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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
 APPLYING TO**

**CERTAIN REAL PROPERTY BEING FOUR AND ONE-HALF (4.5) ACRES
 ALONG MEMORIAL BLVD., MURFREESBORO, TN 37129**

COMMONLY KNOWN AS 3268 MEMORIAL BLVD., ZONED COMMERCIAL

**THE OWNERS OF SAID PROPERTY BEING G. WAYNE NOBLES AND
 KATHRYN M. NOBLES, HUSBAND AND WIFE**

IN THE 9th CIVIL DISTRICT OF RUTHERFORD COUNTY, TENNESSEE

Map 69, Parcel 27

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WHEREAS, G. Wayne Nobles and Kathryn M. Nobles, husband and wife, hereinafter referred to as "Declarants" are the owners in fee simple of certain real property being Four and One-Half (4.5) acres along Memorial Blvd. commonly known as 3268 Memorial Blvd., Murfreesboro, TN, 37129, and being described as "Exhibit A" and shown on the drawing attached hereto as "Exhibit B". Exhibit A and Exhibit B are incorporated hereinto by reference verbatim. The real property described on Exhibit A and shown on the drawing on Exhibit B shall be known as the "Property".

NOW THEREFORE, the Declarants hereby bind themselves, their successors and assigns, to the following restrictions, limitations and covenants which shall run with the land and be binding on all parties having any right, title, or interest in any portion of the Property, their successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Property.

The restrictions and covenants herein contained shall run with and bind the Property and each and all parties having any right, title, or interest in any portion of the Property, and all persons claiming under such owners for a period of twenty (20) years. At the end of said twenty (20) year term these restrictions and covenants shall extend automatically for an additional period of fifteen (15) years ("Renewal Term"), unless terminated by the Declarants during the Renewal Term.

In no event shall the restrictions and covenants of this section, section 7, be effective if the Property is not combined with any other property as an assemblage so that the total land area of the resulting assemblage exceeds five (5) acres.

ARTICLE I

DEFINITIONS

1. "Appointment Period" shall mean a period which ends fifteen (15) years after the Declarants their heirs, successors, and assigns have sold all of the Property
2. "Declarants" shall mean and refer to G. Wayne Nobles and Kathryn M. Nobles, husband and wife, their heirs, their successors and their assigns.
3. "Declaration" shall mean this instrument.
4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any portion of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
5. "Lot" shall mean and refer to any plot or tract of land which has

distinct fee simple ownership.

6. "Plat(s)" shall mean and refer to the plat(s) recorded in the Rutherford County Register of Deeds Office subdividing the Property into Lots and reflecting thereon the public streets, common areas, and utility easements and other matters normally shown on subdivision plats, and "Plat" may also refer to the instrument showing the division of a tract into individual units in a Horizontal Property Regime.

7. "Property" shall mean and refer to on the real property described on "Exhibit A" and shown of the drawing on the attached "Exhibit B".

8. "Related User" shall mean a Person who obtains all or certain rights of an Owner by reason of such Person validly claiming or being entitled to such rights by, through or under such Owner. Without limiting the generality of the foregoing, "Related User" shall include any occupant, tenant, family member or contract purchaser of an Owner who occupies all or part of any Site of such Owner and any natural person who is a guest or invitee of such Owner or of such Person.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE

1. **General.** The following provisions shall govern use of all portions of the Property.

There shall be an architectural review committee which shall review and approve all proposed improvements to insure the adherence hereto and to enhance the aesthetics of the development of the Property, and to insure that the design review guidelines for the Property are followed (the "Architectural Control Committee"). During the Appointment Period the Declarants their heirs, successors or assigns, shall appoint the Architectural Control Committee, thereafter the Architectural Control Committee shall be appointed by majority vote of the Lot Owners of the Property.

2. Architectural Guidelines,

(a) No construction, reconstruction, remodeling, alteration, or addition of or to any structure, building, fence, wall, drive, or improvement of any nature shall be constructed on any of the Property without obtaining prior written approval of the Architectural Control Committee.

(b) The Architectural Control Committee shall be composed of three (3) members serving one (1) year terms. As a prerequisite to consideration for approval, and prior to the commencement of the contemplated work, an Owner shall submit to the Architectural Control Committee, or its agent, as the case may be, such plans,

specifications, and other information concerning the proposed improvements as the Architectural Control Committee may require from time to time as a condition for its review and approval thereof accompanied with such fee as the Architectural Control Committee may require, and the Architectural Control Committee or such agent shall submit the same to the Architectural Control Committee for approval. All plans of proposed development to be constructed shall conform to the standards set forth herein and the restrictions and provisions contained in this Declaration, and the Architectural Control Committee shall be the sole arbiter of such plans and may withhold its approval for any reason, including purely aesthetic reasons. Upon approval being given, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans, otherwise the approval shall be void.

(c) A reasonable fee may be charged by the Architectural Control Committee to defray its costs incurred in considering and acting upon such proposed plans and specifications. This fee shall be for the review of plans and may be required to be paid prior to the review of any plans. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals.

(d) Buildings shall be constructed on the Property as to be sufficiently compatible with existing architectural styles that predominate any existing development on the Property to assure a pleasing overall appearance.

(e) Declarants, the Architectural Control Committee, and the members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. The Architectural Control Committee shall use their best efforts to indicate approval or disapproval of any plans submitted within thirty (30) days after the receipt of the required documents. Approval or disapproval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by it including, without limitation, any warranty or representation as to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this section, or elsewhere in this Declaration to the contrary notwithstanding, Declarants and the Architectural Control Committee are hereby authorized and empowered, at their sole and absolute discretion, to make and permit reasonable modifications or deviations from any of the requirements of this Declaration. Such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Property and the improvements as a whole; provided, however, such modifications and deviations must comply with all applicable ordinances and regulations established by the City of Murfreesboro (and/or any other applicable governing authority).

(f) The Architectural Control Committee shall have the right to impose additional restrictions and requirements on any portion of the Property at the time of sale.

ARTICLE III

ARCHITECTURAL CONTROL

1. Approval of Construction and Landscape Plans.

(a) No structure may be erected, placed or altered on any portion of the Property, and no building permit may be obtained, until the construction plans and building specifications and a plan showing (i) the location of improvements; (ii) the topographical elevations (including rear, front and side elevations); (iii) the type of exterior material and roof material (including delivery of samples thereof); (iv) the color of paint or stain to be applied to any exterior surfaces and the color of the roof material (including delivery of samples thereof); (v) the location and size of any driveway, shall have been approved in writing by the Architectural Control Committee. All plans must be in compliance with the requirements hereof and specifications set forth by the City of Murfreesboro.

(b) In addition to the plans referred to in the previous paragraph, a landscape plan shall be submitted to the Architectural Control Committee for its approval in writing, which plan shall show the trees, shrubs and other plantings.

ARTICLE IV

USE COVENANTS CONDITIONS AND RESTRICTIONS APPLICABLE TO THE PROPERTY

The following set out restrictions, covenants, and conditions, shall apply to, govern and restrict all of the Property.

1. Building Facades. The following building facades shall be applied to any and all developments of said Property;

(a) Rear and side facades, visible from directly abutting public streets existing as of the recording of this Declaration, shall have a similar architectural treatment as used on the primary or front façade;

(b) Buildings shall have a defined base and cap; and

(c) Remote walls that are not visible from directly abutting public street existing as of the recording of this Declaration and only visible from an alley, the rear yard of another nonresidential or mixed-use site, or completely hidden due to: topography natural features, preserved open space or screened by supplemental buffer plantings or natural features shall be exempt from these requirements.

(d) Buildings shall not be designed to have long uninterrupted facades.

5. Off-Street and On-Street Parking and Loading. The following parking standards shall be applied to any and all developments on said Property:

(a) Parking lots shall be screened where they abut streets existing as of the recording of this Declaration, or single-family residential neighborhoods existing as of date of recording of this Declaration (i.e. Brentmeade Subdivision).

(b) Streetscape elements (e.g., benches, trash receptacles, light fixtures, bollards, bicycle racks, etc.) included within a development shall be compatible with the architectural features of the structures and shall help to establish a unifying theme throughout the Property.

6. Massing and Orientation. Massing and orientation shall respect the integrity and privacy of the single family residential neighborhoods existing as of date of recording of this Declaration (i.e. Brentmeade Subdivision), and shall be applied to any and all developments on said Property as follows:

(a) Building facades shall emphasize clearly identified main entrances using awnings, canopies, columns, pilasters, and/or recessed entrances.

7. Landscape, Buffers and Screening. Landscape, buffers and screening shall respect the integrity and privacy of the single family residential neighborhoods, (i.e. Brentmeade Subdivision), and shall be applied to any and all developments on said property as follows:

Buffers for Commercial Properties abutting existing single family residential neighborhoods (i.e. Brentmeade Subdivision), shall comply with the following standards:

(a) Parcels less than five (5) acres shall comply with CH criteria.

(b) Parcels greater than five (5) acres shall be a minimum buffer of 20 feet wide with a type D density. Evergreen trees planted shall be eight (8) feet tall in height.

(c) In no event shall the restrictions and covenants of this section, section 7 be effective if the Property is not combined with any other property as an assemblage so that the total land area of the resulting assemblage exceeds five (5) acres.

8. When Used, Berms Shall Comply With The Following Standards:

(a) The slope of all berms shall not exceed a three-to-one ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of eight feet above the toe of the berm.

(b) Berms, regardless of size, shall be stabilized with suitable vegetation.

(c) Berms proposed to be placed along street rights-of-way shall be constructed so as to prevent obstructing lines of sight of vehicle or pedestrian traffic.

Screening methods shall be used to conceal specific areas of high visual impact from off-site views. These standards apply to ground-based, wall-mounted, and roof-based equipment and service areas associated with the development. Items that shall be screened in accordance with this Declaration are as follows:

(a) refuse collection, dumpsters, recycling bin, and refuse handling areas;

(b) service entrances, maintenance areas, equipment areas, and building or ground mounted mechanical equipment, including, but not limited to transformers, backflow preventers, telephone risers or equipment cabinets, generators, or similar devices;

(c) mechanical equipment on roof;

(d) water meters, gas meters, electrical meters, air-conditioning, similar HVAC equipment;

(e) loading docks, births, or similar spaces;

9. Screening Methods are Permitted with the Minimum Standards as follows:

(a) Parapet walls and other techniques included as an integral part of the building design shall be used to totally screen any roof-based mechanical equipment from public rights-of-way or abutting lands.

(b) All roof vents, pipes, antennas, satellite dishes, or other roof penetrations (except chimneys), shall be fully screened, located on the rear elevations, or otherwise configured to the maximum extent practicable to have a minimum visual impact as seen from a public street.

(c) In cases where roof-based mechanical equipment, roof vents, pipes, antennas, satellite dishes, or other roof penetrations (except chimneys) are too tall to be screened by a parapet or wall, a penthouse screen shall be used for screening.

10. Landscape Requirements.

(a) In the event of Commercial development of the Property, an attempt will be made to preserve trees existing as of the date of the recording of this Declaration. Nothing in this Declaration shall be deemed to prohibit the trimming and/or removal of trees which, in the sole and exclusive judgment of the Declarants, is advisable for reasons of safety, aesthetics, or health of the tree or trees.

(b) Goals and objectives. The development of the site landscape is integral to the total building design. Landscaping should respond to the architecture and reflect a relationship to the site. The landscape design concept must accomplish the following aesthetic and functional purposes:

(i) Reinforce the design objectives of the building. Articulation of main entries should be emphasized and reinforced by creating a focal point with specimen plant material. Seasonal colors can be considered wherever possible for special interest areas.

(ii) Screen (with evergreen plants) service areas, mechanical equipment, trash containers, from public streets existing as of the date of the recording of this Declaration.

(iii) Integrate existing topography, as well as natural vegetation, to the landscape design. Steep sites require special attention to prevent erosion and ease of maintenance.

(iv) Preserve desirable views while obtaining privacy.

(v) long-term viability of landscape, ease of upkeep, disease resistance and drought tolerance should be included in the selection criteria.

11. Landscape and Screening. The provisions of this section shall be required:

(a) Requirements.

(i) **Landscape plan.** A separate landscape plan prepared in accordance with this article.

(b) **Irrigation.** All landscape areas shall be irrigated with an automatic

underground irrigation system. Permanent irrigation need not be provided for areas to be maintained as existing natural areas or areas to be restored as natural areas. However, temporary irrigation systems may be required for reestablishment of such areas.

(c) **Undeveloped areas.** Undeveloped areas or portions of a parcel held in reserve for future building(s) or pavement and which have been disturbed by land development activities do not need to be fully landscaped or irrigated. Such areas shall be seeded with a turf mix to minimize erosion and reduce weed growth, and shall be properly maintained.

(d) **Parking areas.**

(i) **Landscape islands.**

(aa) A landscape island shall be provided and constructed for every twelve parking spaces. Such islands shall be a minimum of nine feet wide by eighteen feet long and shall not count toward the required open space requirement unless they contain a contiguous area of two hundred square feet. Landscape islands shall be planted with one canopy tree per island and shall have the remaining surface planted with appropriate turf, ground cover, or shrubs.

(bb) At least one canopy tree with a minimum three inch caliper shall be placed in each island. (Note: These canopy trees can be used toward the overall sixty inch A.C.I. per acre minimum requirement.)

(cc) The backfill material for landscape islands shall be free of asphaltic, construction and/or trash materials. The following note is to be placed on all site plans. Note: No asphaltic, construction trash and/or materials are to be left in the backfill and/or subgrade of any proposed landscape parking area islands and/or planting strips.

(dd) Landscape islands shall not be used for parking lot lighting if such lighting will displace or be in conflict with parking lot landscaping.

(ii) **Parking lot screening.** All parking areas shall be screened and buffered from public right-of-way by berms or planting or a combination thereof which shall have a minimum height of three feet at the time of installation.

(iii) **Landscape parking island strip.**

(aa) For every two hundred (200) parking spaces maximum one twenty foot wide landscape strip that runs the length of the parking bay shall be provided to divide the parking spaces into sub parking lots.

(bb) The backfill material for such twenty (20) foot strip is to be free of asphaltic, construction and/or materials.

(cc) For every forty (40) linear feet of planting strip, one - three inch caliper shade tree shall be planted plus one – twenty-four inch high shrub for every one hundred (100) square feet of planting strip area. Plantings shall consist of fifty percent (50%) evergreen shrubs. Shrubs and trees shall count toward the minimum shrub and tree requirements.

(f) Landscape screening. Landscape screening shall conform to the requirements of this section. All utility boxes, service areas, mechanical equipment, trash containers, dumpsters, and similar unaesthetic site elements shall be screened with the use of appropriate plant material, fences or walls, berming and grading with a general sensitivity to location of a site to minimize or eliminate any negative impacts. Screening and overall location of such elements is part of the review process.

(g) Sight triangle standards. Proposed landscaping within an automotive sight triangle area shall conform to the requirements and specifications set forth in this Section.

(h) Construction phase.

(i) Soil erosion prevention.

(aa) Expose smallest practical area of cleared land during construction.

(bb) Temporary ditches, dikes, vegetation and/or mulching shall be used to protect exposed areas during development or construction.

(cc) Sediment basins (debris basins, de-silting basins or silt traps) shall be installed and maintained to remove sediment from runoff waters during development.

(dd) The permanent landscaping shall be installed as soon as practicable after construction activities and, in general, within thirty days of completion of major buildings and site construction. Reasonable extensions by the Architectural Control Committee may be granted due to inclement weather.

(ee) Temporary mulching or grassing shall be used to control erosion on construction projects.

(ff) Temporary grassing shall be used for topsoil storage areas.

(ii) **Storage and equipment.** Construction storage and equipment yards shall be identified on site plans and shall be located on the site in a manner to minimize their impact on abutting properties and public streets existing as of recording of this Declaration.

(iii) **Maintenance of construction sites.** Construction sites shall be maintained in a neat and orderly manner. All trash shall be kept in enclosed containers and emptied weekly or as necessary to maintain a neat and orderly construction site.

12. Exterior Lighting. Exterior lighting is an essential part of the total design of all projects. Well conceived lighting can extend the use of outdoor areas, create a sense of well-being and add interest to the nighttime landscape.

Lighting shall satisfy the objectives of security while creating a pleasing visual environment. In an effort to reduce glare in the landscape, down lighting should be emphasized while limiting the use of spotlights. Selective site and building accent lighting is encouraged. For public protection and security, walkways and parking areas, as well as non-defensible public space (i.e., hidden nooks, exterior stairwells, dead end spaces) should be adequately lighted.

Lighting plans and schedules shall be provided along with submittal of site plans to the City of Murfreesboro in accordance with these requirements:

(a) Lighting levels shall meet applicable standards for safety and security for parking, pedestrian and service areas.

(b) All light sources for a project shall be coordinated, including consideration of adjacent light sources.

(c) All lighting fixtures shall be shielded to prevent glare. Light shall not be distributed beyond an angle of thirty-five (35°) degrees from a vertical plane onto surrounding properties.

(d) Lighting shall be designed so that illumination does not exceed one-half (1/2) foot candle beyond the property line. All lighting shall have the intensities and uniformity ratio consistent with the Lighting Handbook of the Illuminations Engineering Society of North America (IESNA).

(e) On-site lighting fixtures in residential developments shall not exceed sixteen feet in height. For nonresidential developments with structures thirty-five feet or less in height, fixtures shall not exceed twenty feet in height. For nonresidential developments with structures greater than thirty-five feet in height, fixtures

shall not exceed a height of thirty feet. Shoebox-style lighting fixtures shall not be used for poles of sixteen feet or less in height.

(f) Poles may be located within landscaped areas or islands; however, to avoid conflicts with required landscaping, poles shall not displace or conflict with required parking lot landscaping.

(g) Attached building or wall pack lighting shall be screened by the building's architectural features or contain a thirty-five (35°) degree cutoff shield.

(h) Ground-oriented, pedestrian-scale lighting shall be considered as an alternative to pole-mounted fixtures along pedestrian walkways.

(i) No lighting fixtures shall have blinking, flashing or fluttering lights or other illuminating devices which have changing light intensity, brightness or color, nor shall any beacon light be permitted, except those required for fire alarm and/or emergency systems.

(j) White light shall be required. Low-pressure sodium lighting is prohibited.

(k) Fixtures used for architectural lighting, such as façade, feature, and landscape lighting, shall be aimed or directed to preclude light projection beyond immediate objects intended to be illuminated.

(l) Internally illuminated canopies shall have flush or recessed lenses.

(m) No glare shall project into public right-of-way.

13. Signage. The signage shall be applied to any and all developments of said property as follows:

(a) Signs may be illuminated; however exposed neon and LED signs are prohibited from exterior signs, and shall not be incorporated into the sign of a principal or accessory structure.

14. Waste Management. The following waste management shall respect the integrity and privacy of the established neighborhoods, and shall be applied to any and all developments on the Property as follows:

(a) Refuse collection areas shall be enclosed by walls of brick or stone with a solid gate for access. The gate must be closed at all times except when in

use. Such refuse collection areas must be screened from clear view and landscaped with rows of staggered evergreen plants.

ARTICLE V

PROHIBITED USES:

The following additional restrictive covenants shall be applicable to the Property:

1. Prohibited Uses. The following uses, as may be defined in the City of Murfreesboro zoning ordinance, which may be otherwise permitted by right or by special permit in the underlying zoning shall not be permitted as principal uses in the area.

- (a) OTHER HOUSING
 - (i) Post-Secondary Education Oriented Fraternity/Sorority Houses.
 - (ii) Mobile Homes
 - (iii) Family Crisis Shelter
 - (iv) Family Violence Shelter
 - (v) Mission
 - (vi) Student Dormitory
 - (viii) Transitional Home
- (b) INSTITUTIONS
 - (i) Airport/Heliport
 - (ii) Cemetery
 - (iii) Pet Cemetery
- (c) COMMERCIAL
 - (i) Adult Cabaret

- (ii) Adult Entertainment Center
 - (iii) Adult Motel
 - (iv) Adults-Only Book Store
 - (v) Adults-only Motion Picture Theater
 - (vi) Amusements, Commercial Outdoor Motorized
 - (vii) Amusements, Commercial Outdoor Motorized
Except Carnivals
 - (viii) Communications Tower
 - (ix) Crematory
 - (i) Drive-in-Theater
 - (xv) Pet Crematory
 - (xvi) Pet Funeral Home
 - (xvii) Rap Parlor
 - (xviii) Tattoo Parlor
 - (xix) Taxidermy Studio
- (b) INDUSTRIAL
- (i) Animal or Poultry Slaughter, Stockyards, Rendering
 - (ii) Automobile Dismantlers and Recyclers
 - (iii) Mobile Home Construction
 - (iv) Paper Mills
 - (v) Petroleum and Coal Products Refining
 - (vii) Scrap Processing Yard
 - (ix) Scrap Metal Processors

(e) TRANSPORTATION AND PUBLIC UTILITIES

- (i) Garbage or Refuse Collection Service
- (ii) Refuse Processing Treatment and Storage
- (iii) Landfill
- (iv) Railroad Switching Yard, Piggyback Yard
- (v) Taxicab Dispatching Station

2. Stormwater.

(a) Stormwater will be detained in accordance with the standards for drainage design and stormwater management of the City. Construction details, general concepts and standards to be applied to drainage planning and design are an integral part of these regulations. The design intent for treatment of stormwater drainage is to preserve and enhance existing drainage ways. New drainage ways shall be designed to appear natural and blend with the landscape. This includes the use of broad, grassed swales, aesthetic stormwater quality facilities with very gentle side slopes, the use of natural stone weirs, or the creation of naturalistic streambeds. Headwalls and other drainage structures should be used sparingly.

(b) All development of parcels shall consider and apply stormwater drainage techniques that minimize culverts, underground structures, or other visually and environmentally intrusive techniques in favor of a lower impact approach.

3. Circulation and Parking. Plans for vehicular circulation and parking must consider safety and aesthetic factors relative to the movement of vehicles. This includes efforts to minimize conflicts between vehicles and pedestrians, to limit paved areas, and to screen and soften the visual impact of parking areas, both interior and perimeter.

(a) **Street Design.** A consistent streetscape treatment along public rights-of-way enhances the appearance of the public domain and provides an attractive unified setting for the variation among individual developments and sites. Landscaping and building facades may dominate the public roadway frontage of any site.

4. Street Trees.

(a) Street trees shall be behind the sidewalk. Said trees may not be counted towards the minimum landscape requirements and shall be in addition to any

other trees required in this section or this article. Street trees shall be large-maturity, canopy trees of a species approved by the City Horticulturist with a minimum caliper inch D.B.H. (diameter at breast height) of three inches. A canopy tree shall be installed for every fifty linear feet of roadway frontage and shall conform to the automotive sight triangle requirements and specifications set forth in this article.

5. Effort to Create a Uniform Theme.

(a) When incorporated into the site, streetscape furnishings such as benches, receptacles, light fixtures, bollards, etc. shall create a uniform theme throughout the site. This entails the selection and specifications of products based on a harmonious design and compatibility with the architecture of the site and in conformance with standards adopted by the City.

6. Surface Parking.

(a) The design of surface parking shall be carefully considered to minimize the visual impact on surrounding streets and developments. In order to accomplish this, the following standards shall apply:

(i) The number of parking spaces and size of spaces required shall meet the requirements of the City of Murfreesboro;

(ii) shared parking between developments shall be allowed and will be encouraged for sites containing two or more buildings having complimentary parking requirements. Shared accesses are encouraged between different sites via cross access agreements. Approved shared parking or access plans may allow waiver of other applicable design requirements, e.g., subsection (iv) below;

(iii) minimum space between buildings and parking: ten feet on lots of one and one half (1.5) acres or more and seven feet on lots of less than one and one half (1.5) acres, provided however this Section shall not apply to drive lanes to drive up windows;

(iv) minimum space between parking and abutting property: fifteen feet on lots of 1.5 acres or more and ten feet on lots of less than one and one half (1.5) acres;

(v) curbing (continuous concrete) required in all parking areas;

(vi) tree quantities and sizes, buffering, and other planting requirements shall meet those specified in this article; and,

(vii) environmentally sensitive parking lot construction designs

and methods including grass pavers and light colored asphalt shall be permitted upon approval by the City Engineer provided the site architect or engineer can demonstrate their construction will be satisfactory for the purpose to be served.

7. Natural Vegetation Areas.

(a) Efforts shall be made during the preliminary planning to maintain existing tree rows and trees six inches in caliper or over. Clearing limit lines of natural areas and trees six inches in caliper or over to be preserved shall be clearly delineated on all plans. These areas shall require the following treatment:

(i) Trees or vegetative areas, which are to remain undisturbed, shall be protected with a fence. Such fencing shall provide adequate protection for all trunks, branches and root systems, prior to the use of grading equipment. Fencing shall not be removed until commencement of landscape planting.

(ii) When areas of natural vegetation occur within twenty feet of the point of intersection of vehicular drives and streets, vehicular drives and pedestrian walks or two or more drives or streets, the vegetation shall be limited to a height not to exceed three feet, or in the case of trees, no branches below six feet.

(iii) In general, areas of natural vegetation may be cleared of undergrowth.

8. Open Space. Open space development is critical to creating a sense of place for the development. Consideration shall be given by the individual developers of each site to develop a land plan that considers creating open space that provides visual, aesthetic and environmental amenities appropriate to the scale and character. As a result, the following minimum standards shall apply.

(a) General Requirements.

(i) a minimum of twenty percent (20%) open space shall be required on each site;

(ii) all landscape areas or natural areas greater than two hundred square feet may constitute open space; and,

(iii) phased developments shall provide the minimum twenty percent (20%) open space required with each phase.

(b) Formal open space requirements. Each site of more than two (2) acres shall be required to contain formal open spaces which may be part of the open space required as described above. Formal open space is defined as planned and

structured areas that include formally designed landscape areas that may include streetscape furnishings, plaza areas, recreational improvements and street improvements. Following are general requirements for these spaces.

(i) Developments shall provide one or more formal open spaces equal to five percent (5%) of the site's developable area. A minimum area of five thousand square feet shall be required for any formal open space and may include hardscape improvements, street furnishings and amenity structures (i.e., gazebos, arbors, bandshells, etc.).

9. Pedestrian Circulation.

(a) Pedestrian circulation systems shall promote free and safe movement of pedestrians and bicyclists within each part of the Property and shall create an alternative transportation mode and open space network throughout the entire Property. A network of walkways, paths or trails ultimately linking the various grounds and land uses of the Property together, including connections with current and future parts of the property being developed shall be encouraged. All sites shall provide pedestrian access from parking areas and public streets to building entries.

(b) Sidewalks shall have a minimum unobstructed width of five feet.

(c) all commercial areas shall provide adequate pedestrian circulation within and between individual developments and shall provide pedestrian linkage to common areas.

10. Building orientation. As part of an integrated approach to site planning, the orientation of building must be considered crucial to the success of the development, as well as its impact on the site. Views to and from roadways, surrounding parcels and significant existing or proposed site features should be incorporated into the siting of buildings to limit any potential negative impacts while taking advantage of any benefits.

11. Site Utilities.

(a) The utility appurtenances and mechanical equipment will be considered as part of the overall site planning and design process in order to incorporate these items in an acceptable manner. Evergreen planting, building and equipment orientation, fencing, screening walls, grading and berming may be used to mitigate the negative impacts of electrical transformer and telephone switching boxes or any other utility or mechanical equipment to be located on-site. Grouping these items together will usually make treatment more efficient and effective. All utilities shall be underground.

(b) **Exterior utilities.** All exterior service, loading, storage, and utility areas (including transformers, cooling towers, etc.) will be located at the side or rear of the building and shall be screened or sheltered so as not to be visible from the right-of-way or from abutting parcels.

ARTICLE VI

DECLARANTS' RIGHTS AND RESERVATIONS

1. **Period of Declarants' Rights and Reservations.** Declarants shall have, and hereby retain and reserve, certain rights as set forth in this Declaration. The right and reservation of Declarants set forth in this Declaration shall be deemed excepted and reserved in each recorded Supplemental Declaration, in each conveyance of Property by Declarants and in each deed or other instrument by which any property is conveyed, whether or not specifically stated therein. The rights, reservations and easements of Declarants set forth in this Declaration during **the Appointment Period may not, without Declarants' prior written consent**, be modified, amended, rescinded or affected by any amendment of this Declaration, including any amendment of this Section. Declarants' consent to any such amendment shall not be construed as consent to any other or subsequent amendment. In the event of any conflict between the rights reserved to Declarants hereunder and any other provisions of this Declaration, then Declarants' rights shall control.

2. **Declarants' Rights to Use the Property in Promotion and Marketing of their Remaining Property.** Declarants shall have and hereby reserve the right to the reasonable use of the Property in connection with the promotion, marketing, sale and leasing of any portion of the Property owned by the Declarants, by erecting and maintaining on any part of the Property such signs as Declarants may reasonably deem necessary or proper in connection with the development, construction, promotion, marketing, sale and leasing of parcels of real property within the Property. The Declarants may also assign the rights under this section to any third party

3. **Amendments:** Declarants, their heirs, successors and assigns, shall have at any time during the Appointment Period the right to amend this Declaration by written amendment recorded in the Register's Office of Rutherford County, Tennessee, no consent of the Owners shall be required.

ARTICLE VII

AMENDMENT AFTER THE APPOINTMENT PERIOD

Upon the expiration of the Appointment Period, this Declaration can only be amended by majority vote of all of the Owners of the Property. There shall be one vote for each fee simple lot in the Property. Should there be multiple Owners of a single lot, these Owners shall only be entitled to just one vote for said Lot. That is, there shall be one vote for

each lot.

ARTICLE VIII

ENFORCEMENT

(a) Declarants shall have the right to enforce the terms of this Declaration by proceedings at law or in equity, and shall have any and all remedies available. The Declarants shall be entitled to recover its cost and expenses in connection with any acts it takes to enforce the terms hereof, including reasonable attorneys fees.

(b) The Owners shall also have the right to enforce the terms of this Declaration by proceedings at law or in equity, and shall be entitled to their attorneys' fees for any enforcement measures taken.

ARTICLE IX

GENERAL PROVISIONS

1. Easement for Emergency Access. An easement for emergency purposes over and through all or any portion of the Property is hereby granted to the City and/or County and the State for police, fire, ambulance and other rescue personnel in the lawful performance of their functions.

2. Captions and Cross-References. The captions are inserted only for reference, and in no way define, limit or otherwise affect the scope, meaning or effect of any provision. All cross-references are to the Declaration unless otherwise indicated.

3. Pronouns. The use of the masculine gender shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural and vice versa, unless the context requires otherwise.

4. Severability. Each provision of this Declaration is severable from every other provision, and the invalidity of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of the Declaration is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent lawful, the provision shall be enforced.

5. Governing Law. This Declaration shall be construed under Tennessee law, excluding its conflicts of law provisions.

(Signatures appear on the following page)

IN WITNESS WHEREOF, the undersigned has placed his/her signature on this the 8th day of November, 2012.

G. Wayne Nobles
G. Wayne Nobles

Kathryn M. Nobles
Kathryn M. Nobles

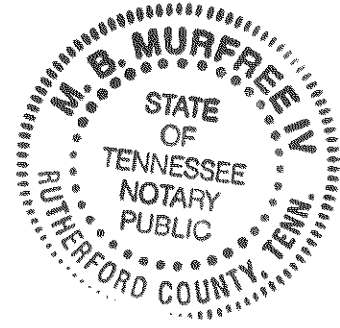
STATE OF TENNESSEE
COUNTY OF RUTHERFORD

Before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, G. WAYNE NOBLES, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who executed the foregoing instrument for the purposes therein contained.

WITNESS MY HAND and official seal at my office on this the 8th day of November, 2012.

M. B. MURFRE
Notary Public

My commission expires: 1-5-2016



STATE OF TENNESSEE
COUNTY OF RUTHERFORD

Before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, KATHRYN M. NOBLES, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who executed the foregoing instrument for the purposes therein contained.

WITNESS MY HAND and official seal at my office on this the 8th
day of November, 2012.

M.B. MURFREY
Notary Public

My commission expires: 1-5-2016

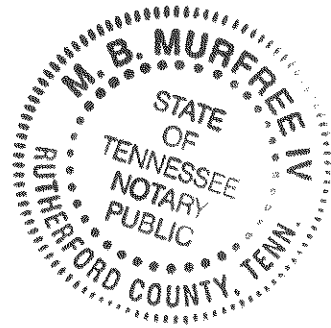


EXHIBIT A

Being a certain tract of land located along the east side of U.S. Highway 231 in Rutherford County, Tennessee and being more particularly described by metes and bounds as follows:

Beginning at a point in the east right of way of U.S. Highway 231, said point being the northwest corner of the herein described property and in the south line of Brentmeade Section I;

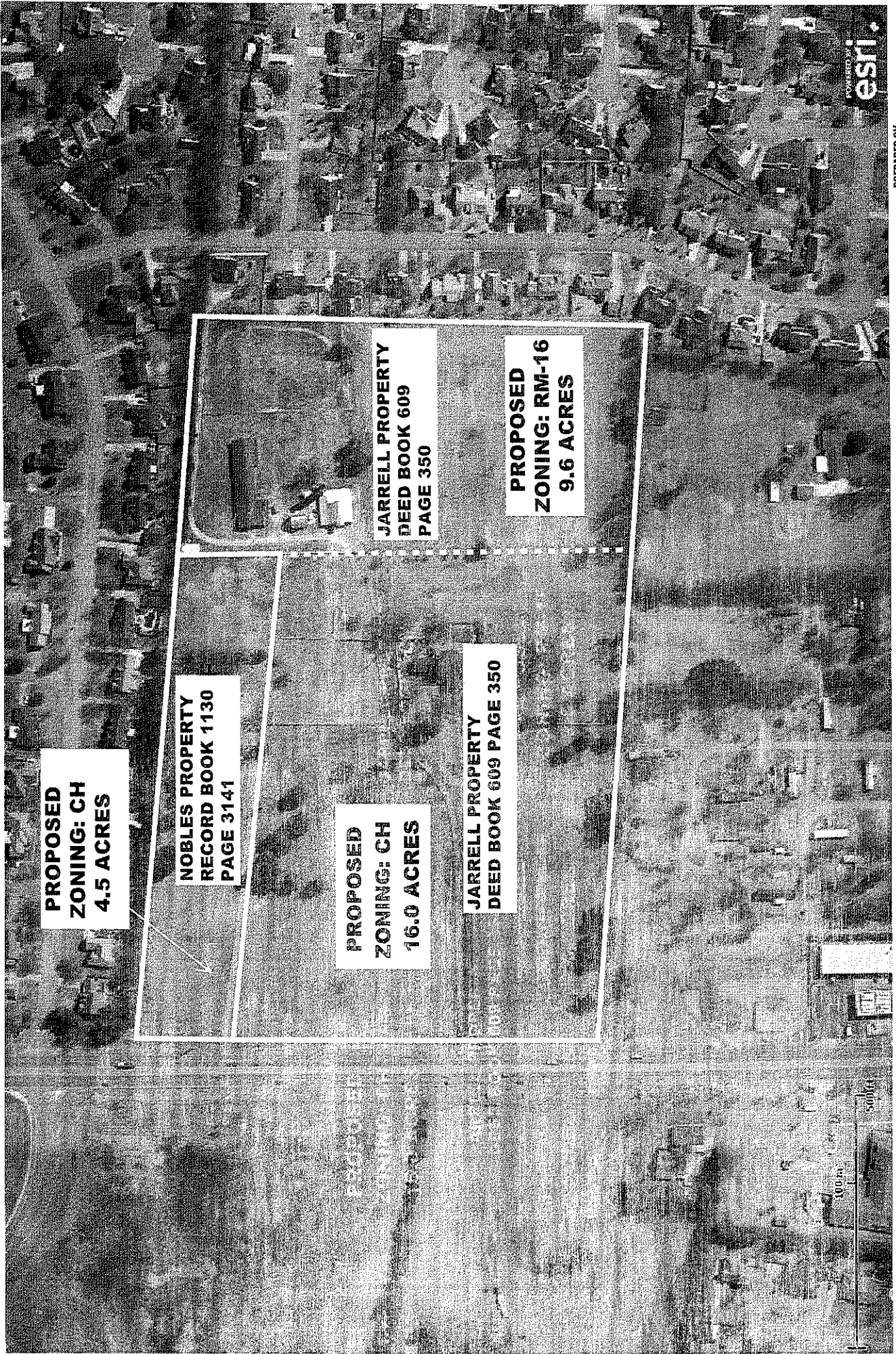
Thence with the south line of Brentmeade Section I South 87 degrees 45 minutes East, 980.1 feet to a point, said point being a corner to the Jarrell property;

Thence with the Jarrell property for the next 2 calls: 1.) South 04 degrees 06 minutes East, 200 feet to a point; and 2.) North 87 degrees 45 minutes West 980.1 feet to a point, said point being in the aforementioned right of way of U.S. Highway 231;

Thence with said right of way North 04 degrees 06 minutes West, 200 feet to the Point of Beginning and containing 4.5 acres more or less.

PARCEL REZONING EXHIBIT

B



**PROPOSED
ZONING: CH
4.5 ACRES**

**NOBLES PROPERTY
RECORD BOOK 1130
PAGE 3141**

**PROPOSED
ZONING: CH
16.0 ACRES**

**JARRELL PROPERTY
DEED BOOK 609 PAGE 350**

**JARRELL PROPERTY
DEED BOOK 609
PAGE 350**

**PROPOSED
ZONING: RM-16
9.6 ACRES**