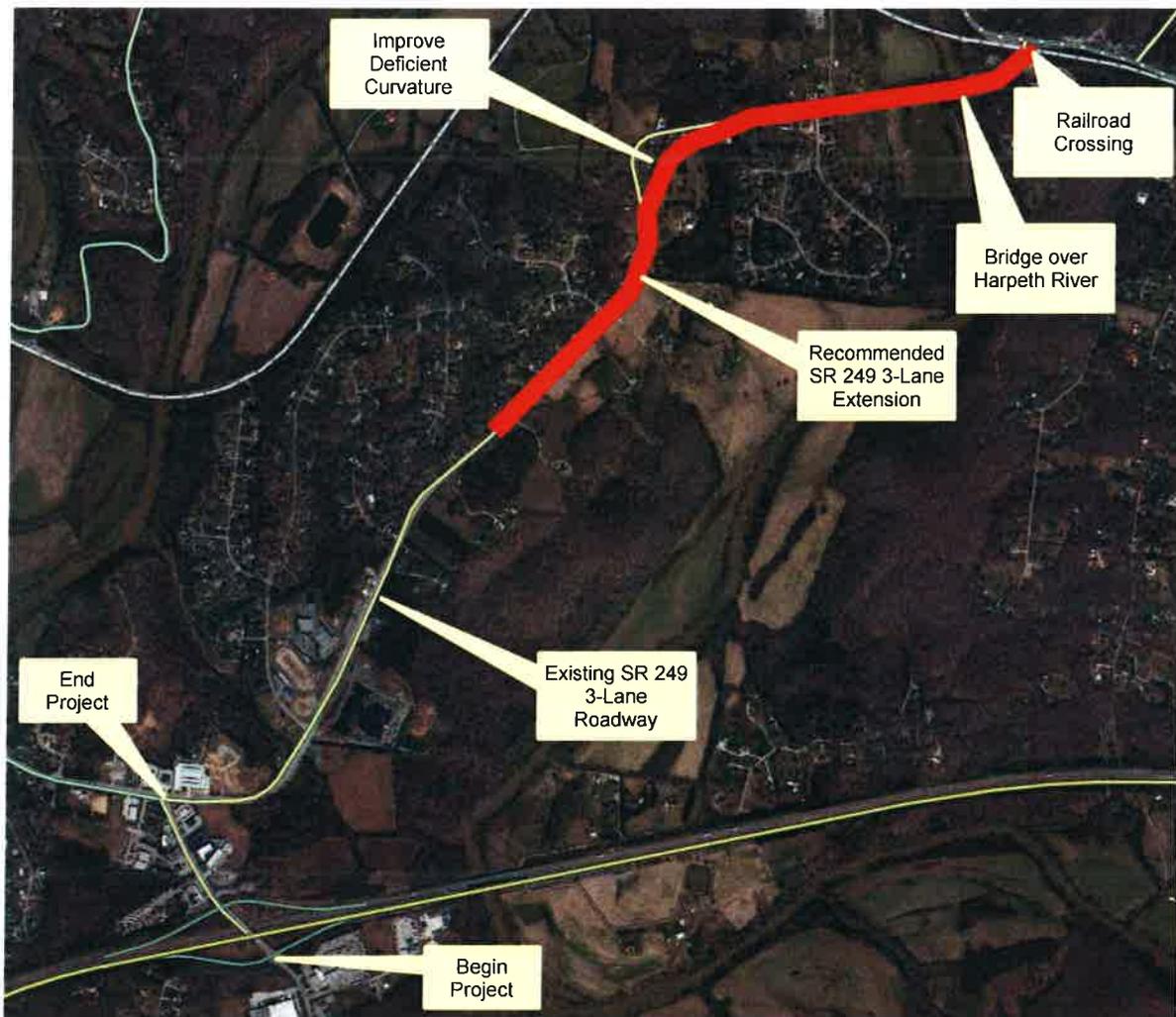


FIGURE 17: SR 249 THREE-LANE IMPROVEMENT

### 8.2.3 Future Interchange Consideration

Local officials and survey respondents indicate a need for an additional roadway crossing of I-40. SR 249 is the only interchange along I-40 in Cheatham County. A new crossing would provide additional options for residents to access the town and improve the benefits of the expanded ITS system described in Section 8.2.1. An additional roadway crossing would ideally be in the form of an interchange, or a roadway that could be reconfigured into an interchange. The next exits are six (6) miles west in Williamson County or four (4) miles east in Davidson County. Interchanges along the Interstate system may be spaced as close as one (1) mile in urban areas and two (2) miles in rural areas. This section of SR 249 is a main corridor linking I-40 and US 70. Local commuter traffic mixes with commercial truck traffic along the corridor. Unfortunately, there are many barriers to a new roadway crossing / interchange area between the adjacent interchanges including steep terrain, the Harpeth River, floodplains, lack of options to connect to regional routes such as US 70, and existing suburban development. These factors lead to the reason there are no interchanges already located closer. Costs could rise to high tens of millions to low hundreds

of millions of dollars. Additional study is necessary to determine the feasibility for a new crossing or interchange.

### **8.3 MAINTENANCE RECOMMENDATION**

The need for improved litter removal along the study corridor, and particularly along the I-40 Ramps, was noted by many survey respondents. The Town should consider assisting the community with developing a non-profit, non-government, organization dedicated to serving the needs of the interchange area and commercial properties along SR 249. The focus could be to develop a clean, safe, and vibrant place to work, shop, live, and do business. Additionally, the Town should coordinate with TDOT's Maintenance Division to improve litter pickups, mowing, and any other quality of life functions in the state's right-of-way.

### **9.0 SAFETY ASSESSMENT**

Improved access management associated with the proposed sidewalk and shared-use path improvements along the SR 249 study area corridor may reduce crashes by up to 50 percent according to the Transportation Research Board's (TRB) Access Management Manual 2<sup>nd</sup> Edition. Constructing a shared-use path is projected by the Crash Modification Factors Clearinghouse to reduce vehicle crashes with bicyclists by 25-percent<sup>1</sup>. Installing traffic signals at the I-40 Ramps is projected by the Cash Modification Factors Clearinghouse to reduce crashes by 44-percent<sup>2</sup>. The Build Option should improve safety along SR 249 within the study area.

### **10.0 RECOMMENDATIONS AND CONCLUSIONS**

The Town of Kingston Springs's multimodal access project along SR 249 within the study area will construct a shared-use path along the northbound lane and a sidewalk along the southbound lane. These facilities extend from the I-40 Westbound Ramps to Kingston Springs Road and are included in the Build Option. The traffic analysis supports maintaining the existing three-lane typical section along SR 249. This is consistent with the typical section proposed in the Town's multimodal design project.

The Build Option would signalize the two-way stop intersections of SR 249 with the I-40 Ramps. The Build Option would also extend the I-40 Eastbound Exit Ramp's right-turn lane from its existing length of 50 feet to 175 feet long. Lastly, the Build Option would interconnect the two new signals at the I-40 Ramps with the existing signal at Kingston Springs Road to provide coordinated operations. With the Build Option, the LOS are C or higher through the 2046 Design Year for all intersections in the study area. This is in comparison to LOS of F in the 2026 Initial Year without improvements.

When the SR 249 Bridge over I-40 requires major rehabilitation or replacement, it is recommended to replace the existing shoulders with a sidewalk and shared-use path, consistent with the improvements in the Build Option just to the north.

The total cost of improvements within the study area for the multimodal, signalization with turn lane, and bridge replacement costs is \$11.69 million in year 2026 dollars. The bridge replacement costs are only recommended with future regular maintenance and rehabilitation of the SR 249 Bridge over I-40. The total cost of improvements within the study area, excluding the bridge replacement, is \$3.82 million in year 2026 dollars. The Town may construct the multimodal

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<sup>1</sup> <http://www.cmfclearinghouse.org/detail.cfm?facid=9250>

<sup>2</sup> <http://www.cmfclearinghouse.org/detail.cfm?facid=325#commentanchor>

improvement prior to other improvements with town or other funds. If only signalization and turn lane improvements are constructed, the cost is \$2.74 million in year 2026 dollars. The Build Option should improve safety along SR 249 within the study area.

The Build Option focuses on constructed improvements within the study area. The *SR 249 Corridor Study* included a survey, which received 413 responses. The public noted many items that require improvements to the transportation and land use policies outside of the study area. These needs include improved access management regulations, non-recurring congestion mitigation, and improved maintenance of the roadside. These topics are addressed in Section 8.0 Additional Recommendations.

Due to the project limits defined in the competitive CTPG that funded this study, there are limitations concerning the development of options beyond Luyben Hills Road outside of the I-40 eastbound ramps and Kingston Springs Road. However, at the request of the Town of Kingston Springs, the planning team has considered the effects of non-recurring congestion caused by traffic incidents and their effects on access to the Town and congestion along Luyben Hills Road.

The planning team feels that a future planning study for access to Kingston Spring Road via a new road that does not connect to Luyben Hills Road may improve traffic flow and provide additional access for drivers and EMS personnel during incidents. It is likely that this additional connection would improve traffic conditions and access for residents traveling through the surrounding neighborhoods and drivers traveling through to reach Luyben Hills road and I-40. To determine the exact impacts, costs, and benefits of this local roadway, however, a traffic study would need to be performed and funded by the Town of Kingston Springs.

It should also be noted that due to the local classification-nature of such an additional roadway, construction funds for such a project could not be provided by TDOT. Since the roadway would be locally-classified (and not a state-aid roadway), the local jurisdiction entity (the Town of Kingston Springs) would be responsible for its construction and the right-of-way that would need to be acquired.

The Town may use the most recent traffic analysis performed within this study and the traffic data along Luyben Hills Road and Kingston Springs Road (SR 249) to aid in the analysis if the study is developed within three years, but the additional data and efforts to perform the analysis would be the responsibility of the Town.

B.C.



CAROLYN M. CLARK, COMMISSIONER  
cclark@kingstonsprings-tn.gov  
(615) 952-9560

6 October 2021

John Lawless  
Kingston Spring City Manager  
396 Spring St.  
Kingston Springs, TN 37082

**Re: Meeting Agenda Item – Speed Mitigation/Lowering of Speed Limits on Collector/Local Streets**  
*Proposed Amendment and/or addition to TITLE 15 MOTOR VEHICLES, TRAFFIC AND PARKING*

Dear John:

Attached please find an item for this month’s agenda regarding speed mitigation to address citizen concerns which have recently come before the commission. Pursuant to TCA 55-8-153(c)(2), as the Town’s legislative body, we “possess the power to prescribe lower speed limits within certain areas or zones, or on designated highways, avenues or streets that are not designated as state highways in their respective jurisdictions, and to erect appropriate signs and traffic signals.”

The attached proposed ordinance affects those streets designated as local collector and tertiary streets in the Town of Kingston Springs, the majority of which have assigned speed limits of 30 miles per hour. This proposal seeks to lower the speed limit to 20-25 miles per hour (TBD). It would be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of 20-25 (TBD) miles per hour except where official signs have been posted indicating other speed limits, in which case the posted speed limits would apply. Unposted streets would have a 20 miles per hour limit.

As it concerns WSKR to and through Downtown in particular, this road currently has a posted speed limit of 30 mph. A viable proposal could be to keep it at 30 mph, but then reduce the speed limit to 25 mph at Maple St., reduce it further to 15-20 mph (TBD) through Downtown on N. Main Street, and then increase the speed limit back to 25 mph after the left turn back onto WKSJ to the city limits (right past Baker property at 492 WKSJ - County Hwy 1948).

The historical downtown area (i.e., Love, Oak, Hillman and Maple Streets) already has a reduced posted speed limit of 15 mph. It is also relevant to note that the speed limit in Harpeth Meadows and Kingston Park is already posted at 20 mph. Even so, we have heard testimony that speed is still a recurring problem in Kingston Park and further mitigation may need to be discussed in the form of additional signage, transverse rumble strips, speed humps (as opposed to bumps) or other traffic calming measures. A benefit of speed humps and transverse rumble strips is that given the constraints of a small public safety force, these measures are self-enforcing and reduce the need for police enforcement. Brentwood has a speed hump policy that is worth review and research. <https://www.brentwoodtn.gov/departments/public-works/speed-hump-policy><sup>1</sup>

Lastly, research into other cities (albeit larger) that have a “Neighborhood Traffic Management Program” resulted in locating some procedures that are worth consideration and may assist us in developing our own processes. (*Excerpt attached*). It may behoove the Town to have specific criteria and procedures put in place regarding requests from neighborhoods/homeowners in this regard.

Thank you.

Sincerely,

  
Carolyn M. Clark

<sup>1</sup> A signed citizen petition supporting traffic calming measures was already turned in at the August Commission meeting which is one of the requirements as set forth in Brentwood’s process for installation consideration. There is also a shared cost component.

### **Stakeholder Engagement**

If the location qualifies, City staff will conduct a public meeting at the next regularly scheduled Public Safety Committee meeting to address traffic calming at this location. Prior to the full public meeting, City staff may first choose to create a small working group to gain initial feedback on measures and alternatives. This group may be instituted in cases where there are a number of alternatives, where there is no one clear alternative, where measures are likely to be more intrusive for street users, or a variety of other reasons. Small groups may consist of City staff, police and fire department representatives, residents (especially those who submitted the initial form or signed the petition), and other stakeholders.

The full public meeting will be conducted at City Hall and open to all residents and stakeholders; City staff, police, fire, and rescue will also be represented at the meeting. This public meeting may be held in conjunction with a City Public Safety Committee Meeting. Any data from the City's investigation as well as the recommended traffic calming measure will be presented at this meeting. Any further agreements for the installation and maintenance of any traffic calming measure may be required at this meeting. These agreements may include funding agreements or landscaping agreements on the parts of the residents.

If the recommended alternatives do not receive public support, the Director of the Public Works Department may consider forming a working group to find alternative approaches. In this case, one more public meeting may be had to try to gain public support. If there is still a lack of public support, then the measure will not be installed. The project may be resubmitted to the City after two years unless at the determination of the City.

In addition to the public meeting, the information will be included in the newsletter that is available to residents.

Once the impact area has been defined, organizers have three months to inform ninety percent of residents of the affected area – street or neighborhood – about the intention to develop an enhancement proposal and demonstrate the support of thirty-three percent (33%) of the residents for continuing these activities. If support is not demonstrated within the allotted time, as demonstrated by a neighborhood petition (petition form supplied by Department of Public Works), the City will not support moving ahead with the project. It cannot be over stated: neighborhood consensus on problem identification is essential to moving forward.

### **Installation**

Before installation may commence funding and maintenance agreements need to be established. Funding may come from City funds, resident contribution (through collections or fundraising), State funds or Federal funds.

Evaluation Resident feedback will be solicited at least within six (6) months after the installation of the traffic calming method. A short survey will be mailed to residents within the specified area. Residents will be asked to gauge the effectiveness and support of the installed measure. The City may conduct studies to analyze the effectiveness of the traffic calming measure. If the measure has low support or is deemed ineffective, the City may choose to remove it. In this case, the City will mail notices to each household within the specified area. If problems arise from the implementation of a traffic calming measure, staff will examine the cause(s) and potential corrective action(s), which may include removal of the traffic calming measure.

### **Removal**

The process for removal is much the same as the installation request process. A Request Form and petition with 67% of households in the specified area must be submitted to the City. The Request Form may be submitted no earlier than six (6) months and one day after installation. If the devices are to be removed, then the City will mail notices to residents within the specified range.

**PROPOSED ORDINANCE** (Amendment and/or addition to TITLE 15 MOTOR VEHICLES, TRAFFIC AND PARKING)

WHEREAS, Tennessee Code Annotated subsections 55-8-153(c)(2) and (d) allow the legislative bodies of municipalities and counties to prescribe lower speed limits within certain areas, zones, streets, or roads within their jurisdictions; and,

WHEREAS, speed mitigation has been a persistent demand made by a majority of citizens within the Town of Kingston Springs to this legislative body; and,

WHEREAS, a federal study of pedestrian/vehicle crashes in the U.S. shows that collisions at an impact speed of 23 miles per hour are half as likely to cause pedestrians severe injury or death as collisions at 31 miles per hour; and,

WHEREAS, lowering the speed limit on streets designated as collector (secondary) and local (tertiary) and selected/identified arterial streets from 30 miles per hour to 20-25 miles per hour has been proposed to increase safety for pedestrians, cyclists, children at play, motorists, and wildlife, it is,

NOW, THEREFORE, BE IT ENACTED BY THE KINGSTON SPRINGS BOARD OF COMMISSIONERS:

Section 1. Speed limits on streets designated as collector (secondary) and local (tertiary) are hereby generally lowered from 30 miles per hour to 20-25 miles per hour, except for those for which exceptions are made pursuant to the process described below, and the Town of Kingston Springs and its staff are hereby authorized to post appropriate signage indicating the speed limit reduction.

Section 2. No person shall drive a motor vehicle through any intersection at a rate of speed in excess of 15 miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting street.

Section 3. Unless otherwise posted, the speed limit in school zones shall be 15 miles per hour during a period of 40 minutes before school and a period of 40 minutes after school adjourns. Driving in excess of the posted limit or in excess of 15 miles per hour if not posted at a time when children are actually going to or leaving school shall be prima facie evidence of reckless driving in T.C.A. § 55-8-152. It shall be unlawful to drive in excess of 15 miles per hour on school grounds at any time. It shall be unlawful to disobey traffic control signs erected on school property.

Section 5. The speed limits on W. Kingston Springs Rd will maintain its posted at 30 mph with the following provisos: The speed limit on WKSR would be lowered to 20-25 mph at Maple St. to the intersection of N. Main St. The speed limit on N. Main Street would then be further reduced to 15-20 mph through Downtown. As WKSR resumes following the left turn off of N. Main, the speed limit would be posted at 25 mph to the city limits (right past Baker property at 492 WKSR - County Hwy 1948).

Section 6. In the absence of a posted speed limit sign duly authorized by the traffic and parking commission, no person shall exceed the maximum lawful speed of 20-25 miles per hour within Kingston Springs Proper, provided that this section shall not apply to the Access Controlled State Highways (SR-249 – East Kingston Springs Road and Luyben Hills Road), which is regulated under Tennessee Code Annotated, Section 55-8-152.

Section 5. Authority is retained by the Kingston Springs Board of Commissioners to officially adopt the above-referenced general speed limit reduction.

Dated 6 October 2021.

  
Carolyn M. Clark, Commissioner

**TOWN OF KINGSTON SPRINGS  
STAFF SPEED MITIGATION DISCUSSION-RECOMENDATIONS**

October 7, 2021

Speeding on roads inside the town limits of Kingston Springs has been a recent topic of discussion with the town's Board of Commissioners. Residents from different areas of town have appeared before the Board to express their concerns, Commissioners have presented speed mitigation suggestions, and town staff have been charged with providing potential solutions.

In an effort to better control vehicle speed in Kingston Springs town staff is recommending the following initial actions:

- One of the themes presented in our discussions has been a consistency in speed limits throughout the town. With this in mind, all residential/neighborhood streets within the Kingston Springs town limits, including the downtown business area, would have a speed limit of 20 MPH.
- Currently, Kingston Springs has three primary corridor roads: East Kingston Springs Road, a state road with a speed limit of 35MPH, West Kingston Springs Road with a speed limit of 30MPH, and Mt. Pleasant Road with a speed limit of 30MPH. As a measure of consistency staff recommendation is to match the speed limit of Mt Pleasant and West Kingston Springs Road with the East Kingston Springs Road limit of 35MPH. Staff feels that road conditions and ingress/egress density of both Mt Pleasant and West Kingston Springs Road support the move to 35MPH. Please note, West Kingston Springs Road changes to Main Street in downtown Kingston Springs and is not impacted by this change.
- As mentioned, Main Street in downtown Kingston Springs is not impacted by the speed limit on West Kingston Springs Road and the speed limit on Main Street will be set at 20MPH from the south intersection with West KS Road (by the KS Church of Christ) to the north intersection with West KS Road (by KS City Hall). In addition, to prepare drivers for this reduced speed limit through downtown Kingston Springs signage will be placed for notification of this change, and the speed limit on West Kingston Springs Road will be reduced to 20MPH on the north end from Ellersly Way to Main Street and on the south end from Oak Street to Main Street as a buffer prior to the downtown district.

- For East Kingston Springs Road we will continue to work with TDOT representatives on the best approach to curb speeding. As this is a state road the town is limited on the speed mitigation measures it can deploy and we feel continued conversation with TDOT is the best avenue to meaningful results. The Town's Public Safety Officers as well as Cheatham County Deputies have also increased their presence on this road.
- Currently there is minimal signage in neighborhood areas alerting drivers to the posted speed limit. This signage will be increased across the town with additional sign placement starting in areas of greatest need. We will also incorporate the use of Solar Powered Radar Feedback Signs that help calm traffic by displaying the speed limit as well as the driver's current speed.
- Speed patrol by officers has already been increased around town and will continue to be a priority. Staff feels that the increased signage along with the increased patrols will be the best combination of initial steps to take in reducing driver speeds.
- The community will be made aware of any changes to speed limits through newspaper information, the town's social media and website well in advance of implementation.

A more area specific item deals with road conditions and speeding on Harpeth Hills Drive. There is a section of Harpeth Hills Drive at the intersection of Lloyd Lane that includes a very steep hill. The grade of this hill is such that road upkeep, repair, and any clearing needed in inclement weather is unsafe and very difficult. In addition, residents along the lower section of Harpeth Hills Drive indicate this area is often used as a "cut-thru" to and from the I-40 interchange with drivers not obeying the posted speed limit. Staff is recommending Harpeth Hills Drive be closed to thru traffic at the steep hill east of Lloyd Lane. The road will be closed with a permanent barrier at this hill, essentially separating Harpeth Hills Drive into a dead-end road to traffic coming south from Luyben Hills Road, and a dead-end road to traffic going north from CC Road. This would eliminate the need for road upkeep on the steepest grade of this hill as well as eliminating the use of this residential street for "cut-thru" traffic to I-40.

Map navigation controls including zoom in (+), zoom out (-), home, and search icons. A search bar contains the text "PARK ST 501". Below the search bar is a button labeled "SHOW SEARCH RESULTS FOR PARKS".



Legend



Cheatham Zoning

- A - Agricultural
- C - PUD - Planned Unit Development
- C1 - General Commercial
- C2 - Neighborhood Commercial
- C3 - Rural Convenience Commercial Dist
- C5 - Neighborhood Commercial Mixed Use
- CMUPUD - Comm Mixed Use Planned Unit Dev
- E1 - Estate Residential
- I1 - General Industrial
- I2 - Heavy Industrial
- PPUD - Mixed Use
- R.PUD Residential Planned Unit Dev
- R1 - Low Density Residential
- R2 - Medium Density Residential R2 - Medium Density Residential
- R3 - High Density Residential

FEMA Zones

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE

World Imagery

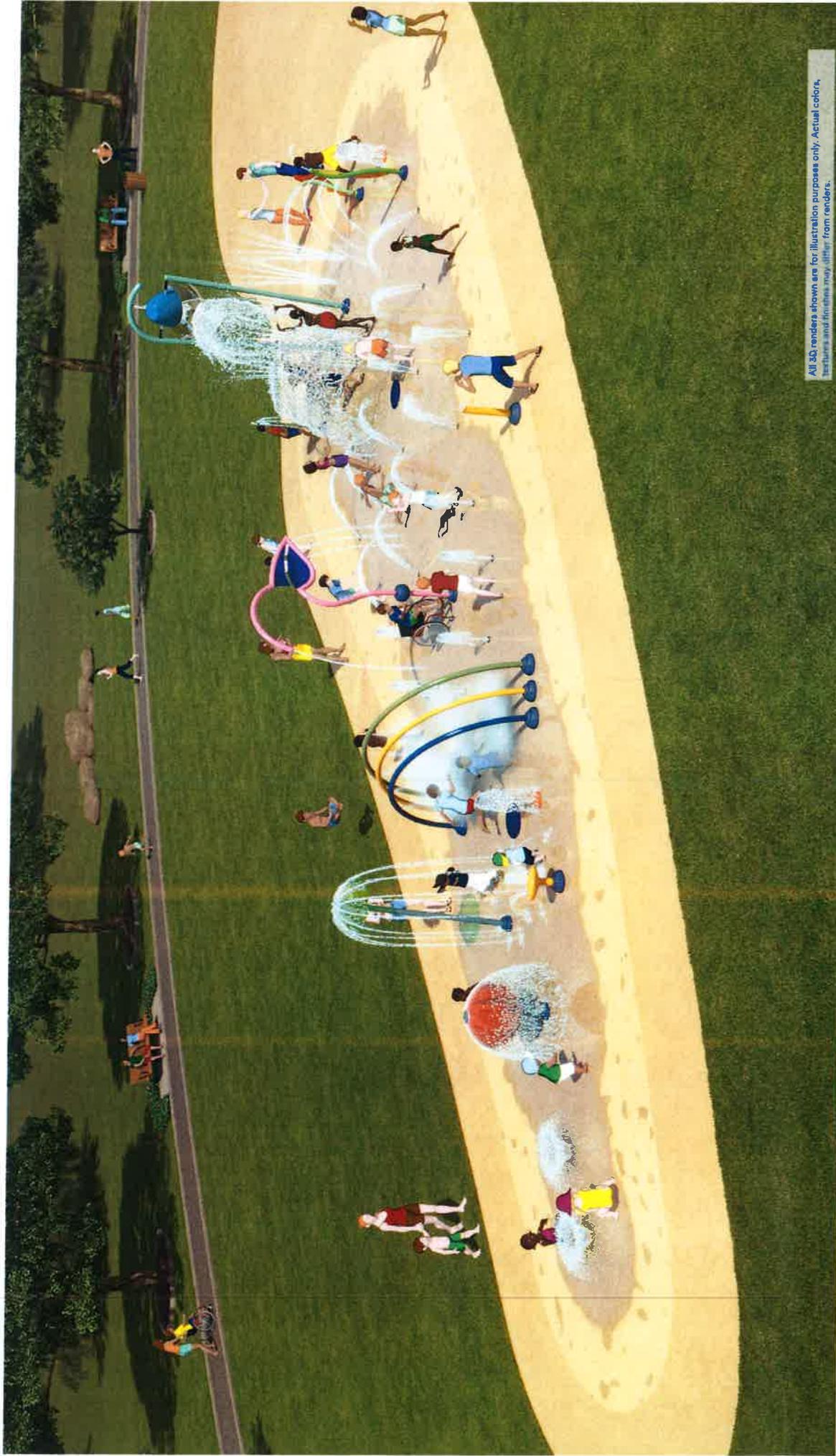
Map status and controls: "Align State" button, "Click to restore the map extent and layers visibility where you left off." button, and a close (X) icon.

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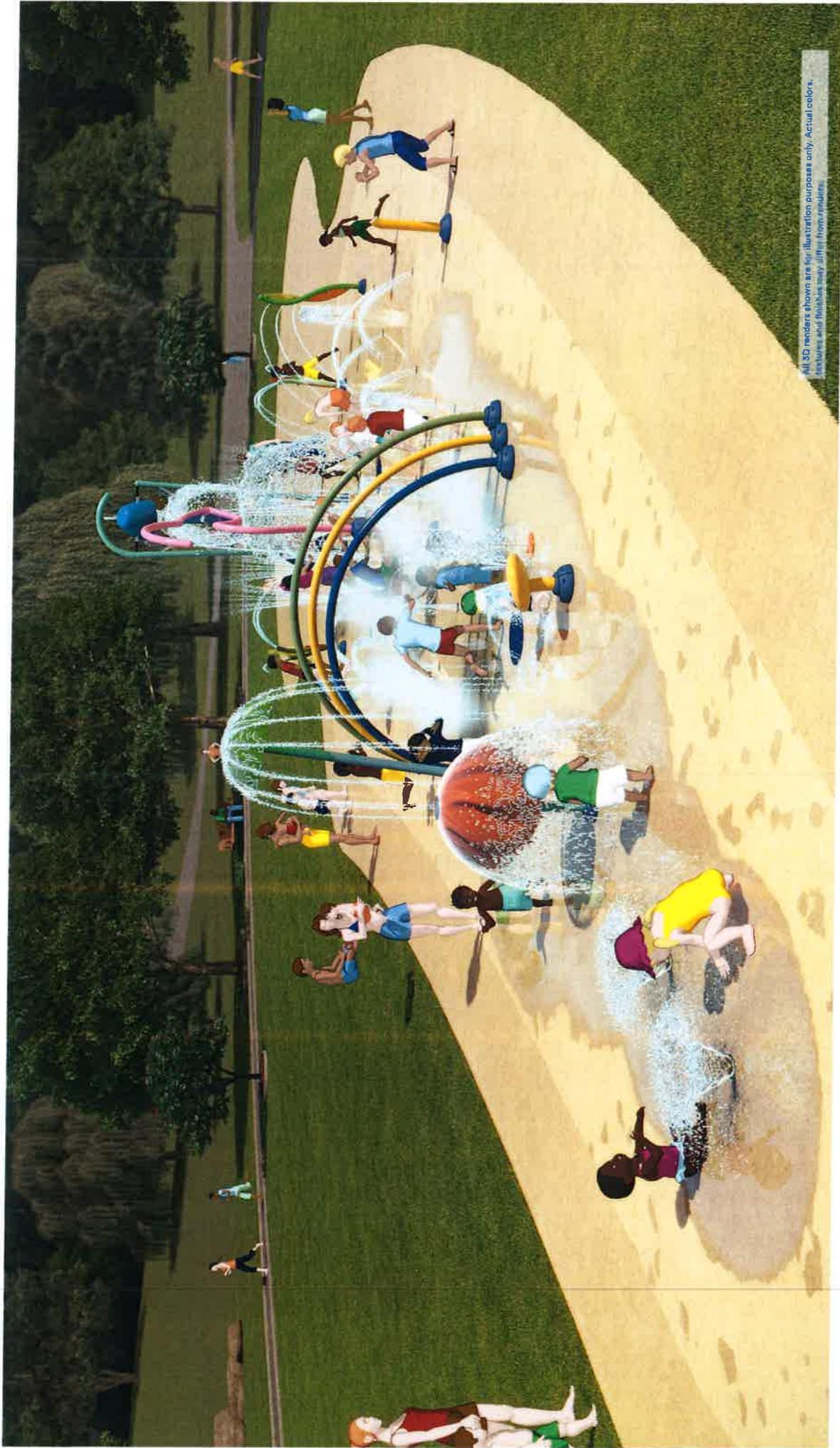


# VORTEX

**LL Burns Park Splashpad - TN**  
Version E - 3/5/14S



All 3D renders shown are for illustration purposes only. Actual colors, textures and finishes may differ from renders.



All 3D renders shown are for illustration purposes only. Actual colors, textures and finishes may differ from renders.



All 3D renders shown are for illustration purposes only. Actual colors, textures and finishes may differ from renders.