

Source: Community Development - Planning

Agenda Item No: B65-14

Supplemental  
Information

To: City Council

From: City Manager and Staff *MM*

Council Meeting Date: Apr 21, 2014

Re: Parkside Estates, Plat No. 1 - final major plat (Case 14-16) - Supplemental Information on covenants

**EXECUTIVE SUMMARY:**

The City Council tabled Parkside Estates, Plat 1 from the April 7 meeting to April 21, 2014 as recommended by staff and agreed by the applicant. Tabling the item enabled the staff to review the Declaration of Covenants which were required to be recorded prior to Council approval of the final plat. The City staff has reviewed the Declaration and, after several revisions recommended by the Law Department, recommends that the Declaration be approved and recorded.

**DISCUSSION:**

The Parkside PUD annexation and zoning ordinance contains a condition that requires that several environmental management provisions, included in the applicant's Statement of Intent, be incorporated into the subdivision covenants. These provisions, found in the Declaration, Article II, provide for the following:

1. Planting of plant species native to Missouri;
2. Each lot to have a minimum of four trees;
3. Annual seminar to allow Missouri State Park Board to educate the owners and residents adjacent Rockbridge Memorial State Park and best practices in lawn care and landscaping;
4. Only organic lawn care materials and products allowed within the development;
5. Developer/association to provide two rain barrels per lot for use by initial lot purchasers;
6. A limitation on total impervious cover of 15 percent.

Note the impervious cover requirement is part of the Parkside PUD ordinance as well and it applies to the entire tract - this Plat 1 and the small unplatted area at the southwest corner. The design engineer has prepared a spreadsheet of impervious area allowances that will be used to track compliance with this requirement.

**FISCAL IMPACT:**

**VISION IMPACT:**

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

**SUGGESTED COUNCIL ACTIONS:**

Approve the final plat

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Epands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	

**TITLE:** Declaration of Covenants, Conditions, Reservations,  
and Restrictions

**DATE:** \_\_\_\_\_, 2014

**GRANTOR:** Southside Trail Estates, LLC  
5796 S Route K  
Columbia, MO 65203

**GRANTEES:** Owners of Lots within the real estate to which this  
Declaration applies  
S Route K  
Columbia, MO 65203

**LEGAL DESCRIPTION:** THREE (3) TRACTS OF LAND LOCATED IN  
SECTION 1, TOWNSHIP 47 NORTH, RANGE 13  
WEST AND BEING ALL OF TRACTS 1, 2, AND 3 OF  
THE SURVEY RECORDED IN BOOK 3080, PAGE  
187, ALSO BEING ALL OF A TRACT OF LAND  
SHOWN BY THE SURVEY RECORDED IN BOOK  
2920, PAGE 90, COLUMBIA, BOONE COUNTY,  
MISSOURI AND CONTAINING, 35.84 ACRES.

**DECLARATION OF COVENANTS, CONDITIONS,  
RESERVATIONS, AND RESTRICTIONS**

This Declaration of Covenants, Conditions, Reservations, and Restrictions is made on the \_\_\_\_ day of \_\_\_\_\_, 2014, by Southside Trail Estates, LLC, a Missouri limited liability company (the “Grantor” or “Developer” or “Declarant”).

WITNESSETH:

WHEREAS, Developer is the owner of the following described and depicted real estate located in the City of Columbia, Boone County, Missouri:

THREE (3) TRACTS OF LAND LOCATED IN SECTION 1,  
TOWNSHIP 47 NORTH, RANGE 13 WEST AND BEING ALL  
OF TRACTS 1, 2, AND 3 OF THE SURVEY RECORDED IN  
BOOK 3080, PAGE 187, ALSO BEING ALL OF A TRACT OF  
LAND SHOWN BY THE SURVEY RECORDED IN BOOK  
2920, PAGE 90, COLUMBIA, BOONE COUNTY, MISSOURI  
AND CONTAINING, 35.84 ACRES.

WHEREAS, Developer desires to place certain restrictions on the above-described real estate for the benefit of Developer and for the benefit of subsequent owners of lots located therein and for the Missouri State Park Board.

NOW, THEREFORE, Developer hereby declares that all of the above-described real estate and any and all individual lots therein, and all real estate contained within any other parcels of real estate which Developer hereinafter, in its sole and absolute discretion, elects to annex to the aforementioned property and any improvements now or hereafter located thereon, shall be held, sold and conveyed subject to this Declaration, all of which for the purpose of enhancing and protecting the value, desirability and attractiveness of such real estate and all improvements now or hereinafter located thereon. This Declaration shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the real property or any part thereof and shall be binding on all parties having or acquiring any right, title or interest in the real estate or any part thereof, or any improvements located thereon, and shall inure to the benefit of each owner thereof. The Declaration is as follows:

**ARTICLE I  
DEFINITIONS**

1. **“Plat”** shall mean the preliminary plat approved as part of that certain Preliminary Plat and PUD Plan of Parkside Estates as approved by the City of Columbia by Ordinance No. 021788 as Council Bill No. B229-13A passed on September 3, 2013. If Developer makes additional tracts of real estate subject to the terms and conditions of this Declaration, the word “Plat” shall further be deemed to mean and include Plats of the additional tracts of real estate so annexed to the Development. The word “Plat” shall also include any replat or administrative plat or final plat of the real estate encompassed by the preliminary plat.

2. **“Lot”** shall mean and includes all lots as shown on the Plat and all other lots subject to this Declaration being platted separately hereinafter and described as recorded in the Records of Boone County, Missouri. In addition, if Developer elects to annex additional tracts or parcels of real estate to the Development, “Lot” shall further be construed to mean and be deemed to mean and include all lots platted as an annex to the real estate herein before described.

3. **“Person”** shall mean a natural individual, corporation, partnership, trustee, limited liability company, limited partnership, or other legal entity capable of holding title to real property.

4. **“Lot Owner”** or **“Owner”** shall mean a Person or persons whose estates or interests individually or collectively aggregate fee simple ownership of a Lot.

5. **“Declaration”** shall mean this instrument.

6. **“Developer”** shall mean and refer to Southside Trail Estates, LLC, a Missouri limited liability company, and shall further refer to any Person, persons, company or companies or other entities to whom such limited liability company shall assign all or any portion of its rights as Developer under the terms of this Declaration. A conveyance by the Developer by warranty deed or otherwise shall not be deemed to be an assignment of its rights as Developer, unless such rights are specifically mentioned and described in such deed or conveyance. In addition, such rights can only be assigned by a written deed, instrument or assignment by the Developer, by specific recital in a deed, which specifically refers to the rights of the Developer under this Declaration.

7. **“Development”** shall mean all of the real estate contained within the Plat, together with any real estate hereinafter annexed thereto by the Developer as hereafter provided for in this Declaration, and all improvements now or hereafter situated thereon, and all buildings now or hereafter situated thereon.

8. **“Association”** shall mean and refer to a Not-for-Profit corporation of the State of Missouri, and its successors and assigns, which shall be formed to act as an association of the Lot Owners.

9. **“Class A Member”** shall mean a Class A Member of the Association and shall mean a Lot Owner of a Lot owned by a person other than the Developer and the Developer’s assignees.

10. **“Class B Member”** shall mean a Class B Member of the Association and shall mean the Developer or any person to whom the Developer shall have assigned all or a portion of its rights as the Developer under the terms and provisions of the Declaration. A conveyance by the Developer by Warranty Deed or otherwise shall not be deemed to be an assignment of any of its rights as the Developer, unless such rights are specifically referred to therein. Such rights can only be assigned by an assignment deed or instrument by the Developer, which specifically refers to the rights of the Developer under this Declaration.

11. **“Statement of Intent”** shall mean the Statement of Intent approved by the City of Columbia by Ordinance No. 021788 as Council Bill No. B229-13A passed on September 3, 2013.

12. **“Residence”** shall mean any structure or connected structures which may be erected at any time hereafter on any Lot for the occupation and use of a Lot Owner which meets the requirements of this Declaration and which has been approved by the Architectural Control Committee.

13. **“Common Area(s)”** shall mean the areas designated on the Plat, which may hereafter be conveyed to the Association by the Developer, together with all other areas contained within the development which may be designated for the common use by a number of Lot Owners or all of the Lot Owners, together with any other real estate or improvements owned or maintained by the Association or intended for the common use of a number of Lot Owners or all the Lot Owners, and any Common Area or other common improvements shown on the Plat. In addition, all areas within the right-of-way of the City of Columbia, Missouri, or the County of Boone, Missouri, as the case may be, including landscaped medians, sidewalks streets and other improvements, such as irrigation systems, meters, plantings, and retaining walls shall be included in this definition of the “Common Area,” excluding actual maintenance of the street, curbs and drainage systems routinely provided by the City of Columbia, Missouri, or the County of Boone, Missouri, as the case may be. Trees, shrubs and plantings placed in the right-of-way by individual Lot Owners after purchase of their Lot shall not be considered part of the Common Area to be maintained by the Association.

14. **“Common Expense”** shall mean any expenditure approved by the Association's Board of Directors from the Association's funds in order to discharge a responsibility or duty of the Association as set forth in this Declaration.

## **ARTICLE II STATEMENT OF INTENT PROVISIONS**

The Lots, and the buildings, structures and dwelling units located thereon, shall be subject to the requirements of paragraphs 11, 12, 13, 14, 15, and 18 of the Statement of Intent. In addition, the requirements from the Statement of Intent set forth in this Article shall be an obligation of the Association, or in the absence of the Association, the Developer. In the absence of both the Developer and Association, the requirements set forth herein shall be binding on the individual Lot Owners, individually or collectively. The Missouri State Park Board is hereby designated as a third party beneficiary hereof with all of the rights and powers of enforcement available under law to ensure compliance with the requirements set forth in this Article. The following requirements of the Statement of Intent shall apply to this Article:

1. All trees, shrubs and landscaping planting materials within the Development shall be native species to the Mid-Missouri area (with the exception of the individual lawns). The Developer or the Association shall create a list of acceptable plantings with the assistance of the Missouri State Park Board personnel, which shall be made available to Lot Owners.

2. Each Lot shall have a minimum of 4 trees planted at the time of building construction and a minimum of 4 trees shall be maintained within each Lot at all times. The trees planted shall be native species that are listed on the approved list of plantings described in paragraph 1 above in this Article II.

3. The Developer or Association shall hold an annual seminar available to the Lot Owners and residents of the Development and at which the Missouri State Park Board personnel shall be permitted to educate the Lot Owners and residents about the adjacent park as well as environmentally friendly practices in lawn care, pesticide use, and native species of plant materials.

4. Lot Owners shall only use organic lawn care materials and products on yards within the Development.

5. The Developer or Association shall provide each initial purchaser of a Lot within the Development with two rain barrels for use on the purchaser's Lot.

6. The Developer shall limit the total impervious area of the Development, not inclusive of the Missouri Route K right-of-way, to fifteen percent (15%). This impervious area shall include all impervious surfaces including houses, driveways, sidewalks, streets, patios, etc. The project engineer shall keep a running total of the impervious area of the site that shall be submitted with each building permit for any Lot within the Development. Developer shall allocate the allowed impervious surface area among the lots within the subdivision as set forth in Exhibit A attached hereto. The Developer may re-allocate the impervious surface area among any lots still owned by Developer at any time as long as the total impervious area of the Development (including the percentage previously sold or transferred to third parties) does not exceed fifteen percent (15%) by recording an amended Exhibit A in the land records as a permitted unilateral amendment to this Declaration.

7. Any Lot Owner owning more than one lot may re-allocate the impervious surface area among the lots owned by that Lot Owner at any time as long as the total impervious area of those lots does not exceed their allocation by following the procedure set forth herein. Similarly, any Lot Owner may obtain additional impervious surface area from any other Lot Owner(s) or the Developer, as long as the total impervious area of the affected lots does not exceed their allocation. Any re-allocation of the impervious surface area among lots, none of which are owned by the Developer, shall be submitted to the Association, or in absence of an Association to the Developer, for approval in accordance with this Declaration. Upon approval, the Association or Developer shall record an amended Exhibit A in the land records as a permitted unilateral amendment to this Declaration. Such amendment shall not require the consent of any other Lot Owners, the City of Columbia, Missouri, or the Missouri State Park Board.

8. The initial project engineer is hereby designated as Tim Crockett of Crockett Engineering. Any subsequent change in project engineer shall be designated by Developer or Association, in writing, and filed in the land records as a permitted unilateral amendment to this Declaration.

### ARTICLE III THE ASSOCIATION, MEMBERSHIP, AND VOTING RIGHTS

1. **Purpose.** The Association shall be formed for the purpose of acting as an association of the Lot Owners. The Association also shall have the primary obligation and purpose of enforcing the terms and conditions of this Declaration. The obligations of the Association to act pursuant to this Declaration shall arise when the Developer so decides, and shall continue thereafter for so long as this Declaration shall remain in effect.

2. **Formation and Articles of Incorporation.** The Association shall be formed by the Developer by the filing of Articles of Incorporation for a non-profit corporation in the state of Missouri at any time following the effective date of this Declaration and no later than the date that the Developer is no longer a Class B member. This new organization shall be called Parkside Estates Homeowners Association or a name similar thereto. The responsibility of the Association shall be more fully described by the terms of this Declaration. Prior to the Developer forming the Association, Developer shall have all the authority, obligations, and benefits of the Association as described herein.

3. **Membership in the Association.** Every Lot Owner, other than the Developer, shall automatically be a Class A Member of the Association, shall be subject to the jurisdiction of the Association, shall be subject to assessments levied by the Association under the following provisions of the Declaration, and shall be entitled to all rights and privileges of Class A membership in the Association. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation as members of the Association. There shall be one (1) Class A membership in the Association appurtenant to the ownership of any Lot which is subject to assessment by the Association. Class A membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of a Lot shall be the sole qualification for Class A membership in the Association. Class A membership in the Association shall be automatic, and shall not be discretionary. Class A membership shall automatically attach to ownership of a Lot, and ownership of a Lot shall subject the Lot Owner thereof to all duties and obligations of Class A membership, and to assessments levied by the Association. Class A membership in the Association cannot, under any circumstances, be partitioned or separated from ownership of a Lot subject to the jurisdiction of the Association. Any covenant or agreement to the contrary shall be null and void. No Lot Owner shall execute any deed, lease, mortgage or other instrument affecting title to his Lot, without including therein both his interest in the Lot and his corresponding membership in the Association, it being the intention hereof to prevent an severance of such combined ownership. Any such deed, lease, mortgage or instrument purporting to affect the one without including also the other, shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein. The Developer, or those which it assigns all or any part of its rights as the Developer under the terms of the Declaration shall become Class A Members upon and following the termination of Class B memberships as hereinafter provided in the Declaration, for each Lot in which they hold the interest required for Class A membership by this Article III. The Developer may assign all or any part of the Developer's rights as the Developer hereunder, and



all or part of the Developer's Class B voting rights. However, such assignment shall be made only by warranty deeds, deeds, deeds of trust or specific instruments of assignment, properly recorded, which specifically refer to the rights to be assigned. Any such assignment shall not be deemed to be made by any deeds, assignments or other instruments of conveyance, executed by the Developer, which do not specifically refer to the Developer's rights as the Developer, or the Developer's Class B voting rights. The Developer may assign all or part of the Developer's rights as Developer, and all or part of the Developer's Class B voting rights, if the Developer, in the developer's discretion elects to do so. If the Developer does make such an assignment, then the developer or builder to which such an assignment is made shall hold those numbers of Class B Memberships or voting rights specifically assigned, and shall lose one (1) Class B vote and one (1) Class B membership for each Lot subsequently conveyed by such developer or builder to which such an assignment was made.

4. **Voting Rights.** The Association shall have two classes of voting memberships, and shall have two (2) classes of memberships, same being as follows:

a. **Class A:** Class A Members shall have one (1) vote at all meetings of the Association for each Lot in which they hold the interest required for Class A membership by Article III of the Declaration. When more than one (1) person holds such an interest in any Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

b. **Class B:** The Developer, and those to which the Developer assigns all or any portion of the Developer's rights as the Developer under the terms of this Declaration shall have the number of Class B memberships and Class B votes equivalent to the number of Lots owned by the Developer. When a Lot is sold, conveyed, rented, leased or otherwise disposed of by the Developer, or an assignee of the Class B voting rights attributable to such Lot, then the Class B voting rights attributable to such Lot shall immediately cease and terminate, and a Class A membership shall attach to each Lot. If a Lot is sold, rented, leased or otherwise disposed of by the Developer or the Developer's assignee, to anyone other than a builder that intends to construct initial Residences on the Lots, then it shall be deemed to have been "conveyed" for purposes of determining the termination date of the Class B voting rights attributable to such Lot. Developer shall not have "conveyed" a Lot or Lots for the purposes of terminating Class B voting rights by selling a Lot or Lots to a builder that intends to construct an initial Residence or Residences. Upon the sale of any such Lot or Lots by such builder to a purchaser or purchasers of such Residence or Residences, Developer shall have "conveyed" such Lot or Lots and, then the Class B voting rights attributable to such Lot or Lots shall immediately cease and terminate. In any event, all Class B voting rights and Class B memberships in the Association shall cease and terminate upon the happening of the earliest of the following events to occur:

i. When all Class B memberships as to all existing Lots then contained within the Real Estate and the Development have terminated; or

ii. On January 1, 2034; or

iii. The Developer so determines at an earlier date by recording, in the real estate records of Boone County, a written instrument evidencing such determination on the Developer's behalf.

A failure of the Developer to cast the Developer's Class B votes or to exercise any of the Developer's rights as the Developer shall not constitute a waiver of such votes or rights. If the Developer, on any occasion, elects not to cast the Developer's Class B votes, the Developer shall not, under any circumstances whatsoever, have waived the Developer's right to cast such votes at any time in the future. The Developer may, from time to time, relinquish control of the Association, by not casting the Developer's class B votes, and then reassert such control at any later time of the Developer's choosing.

From and after the happening of the earliest of the above events to occur, all Class B memberships and Class B voting rights in the Association shall be terminated, and the Developer and any of the Developer's assignees of the Developer's rights as the Developer under the terms of this Declaration shall be deemed to be Class A Members, entitled to one (1) vote for each Lot in which they hold an interest required for Class A membership under the terms of Article III of the Declaration.

Prior to the occurrence of the earliest of the above events to occur the Developer shall hold a Class A membership and Class A voting right in the Association as to each Lot then owned by the Developer to which a Class B voting right does not attach.

5. **Voting Procedures.** Except as otherwise specified in this subparagraph, the procedure for casting votes at any meeting of the Association by Members shall be specified in the Bylaws of the Association. However:

a. The Bylaws shall specify the manner in which proxies may be granted by Members and by the holder(s) of the Membership Interests.

b. The Developer may designate one or more persons as its proxy to vote the Class B Membership interests owned by the Developer at any meeting of the Association, and such proxy shall be entitled to vote those Class B Membership Rights so designated in the written proxy executed by the Developer. The Developer's proxy shall be entitled to cast said Class B votes in the name of and for the benefit of the Developer.

c. A majority of a quorum shall be sufficient to approve any action of the Association unless a greater percentage of those persons entitled to vote on an issue are otherwise specified by this Declaration, by the Articles of Incorporation of the Association, or by the Bylaws. A majority of the Membership Interests present at any meeting shall be sufficient for the approval of any resolution or action to be adopted by the Association (unless less than a quorum is present at such meeting, in which event a majority of the membership rights present at such meeting shall be sufficient to authorize the adjournment of said meeting to a later date at which a quorum may be present).

6. **Articles of Incorporation and Bylaws.** The Association shall be a Missouri non-profit corporation which shall be organized pursuant to the Articles of Incorporation and Bylaws prepared by the Developer for same. The Association may amend the Bylaws in the manner prescribed therein and may amend the Articles of Incorporation in the manner specified under the laws of Missouri for the amendment of the Articles of Incorporation of a Missouri not-for-profit corporation.

7. **Administration.** The Development shall be administered by the Association following its creation by the Developer which shall administer the Development until that time. The Association, in turn, shall be managed by a Board of Directors elected and constituted as hereafter set forth in this Article. The Board of Directors shall have the general responsibility to administer the Development, prepare and approve the annual budget of the Association, provide for the collection of monthly or other assessments from members, arrange and direct or contract for the management of the Development, and otherwise administer the day-to-day operations of the Association. The Board of Directors shall have full power to take such actions on behalf of the Association as they deem appropriate and to appoint officers and agents for the Association except to the extent that the membership's consent to an action by the Association is required by law or by this Declaration, the Bylaws, or the Articles of Incorporation. Except to the extent that a power has been reserved to the membership as a whole, the Board of Directors shall act by and on behalf of and shall have authority to act for the Association in all respects.

8. **Board of Directors.** The Board of Directors of the Association shall consist of three persons elected by the Association's members pursuant to the following terms and conditions:

a. During the period of time as Class B voting rights exist, all three directors shall be elected by the Developer (or the assignees of the Developer who own the Class B voting rights).

b. So long as there are Class B membership rights, each director shall be elected for a term of one year and directors shall be elected at the annual meeting of the membership of the Association per the bylaws of the Association.

c. After all Class B voting rights have ceased to exist, the Board of Directors shall continue to consist of three persons, except that all three said directors must be Lot Owners. Until the Class B voting rights cease to exist, the directors elected by the Developer (or the Class B membership rights) need not be Lot Owners.

d. After the Class B voting rights have ceased to exist, directors shall be elected for staggered terms at three years each by a vote of the Class A membership. The first election of directors subsequent to the termination of Class B voting rights shall elect three directors, and the director who receives the largest number of votes shall serve for three years, the director who receives the next largest number of votes shall serve for two years, and the third director elected who receives the least number of votes shall serve for one year. Thereafter, one director shall be elected annually, and each such director shall be elected for a term of three years.

e. Notwithstanding the election of a director at an annual meeting pursuant to the foregoing provisions of sections 8c and 8d of this Article (elections by Class A membership after Class B voting rights shall have terminated), at any time and at any meeting of the Association thereafter, a director may be removed from office and from serving as a director by the vote of a majority of the entire membership of the Association. In the event of such removal, a replacement director shall be elected to serve the unexpired term of the director who was removed from office. The aforementioned removal and replacement of a director shall be subject to the Class B voting rights described herein so long as Class B voting rights remain.

9. **General Powers and Duties of the Association.** Until the Association is formed, the Developer shall have the following powers and duties. Thereafter, the Association, for the benefit of Lot Owners, shall provide for, and shall acquire and pay out of the "Maintenance Fund" (hereafter defined) the following:

a. The Association shall establish reasonable rules and regulations governing the development which will help protect the privacy of all Lot Owners.

b. The Association shall obtain and maintain a policy or policies of insurance which insure the Association and its members and the Association's Board of Directors against liability to any persons, including Lot Owners and their invitees, tenants, guests, and permittees for any action, injury, negligence, or occurrence that may lead to a potential cause of action against same. The amounts of said liability insurance policies shall be within the sole discretion of the Association's Board of Directors to determine. The annual limits of coverage shall be reviewed at periodic intervals by the Board of Directors. Such insurance shall be payable to the Association in trust for the benefit of the Association and Lot Owners in the event of a casualty or claim thereunder.

c. The Association shall furnish to any Lot Owner a statement of said Lot Owner's account due to the Association setting forth the amount of any unpaid assessments and other charges due and owing to the Association by such Lot Owner. In addition, the Association shall furnish to the Lot Owner reasonable notice of any lien against the Lot Owner's Lot which has been assessed and asserted pursuant to this Declaration. Such notice and information as required by this subparagraph shall be furnished by the Board of Directors of the Association to the Lot Owner within ten (10) days of receipt from said Lot Owner of written request for same. However, the failure to provide such notice within said ten day period (or at all) shall not in any manner affect the validity of any lien or assessment against said Lot Owner, or the amount due from the Lot Owner to the Association pursuant to this Declaration.

d. The Associations' Board of Directors may retain the services of a professional manager or management firm or managing agent to fulfill the Association's obligations, and to retain the services of such accountants, attorneys, employees, managers, and other persons as it, in its sole and absolute discretion, deems necessary in order to discharge the Association's duties.

e. The Association shall establish reasonable rules and regulations governing the development so as to protect the privacy of all Lot Owners in the use and enjoyment of their Lots.

f. The Association shall obtain, provide, and pay for any materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, and other items which the Association is required to secure, obtain, or pay for pursuant to the terms of this Declaration or which in the Board of Directors' opinion shall be necessary for the proper maintenance and operation of the Development as a high-quality development or which the Board of Directors believes is necessary for the enforcement of any of the requirements set forth in this Declaration.

g. In the discretion of the Board of Directors, the Board of Directors may provide for the maintenance and repair of any improvement located on a Lot if such maintenance or repair is reasonably necessary in order to protect the appearance of the Development. If the Association repairs or maintains the interior of any Lot or any Residence on a Lot, then the costs and expenses of doing so by the Association shall be a charge against that Lot and shall be subject to becoming a lien if the Lot Owner does not pay for same within thirty (30) days of demand for same by the Association. The cost of such maintenance or repair of a Lot shall constitute a special individual Lot assessment against the Lot and the Lot Owner for the cost of said maintenance and repairs and shall constitute a lien against said Lot and all improvements thereon in addition to the ordinary assessment liens hereafter described. Said lien or liens shall exist until discharged by payment in full by the Lot Owner.

h. The Association shall enforce the standards set forth in this Declaration for the maintenance, repair, replacement, and upkeep of the Lots as hereafter set forth in this Declaration or which may be hereafter adopted from time to time by the Association.

i. The Association shall have the power to enforce all of the provisions of this Declaration and to enforce all restrictions set forth herein and to enforce all provisions in this Declaration pertaining to the architectural control of improvements on any Lot, and to enforce the decisions of the Architectural Control Committee.

j. The board of directors of the Association shall be authorized to and shall select the President, Vice President, Secretary, and Treasurer of the Association (each of whom shall be a director). A director may serve in more than one capacity except that the offices of the President and Secretary shall be held by separate persons.

k. The Association shall have such additional powers as may be reasonably necessary in order to give effect to the intents and purposes of this Declaration and in order to permit the enforcement hereof by the Association for the benefit of all Lot Owners.

10. **Entry onto Lots or Building Areas.** The Developer and Association, or its agents, directors, and persons authorized by the Association shall have, and hereby reserve, the right to locate, relocate, erect construct, maintain and use, or authorize such, easements and right-of-ways as necessary to fully implement this Declaration. The Developer, Association and its agents or its Directors, may enter onto any Lot or exterior portions of any buildings when necessary in connection with any maintenance or other activity for which the Association is responsible or which is authorized under this Declaration.

11. **Owners' Upkeep of Property.** The owners of all Lots shall be jointly and severally obligated to each other and to all other Lot owners to perform all lawn mowing, fertilization, irrigation, landscaping work and services of any kind or nature whatsoever which are required to cause their Lot and all lawns, trees, shrubs, landscaping, buildings and other improvements located thereon kept and maintained in as clean, safe, neat, attractive and aesthetically pleasing a condition as is reasonably possible and in accordance with the provisions of Article II of this Declaration. In the event of any dispute over the standards of maintenance, including the standards of cleanliness, safety, neatness, attractiveness, aesthetics and beauty, such dispute shall be resolved either by the Association's Board of Directors acting within its sole, absolute and unmitigated discretion, or by the Developer, if prior to authority by the Board of Directors. Any decisions made by a majority vote of the Board of Directors shall be binding upon all parties.

12. **Other Rights and Obligations of the Association.**

a. **Personal Property and Real Property for Common Use:** The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Developer may convey to the Association improved or unimproved real estate located within the Development, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as common areas by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the Declaration. Initially, the common area shall consist of the areas designated on the Plat as "Common Area."

b. **Rules:** The Association, through its Board of Directors, may make and enforce reasonable rules governing the use of the Development, in addition to, further defining or limiting, and, where specifically authorized hereunder, creating exceptions to those covenants and restrictions set forth in this Declaration. Such rules shall be binding upon all Owners, occupants, invitees, and licensees until and unless repealed or modified in a regular or special meeting by the vote of Members representing two-thirds ( $\frac{2}{3}$ ) of the total of all Class A votes in the Association (and by two-thirds ( $\frac{2}{3}$ ) of the total Class B votes, so long as such voting rights exist).

c. **Enforcement:** The Association may impose sanctions for violations of this Declaration, the By-Laws, or rules in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote. In addition, in accordance with the By-Laws, the Association may exercise self-help to cure violations, and may suspend any services it provides to any Lot Owner who is more than

30 days delinquent in paying any assessment or other charge due to the Association. The Association may seek relief in any court for violations or to abate nuisances.

d. Implied Rights; Board Authority: The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

e. Indemnification: The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

f. Security: The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to make the Development safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DEVELOPER, NOR ANY SUCCESSOR TO THE DEVELOPER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE DEVELOPMENT, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, GATE, OR OTHER SECURITY SYSTEM CAN NOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH LOT OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, AND THE DEVELOPER, ARE NOT INSURERS.

g. Rights to Storm Water Runoff: The Developer hereby reserves for itself and the Association all rights to ground water, surface water, and storm water runoff within the Development and each Lot Owner agrees, by acceptance of a deed to a Lot, that the Developer and the Association shall retain all such rights. No Person other than the Developer and the Association shall claim, capture or collect rainwater (except in the rain barrels provided pursuant to Article II of this Declaration), ground water, surface water or storm water runoff within the Development without prior written permission of the Developer or the Association.

13. Rules and Regulations. The Association may adopt and amend administrative rules and regulations and such reasonable rules and regulations as it may deem advisable for the health, comfort, safety and general welfare of the Lot Owners and occupants. The Association may adopt such rules and regulations pertaining to the general appearance of the Development and with respect to the architectural characteristics of structures in the Development as the Directors deem advisable. Any rule or regulation adopted by the Directors shall not be in conflict with this Declaration, however.

14. Active Business. Nothing in this Declaration shall be construed as authorizing the Association or its Board of Directors to conduct any active business or activity for profit on behalf of the Association, Lot Owners or any of them.

#### **ARTICLE IV ASSESSMENTS**

1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants, and each Lot Owner by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association such Annual General Assessments, Initial Assessments and Special Assessments (referred to herein individually or collectively as two or collectively as all three as "Assessments" or "Assessment" as may be the case) as are established and are to be paid and collected as hereinafter provided. The Annual General Assessments, Initial Assessments and Special Assessments, together with interest thereon, late fees and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest thereon, late charges, and cost of collection thereof, shall also be the personal obligation of the person who was the Lot Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall pass to successors in title and both parties (seller and purchaser) shall be jointly liable therefor. No Lot Owner may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Common Areas or abandonment of his Lot or any Residence thereon.

2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to carry out the business and responsibilities of the Association including, but not limited to (i) the acquisition, construction, management, maintenance and care, repair or replacement of the Common Areas and services, (ii) obtaining, managing and maintaining services for the Development, or sections thereof including, as necessary, refuse collection; (iii) promoting the recreation, health, safety and welfare of the Lot Owners; (iv) providing for grass



cutting and lawn maintenance of all Common Areas, maintenance of all recreational areas and facilities, and maintenance of any private streets located in the Development; and (v) the payment of taxes and insurance contemplated under this Declaration.

3. Establishment of Annual and Initial Assessments.

a. The Association shall levy in each of its fiscal years an Annual General Assessment (referred to herein as "Annual Assessments" or "Annual General Assessments") against each Lot which is owned or occupied by a person who is not the Declarant or a builder that has been designated as exempt from Assessments by the Association. Such Annual Assessments shall not be levied against Lots that contain land or structures or Common Areas owned by the Association or the Developer for so long as same shall be owned by the Association or Developer ("Exempt Property"). The amounts of such Annual Assessments shall be established by the Board of Directors. The first Annual Assessments on each Lot imposed shall be adjusted according to the number of months remaining in the applicable annual assessment period from the date of conveyance.

b. The Association shall levy against each Lot at the time of conveyance by Declarant to Lot Owners a one-time, initial assessment ("Initial Assessment") equal to Three Hundred and No/100 Dollars (\$300.00) for each Lot. If the initial conveyance from the Declarant is to a builder that may be designated as exempt from Assessments by the Association, the Initial Assessment shall be levied against each Lot at the time that a Lot is conveyed by such builder to any Lot Owner. Notwithstanding the foregoing, all builders shall have the obligation to pay Annual General Assessments on any Lot which is owned by said builder upon which there is located a Residence serving as a model home or upon which there is located a Residence which has been issued a certificate of occupancy.

c. The amount of the Annual General Assessment shall be determined by the Board of Directors according to its estimate of the costs to which Annual General Assessments may be applied.

4. Special Assessments. In addition to the Annual General Assessment and Initial Assessment authorized above, the Board of Directors may levy in any fiscal year of the Association, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Areas including fixtures and personal property related thereto, or for any other purpose for which the Association is responsible. Special Assessments shall be imposed against Lots which are not Exempt Property in the same proportions as Annual General Assessments.

5. Date of Commencement of Assessments. The Annual General Assessment provided for in this Article shall commence for each Lot subjected to this Declaration on the first day of the month following the date of conveyance of the Lot to a Class A Member. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Initial Assessment provided for in this Article shall commence and be fully

due and payable on the date that the subject Lot is initially conveyed from the Developer or from a builder to a Lot Owner as may be the case.

6. Notice and Due Dates. Written notice specifying the amount of each Annual General Assessment and Special Assessment shall be given to the Lot Owners subject thereto and the payment of same shall be due on the date designated by the Board of Directors.

7. Effect on Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid within ten (10) days after the due date shall be delinquent and the Association may exercise any or all of the following remedies: (a) charge interest and a late fee (as determined by the Board) for assessments which are not received by the tenth (10th) day of following the due date; (b) bring an action at law or in equity against the Lot Owner of the applicable Lot to collect the same; and (c) foreclose the lien against the Lot. Such lien may be enforced by the Association in the same manner and to the same extent and subject to the same procedures as in the case of a foreclosure of a real property mortgage under the laws of Missouri.

The Lot Owner personally obligated to pay the delinquent Assessment shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred by the Association in connection with the collection of such Assessment.

8. Certificate of Payment. The Association shall, upon written request by a Lot Owner, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Annual General Assessments, Initial Assessment and Special Assessments, if any, on a specified Lot have been paid. The Association shall furnish said Certificate within ten (10) days of receipt of the written request. A properly executed certificate of the Association as to the status of Assessments on a Lot shall be binding upon the Association as of the date of its issuance.

11. Subordination of the Lien to Mortgages. The lien of the Annual General Assessments, Initial Assessments and Special Assessments provided for herein shall be subordinate only to the lien of any First Deed of Trust. The sale or transfer of any Lot shall not affect the lien of such Assessments. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof for the benefit of any first mortgagee shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability as to any assessments thereafter becoming due or from the lien thereof. Notwithstanding the foregoing no sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof for the benefit of any first mortgagee shall be deemed to extinguish any mortgage or lien which the Association has itself placed upon any property owned by the Association.

## **ARTICLE V ANNEXATION OF ADDITIONAL PARCELS**

The Developer may add additional parcels of real estate to the original tracts hereinabove described and may make the same a part of the development; provided, however, that the following terms and conditions are satisfied:

a. Any such additional parcel(s) made subject to these provisions shall be either located immediately adjacent to or within the general vicinity of the real estate aforesaid;

b. Any additional parcel(s) brought within these provisions shall be so brought either by recording a supplementary declaration or by recital on the plat of the parcel, which shall provide that the parcel is made subject to this Declaration. The parcel, by such supplementary declaration or by such a recital on the plat, shall be deemed to have been made subject to the restrictions, fees and assessments provided herein, and to all covenants, conditions, restrictions, liens, charges and assessments provided by the Declaration and all terms, provisions and conditions contained in this Declaration, including any future modifications thereof; provided, however that such supplementary declaration may contain such deletions, additions and modifications of the provisions of this Declaration which are applicable solely to any such additional parcel(s) as may be necessary or desirable as solely determined by the Developer.

c. Lot Owners obtaining or now owning any ownership interest in any Lot shall be deemed to have automatically consented to annexation to the development by the Developer of any additional real estate which is either adjacent to such real estate or is located within the general vicinity of such real estate. The Developer shall, in its sole and absolute discretion, have the right, but not the obligation, to cause any additional real estate to be annexed to the development.

## **ARTICLE VI GENERAL PROVISIONS**

1. **Enforcement.** The Association or the Developer, its successor or assigns, or any owner shall have the right to enforce by any proceeding at law or in equity, any covenants, restrictions, liens, charges or assessments now or hereafter imposed by the provisions of this Declaration. Failure by the Association or the Developer or by another owner to enforce any covenants or restrictions herein contained shall, in no event, be deemed to constitute a waiver of the right to do so thereafter. In the event the Association or the Developer, its successor or assigns seeks to enforce these restrictions by legal proceedings and the Association or the Developer, its successors or assigns prevails in such legal proceedings, then the Association or the Developer, its successors or assigns shall, in addition to other rights and remedies to which it or they may be entitled, shall further recover its reasonable costs, expenses and attorneys' fees incurred in such proceedings.

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

3. **Amendment.** The covenants, conditions, restrictions, easements, charges and liens of this Declaration shall in run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Developer, its successor or assigns, or by the owner of

any Lots subject to this Declaration and their respective legal representatives, heirs, successors and assigns, for a terms of twenty (20) years from the date this Declaration is recorded, after which time, they shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by not less than seventy-five percent (75%) of the Lot Owners of record has been recorded, which instrument provides for amending or terminating this Declaration in whole or in part. All amendments to this Declaration shall be recorded in Boone County, Missouri.

4. **Notices.** Any notice required to be sent to the Association or the Developer or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage-paid, return receipt requested, to the last known address of the party.

5. **Language Variation.** The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.

6. **Titles and Captions.** The titles or captions of the various provisions of this Declaration are not part of the covenant hereof, but are merely labels to assist in locating paragraphs and provisions herein.

7. **Certificate of Completion and Termination of Rights of Developer.** The Developer or its successor or assigns may terminate the rights and responsibilities afforded it as provided herein, whether or not it retains ownership of any Lot or Lots within the development upon the filing for the Record in Boone County, Missouri a "Certificate of Completion and Termination of Rights of Developer," as provided herein, and in such form as necessary for recording purposes. After the filing of such Certificate, any Lots owned or otherwise held by Developer, its successors or assigns shall be deemed to have been conveyed by Developer to the "Lot Owner", as provided herein, and shall be subject thenceforth to all maintenance fees and assessments, and shall obtain the rights and responsibilities of all other lots owners within the development. Upon such filing, Developer's Class B Member rights shall convert to Class A Member rights.

8. **Taxes.** Owners of Lots within the development (and their respective successors) agree to pay or caused to be paid, prior to delinquency, directly to the appropriate taxing authorities, all real estate taxes and assessments which are levied against that part of the development which said owner possess title.

9. **Enforcement.** Either Developer or the Association as defined herein may enforce the terms of this Declaration against any property owner within the development. Furthermore, any future Lot owner of any of the Lots within the development shall have the right to enforce the terms and conditions of this declaration against any other Lot Owner or owners in the following manner:

a. The venue for enforcement of this Declaration against any Lot owner or owners shall be the Circuit Court of Boone County, Missouri;

b. This Declaration shall be enforced and enforceable by such equitable orders and relief that the court shall deem appropriate and just under the circumstances. The Lot Owners, by receiving a deed to property to which this Declaration applies, agree that the legal or monetary damages which might be suffered by any Lot Owner or the Developer would be difficult, if not impossible to compute in the event of breach of this Declaration by any Lot Owner. Accordingly, equitable relief in the form of equitable orders issued by the Circuit Court of Boone County shall be proper.

c. In addition to such other equitable relief as to which a party may be deemed entitled by the Circuit Court of Boone County, the court shall also have the right to assess and award such monetary damages as the court deems appropriate and just under the circumstances.

d. The prevailing party and any litigation brought to enforce this Declaration against any Lot Owner shall be entitled to said prevailing parties court costs and reasonable attorneys fees in addition to whatever monetary damages and/or equitable relief to which the prevailing party is deemed entitled by the court.

10. **Recordation.** This Declaration shall be recorded in the office of the Recorder of Deeds of Boone County, Missouri, to give public notice as to the effects, intents, and purposes of this Declaration.

11. **Liability Insurance.** Each Lot Owner shall maintain or cause to be maintained public liability insurance insuring against claims on account of loss of life, bodily injury, death or property damage occurring upon, in or about its Lot. Each owner's insurance shall afford protection to limits as determined by Developer from time to time and not less than one million dollars (\$1,000,000) for any one occurrence and to the limit of not less than one million dollars (\$1,000,000) for injury or death of a single person, and to the limit of not less than one hundred thousand dollars (\$100,000) for property damage. Each owner shall provide the Association with certificates of such insurance from time to time upon written request of the Association. Such insurance might be written by additional premises endorsement on any master policy insurance carried by the owner which may cover other property in addition to the property to which this Declaration applies. Such insurance shall provide to the same may not be canceled without thirty (30) days prior written notice to the Association.

12. **Property Insurance.** At all times each owner shall keep improvements on its property within the development insured against loss or damage by fire and other perils and events as may be insured against under the broad form of a Uniform Extended Coverage Clause in effect from time to time in the state which the owner's respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

13. **Third Party Beneficiary.** The Missouri State Park Board shall be a third party beneficiary with respect to the obligations described in Article II of this Declaration.

## ARTICLE VII ARCHITECTURAL CONTROL

The Developer or the Architectural Control Committee (referred to herein as “ACC” or “Architectural Control Committee”) is responsible for overseeing the architectural and structural continuity of the development.

1. **Organization of the Architecture Control Committee.** The Association’s Board of Directors shall appoint and assemble an Architectural Control Committee, being composed of three (3) or such other greater odd number of representatives. If the Association’s Board of Directors shall fail to appoint an Architectural Control Committee in compliance with this paragraph, the Association’s Board of Directors shall serve as the Architectural Control Committee.

2. **Role of the Architectural Control Committee.** In no event shall the Architectural Control Committee consent to any exterior addition to, change to or alteration of external color or building material, erection or building of any structure, or building or improvement located within a Lot or Common Areas unless it is deemed to be in the very best interests of the Association and the Development and is deemed to be in harmony with the external design, location, size, and appearance of the surrounding structures and topography and is deemed to be of at least the same quality as the then existing structures within the associated Lots. In addition, the ACC shall review each proposed project for compliance with and enforcement of the maximum impervious surface area allowed on each lot within the Development.

3. **Architectural Control by Class B Members.** So long as Class B voting rights are in existence and for so long thereafter (if any time) as the Developer shall own any Lots within the Development or within the boundaries of any Real Estate made subject to this Declaration, no building, Residence, wall, landscaping, dog house, hot tub, swimming pool, basketball goal, fence or other structure shall be commenced, erected, altered, reconstruction, remodeled, added to or maintained within the Lots, the Common Areas or at any other location within the Development other than those placed thereon by the Developer or its assignees of its rights as Developer, or those constructed under the plans, drawings and specifications which have been previously and expressly approved by the Developer. Additionally, so long as Class B voting rights exist and for so long thereafter (if any time) as the Developer shall own any Lots within the Plat or within the boundaries of any Real Estate made subject to this Declaration, no exterior change in materials shall be made on any completed structure, building, fence, basketball goal, wall or improvement located within a Lot, within the Common Areas or at any location within the Development other than those previously approved by the Developer. No building, fence, wall or other structure shall be commenced, erected or maintained within a Lot until the plans and specifications showing the nature, kind, shape, color, height, materials and location of same have been submitted to and expressly approved by the Developer. So long as the Developer retains architectural control, as provided by this Declaration, the Developer shall approve plans and specifications, only if it, in its sole and unlimited discretion deems same to be in the best interests of the Development. The Developer shall have absolute discretion in determining whether to approve plans and specifications.

4. **Architectural Control by Class A Members.** After Class B voting rights have ceased to exist and the Developer no longer owns any Lots or Real Estate within the Development, no building, Residence, wall, landscaping, dog house, hot tub, swimming pool, basketball goal, fence or other structure shall be commenced, erected, altered, reconstruction, remodeled, added to or maintained within the Lots shall be made, and no alteration or exterior change in color or exterior building materials shall be permitted on any building, fence, wall or improvements located within the Lots or within the Common Areas, and no change in the exterior appearance of any such building, fence, wall or improvement shall be made, and no building, fence, basketball goal, wall or other structure, temporary or permanent, shall be commenced, erected or maintained within a Lot or within the Common Areas until the plans and specifications for such addition, alteration, change, change in color, change in materials, or such building, fence, wall or other structure, showing in detail the nature, kind, shape, color, height, materials and location of the same, have been submitted to and approved in writing as to harmony of external design, external color, external building materials, appearance, size, intended use and location in relation to surrounding structures and topography by the Architectural control Committee. If the Architecture Control Committee fails to approve or disapprove a proposed design and plan within thirty (30) days after said plans and specifications have been submitted to it, such design or plan shall be deemed denied.

5. **Jurisdiction of Architectural Control Committee.** The Architectural Control Committee shall have the right to approve or disapprove of any plans for any improvement, structure, Residence, retaining wall, or driveway within the Development. The Architectural Control Committee also shall have the unlimited discretion to approve or disapprove of plans and specifications by approving or disapproving of any nature, kind, color, shape, height, materials, and location of any improvement, structure, building material, or design. No building, fence, wall, structure, Residence, retaining wall, patio, sidewalk, recreation area, concrete or other impervious surface, or other improvement shall be constructed or commenced within any Lot or within the Common Area, and no exterior addition to, change to, alteration of, or modification of same shall be made on any improvement within any Lot or the Common Area until the plans and specifications pertaining to same have been approved, in advance, and in writing, by the Architectural Control Committee. **THE ARCHITECTURAL CONTROL COMMITTEE'S DISCRETION SHALL BE ABSOLUTE AND SHALL NOT BE REQUIRED TO BE REASONABLE. THE ARCHITECTURAL CONTROL COMMITTEE, IN APPROVING ANY PLANS AND SPECIFICATIONS OR IN DISAPPROVING SAME, MAY ACT IN ITS SOLE, ABSOLUTE AND UNMITIGATED DISCRETION AND AS IT PERCEIVES WILL BEST SERVE THE BEST INTERESTS OF THE DEVELOPMENT. THE ARCHITECTURAL CONTROL COMMITTEE MAY EXERCISE THIS DISCRETION IN AN ARBITRARY, CAPRICIOUS, AND WHOLLY SUBJECTIVE MANNER. NO PERSON MAY CHALLENGE OR CONTEST THE MANNER IN WHICH SUCH DISCRETION HAS BEEN EXERCISED, SO LONG AS THE SPECIFIC REQUIREMENTS AS SET FORTH IN THIS DECLARATION ARE COMPLIED WITH BY THE ARCHITECTURAL CONTROL COMMITTEE IN APPROVING OR DISAPPROVING OF SAID PLANS AND SPECIFICATIONS.** Notwithstanding the foregoing, the Architectural Control Committee shall not approve any plans, specifications, or

improvements which do not meet the requirements set forth in this Declaration (as amended from time to time).

All exterior finish materials, including those placed on the fronts, sides and rears of each building located within the Real Estate, and including the shingles and roofing materials and gutter and downspout materials for each building, must be approved, in advance, by the Developer or the Architectural Control Committee. Therefore, the plans and specifications submitted to the Developer or the Architectural Control Committee shall show and describe (in addition to other items hereinafter described): All exterior finish materials, and the colors, types, tones and shades thereof and the locations of same; Type of roof, including the slope or pitch thereof, and the materials to be placed thereon.

The Developer or the Architectural Control Committee shall, therefore, have advance approval of all original and replacement exterior finishes and materials, and the finishes and materials, once approved, must be used and if same are thereafter replaced must be replaced with substantially similar finishes in materials, of substantially the same quality, texture, shade, tone and color. The provisions in this section shall apply not just to original materials, but to replacement materials, including replacement roofs, roofing materials, exterior siding, exterior window types and all other exterior finish materials.

6. **Decisions of Architectural Control Committee.** All decisions by the Architectural Control Committee shall be made by a majority of the Committee, i.e., two out of the three votes on any issue coming before the Architectural Control Committee shall be sufficient to approve or disapprove of any submission.

7. **Duty to Approve.** Approval of plans and specifications is at the sole discretion of the Architectural Control Committee or Developer, depending on phase of development. Plans and specifications approved for one specific lot does not bind the Architectural Control Committee or Developer to approve the same or similar plans and specifications for any other lot.

8. **Meetings of Architectural Control Committee.** The Architectural Control Committee shall be required to meet no less frequently than annually, and may meet more often in its discretion. No notice prior to any meeting of the Architectural Control Committee shall be required to be given to any Lot Owner. The Architectural Control Committee may permit such persons to be present at any such meeting as it, in its discretion, determines. However, the Architectural Control Committee may adjourn to a private session to deliberate and discuss any submission to the Architectural Control Committee, and no person other than a member of the Architectural Control Committee shall have a right to be present at any meeting called by the Architectural Control Committee if said Committee, in its discretion, determines that said meeting is to be closed in this regard.

9. **Submissions of Plans and Specifications.** All plans and specifications required to be submitted to the Architectural Control Committee shall be submitted in duplicate. Such plans and specifications shall show the nature, kind, shape, height, materials (including material types, specifications, and colors), and the proposed location of same on a Lot. Such plans and



specifications shall be in reasonable detail and shall permit the Architectural Control Committee to determine with reasonable accuracy the proposed improvements or constructions which have been submitted. Any plans or specifications which have been approved shall be noted on each copy thereof, and one copy shall be retained by the Architectural Control Committee and one copy shall be returned to the person or persons submitting same for approval. Likewise any disapproval thereof shall be shown on both copies of said plans, and one copy thereof shall be retained by the Architectural Control Committee and one copy shall be returned to the person proposing said approval. Any plans and specifications submitted to the Architectural Control Committee shall be deemed submitted when delivered to the president of the Association together with a transmittal letter pertaining to same. A copy of the transmittal letter shall be furnished to each member of the Architectural Control Committee, and the date of the receipt by the last member of the Architectural Control Committee of said transmittal letter shall be deemed to be the date of receipt of the plans and specifications by the Architectural Control Committee. Within thirty (30) days of the date of such submission of any plan or specification in the foregoing manner to the Architectural Control Committee, the Architectural Control Committee shall either approve or disapprove of said plans and specifications, in writing. However, such thirty (30) day period shall not commence until notice has been given to the president of the Association and the members of the Architectural Control Committee, in writing, in the manner set forth above. If plans and specifications for any improvement have been approved by the Architectural Control Committee, the persons submitting said plans and specifications for approval thereafter shall construct said improvement strictly in accordance with the plans and specifications which have been approved by the Architectural Control Committee and shall not deviate therefrom in any material respect without the subsequent approval, in writing, of the Architectural Control Committee.

10. **Non-Liability of Developer.** The Developer shall not be liable for any actions taken by the Architectural Control Committee. No conveyance of any Lot by the Developer to any Lot Owner shall be deemed to create any obligation on the part of the Architectural Control Committee to approve any particular plan or specification for the construction of any improvement on said Lot. Furthermore, the Developer shall not be liable for any approval granted by the Architectural Control Committee to any Lot Owner if any other Lot Owner believes that such approval by the Architectural Control Committee should not have been granted. If any Lot Owner believes that any action by the Architectural Control Committee violates this Declaration, then such Lot Owner may petition the Association to review the actions of the Architectural Control Committee. However, the membership shall not have any authority to change any decision of the Architectural Control Committee unless such decision clearly and unequivocally conflicts with or violates a specific term or condition set forth in this Declaration (as amended).

11. **Enforcement of Decisions by Architectural Control Committee.** Any decision made by the Architectural Control Committee which is consistent with this Declaration shall be enforced by the Association. The Association, acting through its Board of Directors shall have the authority to compel any Lot Owner to comply with decisions made by the Architectural Control Committee, and in this regard, the Association shall be empowered to enjoin any construction of any improvement which has not been approved by the Architectural Control Committee. Each Lot Owner, by acquiring a Lot, shall be deemed to have stipulated and agreed

that the Association's remedy at law would be inadequate and that equitable relief shall be available to the Association to enforce decisions made by the Architectural Control Committee.

## **ARTICLE VIII USE RESTRICTIONS AND REQUIREMENTS**

The use of a structure or any area within any Lot in the Development shall be subject to the restrictions, conditions, and limitations set forth in this paragraph:

1. **Single Family Use.** The Lots shall be devoted to single family usage. In this regard:

a. No Residence or appurtenant improvement shall be used as an apartment building or leased as an apartment to more than four (4) persons unless part of the same family (as said term is hereafter defined) except as prescribed in this Declaration.

b. The term "family" shall mean the spouse (if any), significant other, and the parents, children, siblings, aunts, uncles, and grandparents of the primary occupant (lessee) of a single family residence.

c. The usage of a Lot shall not conflict with any pertinent zoning ordinances and regulations of the City of Columbia, Missouri, and in this regard, any ordinances or regulations which pertain to a permissible single family use which are more restrictive than those set forth in this Declaration shall be binding upon all Lot owners. Ordinances and regulations of the City of Columbia, Missouri which are less restrictive, in defining the uses to which single family residential property may be put, than those which are contained in this Declaration shall not be deemed to have amended this Declaration, and instead the more restrictive provisions of this Declaration shall continue to apply.

2. **Minimum Size of Residence.** No Residence shall be permitted on any Lot unless the finished living area of the ground floor contains not less than one thousand six hundred fifty (1,650) square feet. The term finished living area as used herein shall be exclusive of and shall not include basement area, open porches, patios, decks and garages.

3. **Attached Garage.** No Residence shall be permitted on any Lot unless the Residence contains an attached garage for not less than two (2) automobiles. No detached garage and no carport shall be permitted on any Lot.

4. **Exterior Requirements.** All Residences shall have a front exterior that shall be composed of brick, stone, EIFS (drivet), stucco or similar materials, fiber cement board (JamesHardie or CertainTeed, unless otherwise approved by the ACC), or shake siding. Additionally, the front wall space/elevation of a Residence, not including gables, bay windows, box windows and any other windows approved by the Architectural Control Committee, shall be composed of either brick, stone, EIFS (drivet) or stucco. No vinyl siding shall be permitted on any portion of any Residence.

5. **Roof Requirements.** The roof of a Residence must be covered by shingles equivalent in thickness to TAMKO Heritage II brand shingles and shall be of the type and color approved in writing by the Developer or the Architectural Control Committee, as the case may be. Without limiting the authority of the ACC described in the previous sentence, no shingles on any Residence may be red, green, tan, or white in color.

6. **Paved Driveway, Walkway and other areas to be Paved.** All driveways, walkways, parking areas and other areas to be paved located within each Lot must be concrete or pervious pavers or pervious paver systems or other alternative hard surface approved by the ACC. There shall be no dirt, gravel, or other surface driveway or parking areas within any Lot.

7. **Building Uses.** No building within any Lot shall be used for any purpose other than that permitted under the zoning ordinances of the City of Columbia, Missouri which are applicable to the Real Estate. Specifically, except for the Common Areas, no Lot shall be used for any purpose whatsoever other than single family or two-family residential for a period of twenty (20) years from date of recordation of these Covenants and restrictions, without prior written approval of Developer or its successor in interest.

8. **No Subdivision.** Once a Lot has been sold by the Developer, or the Developer's assignees, such Lot shall not be subdivided by deed, plat or lease, or otherwise be caused to be separated into Lots, tracts, parcels or units smaller than the whole Lot; provided however, that nothing contained herein shall prevent the Developer from subdividing its Lots, or amending Lot lines for such Lots, or from combining such Lots, or from eliminating certain of such Lots, and that nothing herein shall prevent the partition of a Lot as between co-owners thereof, if such right of partition shall otherwise be available, but such partition shall not be in kind. Lot Owners shall be permitted to make only those subdivisions of property as permitted in this Declaration.

9. **Home Occupation.** The restriction above as to the use of any building as a single family residence shall not prohibit the conduct of a "home occupation" upon said Lot as defined herein. Home occupation means any occupation or profession carried on by members of the family residing on the Lot, in connection with which there is not used any sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a single family Residence; in connection with which there is no commodity sold upon the premises, and no person is employed other than a member of the family residing on the premises, and no mechanical or electrical equipment is used except such as is permissible for and is customarily found in purely domestic or household premises for the family residing therein; and in connection with which no noise (of any kind or nature whatsoever), and no disturbance (of any kind or nature whatsoever), and no odor or fumes or vapors or dust or air borne particles (of any kind or nature whatsoever) are generated; and in connection with which no tools or equipment are used except such as are permissible for and are customarily found in purely domestic or household premises for the family residing therein; and in connection with which no traffic is generated; and in connection with which no item of goods, material or equipment is stored on the Lot. A professional person may use his/her residence for infrequent consultation, or emergency treatment, or performance of his/her profession. Permitted home occupations shall not include barber shops, beauty shops, shoe or hat repair shops, tailoring shops or any type of pick up station or similar commercial activities but the recitation of

these particular exclusions shall not be deemed to constitute authorization for the conducting of other businesses or enterprises which are precluded by the previous language of this paragraph or by other sections of the Declaration, Articles of Incorporation or Bylaws. Nothing herein shall be construed to permit home occupations not permitted by applicable zoning laws. No churches, religious establishments or institutions, schools, places of instruction, daycare homes, daycare centers, preschool centers, nursery schools, child placement centers, babysitting centers, child education centers, child experiment stations, group house, religious institutions, halfway houses, child development institutions, or similar facilities shall be permitted, and daycare of children for hire shall not be permitted. No Lot, or any part thereof, shall be used for a professional or commercial purpose except as permitted by this section.

10. **Additional Structures.** No additional and/or accessory structures or improvements of any kind, including walls, fences, dog houses, dog shelters, dog pens, dog runs, dog kennels, pet kennels, barns, stables, basketball, volleyball or tennis courts, sheds, posts, poles, storage sheds, storage boxes, ponds, similar items of any kind or other enclosures or enclosing devices or buildings of any nature whatsoever shall be erected upon any Lot or Residence in addition to the basic building, patio, walk, deck, porch and other improvements originally constructed by the Developer or builder, without the prior approval of the Developer, or without the prior approval of the Association's Architectural Control Committee after the Developer has transferred its control to it. The Developer or the Architectural Control Committee may approve or deny, in its sole, absolute and unmitigated discretion, any request for the foregoing additional structures.

11. **Parking.** Parking and matters related to parking within the Development shall be restricted as follows:

a. No vehicles in inoperable condition, nor any trailer, mobile home, bus, van, camper, recreational vehicle, boat, boat trailer, or other mobile apparatus of any kind shall be parked, left, or stored on any street nor on any Lot for more than 24 hours. No uncovered or non-enclosed parking spaces on any Lot may be used for the storage and parking of any vehicles, or other items, other than operative automobiles, vans and pickup trucks which are in good condition and repair and which are used with regular frequency (it being the intention of the parties that inoperative automobiles not be placed or stored within the development and that automobiles not so used with regular frequency not be placed within the Development). This Section shall not apply so as to interfere with the construction of buildings or development of any part of the properties, or of additional land annexed to the properties.

b. No uncovered parking spaces within the Parcel or within any Lot, shall be used for parking of any trailer, truck, boat, motorcycle, three, four or six-wheeled recreational vehicle or anything other than licensed, operative automobiles which are used, with substantial regular frequency, as a means of conveyance of passengers. The word "trailer" shall include trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage, or the conveyance of machinery, tools or equipment, whether

resting on wheels, jacks, tires or other foundation and used or so constructed that it is or may be mounted on wheels or other similar transporting device and used as a conveyance on streets or highways. The word "truck" shall include and mean every type of motor vehicle other than passenger cars and other than pickup trucks, vans or similar utility vehicles which are regularly used (with very substantial frequency) as a passenger vehicle by persons occupying one of the Lots. The word or words "motorcycle, three, four, or six-wheeled recreational vehicle" shall mean a motorcycle, mo-ped, powered scooter, powered tricycle, motor bike, and every other vehicle intended primarily to be operated as a recreational vehicle and/or intended to be operated other than on the main traveled portion of City, State and /or Federal streets or highways. Provided, however, that this Section shall not apply so as to interfere with normal construction methods in the construction and development of any part of the parcel or construction of a residence on a Lot.

c. No automotive repair or rebuilding or any other form of automotive manufacture, whether for hire or otherwise, shall occur in any Lot; provided, however, that Lot Owners shall be permitted to perform ordinary periodic maintenance and repair upon their motor vehicles within enclosed garages.

d. Any automobile which is inoperative and with respect to which the Lot Owner is performing any mechanical repairs or reconditioning must be located and repaired within a garage or equivalent structure which has been approved by the Architectural Control Committee.

e. Notwithstanding the foregoing, guests of Lot Owners may park in the public roadway while attending social events.

12. **Garage Sales.** The Association shall have the right to prescribe limits on and to grant permission to Lot Owners who wish to conduct garage or yard sales during the year. No Lot Owner may have more than one garage or yard sale per calendar year and prior to conducting any such garage sale, such Lot Owner must obtain the advance permission, in writing, from the Association for such sale. The Association shall have the right to enjoin the conducting of a garage sale which is conducted in violation of this covenant. No other garage sale, sample sales, or similar activities shall be allowed in the Development.

13. **Nuisances.** No illegal, noxious or offensive activities shall be carried on upon any Lot, nor shall anything (including but not limited to activities generating odors, noise or unsightly appearances) be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which would substantially interfere with use and enjoyment of neighboring Lots, or with the values of such Lots. The word "nuisance," as used in this Section, shall be deemed to include, but not be limited to: musical groups performing out-of-doors within the Development; the use of loud tools or other instruments or ones which have not been properly electronically shielded so as to prevent interference with television signals or radio signals; loud outdoor record-players, high fidelity record-players, stereo systems, and other noise-generating devices. Display of fireworks, sparklers or other such items on the Lots or Common Areas is expressly prohibited.

14. **Signs.** No signs of any kind shall be displayed to the public view within any Lot, except as follows:

a. The Association shall have the power to permit signs and notices within the Common Areas based on rules and regulations developed and promulgated by the Association and pertaining to the use of the Common Areas;

b. Any builder may place a temporary sign on a Lot to advertise a Lot or Residence for sale for a time period no longer than 360 days and any such temporary sign shall be no larger than three feet in height and two feet in width;

c. One realtor's sign may be placed on a Lot to advertise a Lot for sale for a time period of no longer than 360 days and any such temporary sign shall be no larger than three feet in height and two feet in width;

d. Traffic signs, street signs, and directional signs as approved by the Association may be erected;

e. Each Residence may have one mailbox, which shall be identical in color, style, size and made by the same manufacturer, all of which shall be designated by the Architectural Control Committee. It shall be the responsibility of any Lot Owner (including any builders) to obtain the specifications for mailboxes from the ACC. All mailboxes must remain in good condition and repair, and any dented, rusted, or unsightly mailbox may be removed by the Association, subject to pertinent U.S. Postal regulations and laws; and

f. The Association may approve such additional signs or may develop rules and regulations pertaining to signs as the Association, in its discretion, hereafter determines.

Notwithstanding anything set forth above in this paragraph, no sign shall be permitted which violates the ordinances or regulations of the City of Columbia, Missouri which are applicable to the Development.

15. **Exterior Wiring, Antennas, Satellite Receiver Dishes, Etc.** No visible exterior wiring or antennas, satellite receiver dishes, radio receivers or antennas, or similar improvements or equipment shall be permitted on the front half of the exterior portion of any Residence (including the front half of the roof) or any improvement located on the front half of any Lot, except as has been approved in advance by the Architectural Control Committee. No air-conditioner, air-conditioning compressor, or similar installation shall be installed or permitted which appears visible from either the road or street adjacent to a Lot or which protrudes through the walls, roof, or window area of any residence, except as approved by the Architectural Control Committee. Without limiting the ACC's authority granted in this section, any satellite dish or receiver in any Lot must be obscured from view to the maximum extent possible while

permitting the functional use of same and, to the maximum extent possible, all utility lines and cables shall be buried.

16. **Livestock, Poultry and Pets.** No Lot Owner shall permit any animals, swine, livestock, poultry, or pets of any type or description to occupy, be raised on, be bred, or to be kept upon any portion of a Lot except as follows:

a. No more than two (2) dogs or three (3) cats or other normal household pets per household may be kept in and appurtenant to any Residence. No exotic or dangerous animals shall be kept. No animals, other than dogs, cats and other normal household pets shall be kept.

b. No pet shall be allowed to run loose on portions of the Development other than within the Lot which same is owned by the Lot Owner who owns said pet.

c. No pet shall be allowed to disturb others by barking, creating noise, or by disagreeable odors, or by other activities.

d. A pet may be allowed to run loose within a Lot if the Lot is fenced or the pet is chained or otherwise restricted to that Lot.

e. No pet shall be allowed to disturb any other Lot Owner in any manner whatsoever or to do damage to or harm to any other persons or property.

f. No pets shall be permitted to, in any manner whatsoever, create a nuisance, or to otherwise interfere with the peaceful enjoyment by others of their Lots and the improvements located thereon.

g. Although pets may run in daylight hours, in fenced enclosures approved pursuant to the Architecture Control provisions, pets shall not, after sunset and before sunrise, be kept, housed or allowed to run outside the Residence.

h. It is understood that the enjoyment of the Development by all Owners and residents thereof, and the success of this Development, might be jeopardized by violations of these conditions; accordingly, the Directors may by majority vote and after two (2) complaints require that any certain pets be removed from the Development and the Lot Owner within which such pet is kept shall have a period of thirty (30) days to comply with such decision of the directors.

i. Any Lot Owner shall bear all risks which result from the presence of that Lot Owner's pet on a Lot, and accordingly, such Lot Owner shall be liable and responsible for adherence to these conditions and be absolutely liable for any and all injuries and damages done or caused by such pet to other persons or property. Due care or absence of negligence, or absence of demonstration by the pet of propensities or tendencies to perform certain acts, shall not constitute a defense.

j. The Association may promulgate such other rules and regulations pertaining to pets which may be reasonably required in order to prevent any owner of a pet from disturbing the peace of other Lot Owners.

17. **Trash Storage and Disposal.** No Lot shall be used or maintained as a dumping ground, and all trash, rubbish, garbage and other materials which are being thrown away or discarded by a Lot Owner shall be placed and contained in one or more trash cans or suitable containers purchased by the Lot Owner. Said trash disposal containers must be fly-tight, rodent proof, non-flammable, reasonably waterproof, and covered. Except on days when such refuse is to be picked up by a trash disposal service, no such container shall be located out of doors. Such bins or containers may be placed in open locations on trash pick-up days only for a period not to exceed the period of time allowed by the City of Columbia, so as to facilitate collection.

18. **Temporary Structures.** No structure of a temporary character such as a shack, shed, tent, dog house, or other improvements shall be used or constructed on any Lot except to the extent same has been approved by the Architectural Control Committee. However, this section shall not interfere with normal childhood activities by the children of Lot Owners who may temporarily locate a tent on a Lot. Nor shall this provision prevent normal construction methods used in the construction of a Residence on a Lot (such as a construction trailer), which in no case shall be allowed to be placed on a site more than two weeks prior to beginning construction and shall not remain for more than two weeks after the completion of construction.

19. **No Storage Tanks.** No tank for the storage of fuel or other flammable property shall be maintained on any Lot, whether above or below ground. However, each Lot Owner may maintain secure cans for the storage of gasoline and other propellants so long as done in a safe and secure manner, not out of doors, and in quantities which are sufficient only for the use by a Lot Owner. No warehousing or storage of flammable liquids on any Lot shall occur except to the extent reasonably necessary to provide the Lot Owner with fuel for the operation of lawn tractors, lawn trimmers, etc.

20. **Maintenance.** Each individual Lot Owner shall maintain his, her or their Lot, and the Residence located thereon, and all improvements located thereon, and all lawns, trees, shrubs and landscaping located thereon, in a clean, neat, safe, attractive and very well maintained condition, free of trash, rubbish and debris, and free of conditions of unsightliness, and disrepair and in such a condition as to provide an attractive and pleasing appearance as is reasonably practicable, and as is in keeping with the general character of the Development and in conformance with this Declaration.

a. Each Lot Owner shall keep the lawn neat, clean and uniformly mowed and clipped to a reasonable and attractive height, not to exceed eight inches (8") in height.



b. No substantial changes shall be made in the landscape design on a lot subsequent to its approval by the Developer or the Architectural Control Committee, as the case may be, without the prior written consent of the Developer or the Architectural Control Committee.

c. The portion of the yard area on any Lot containing a Residence must be sodded in the area between the front building line of the Lot and at least 40 feet behind the back line of the Residence (extended to each side Lot line) and the remainder of said yard must be seeded with grass, and said sodding and seeding must be completed as soon as possible after the completion of the construction of the Residence.

d. Each Lot Owner shall keep the shrubs on the Lot neatly trimmed and in the event of the death or destruction of any tree or shrub on a Lot, the Lot Owner shall as soon as practical replace the same with a tree and/or shrub of a similar size and quality. Such replacement shall be at the Lot Owner's expense and in no event shall the Association be responsible or liable for any such replacement.

e. No structure, planting or other materials shall be placed or permitted to remain on the easement areas on a Lot as shown on the Plat of the subdivision which may damage or interfere with the installation and maintenance of the utility facilities.

21. **Sprinkler Systems in Front Yards.** The Plans and specifications for, and the Landscape Plans for, the building to be placed on each Lot (i.e., the dwelling house to be placed on each Lot) may provide for the installation of a lawn irrigation/lawn sprinkler system, which is approved by the Developer, or the Board of Directors, or its Architectural Control Committee, whoever then holds Architectural Control powers. Sprinkler systems shall not be a requirement, but are permitted in the discretion of the Developer, the Board of Directors or the Architectural Control Committee.

22. **Fences.** Only fences which meet the following conditions and criteria may be constructed on any Lot: plans and specifications for the fence have been submitted to and approved in writing by the ACC; the fence shall be identical as to color, style, and type as the standard fence approved by the ACC for the entire Development; the fence shall be 4 or 5 feet in height; the fence shall be black in color and style EFF-20 and manufactured by Elite Fence Products, unless approval for deviation shall be explicitly given by the ACC in writing. No other type of fence (including underground fences) or privacy screen shall be constructed on any Lot without the prior written consent and approval of the Developer or the Architectural Control Committee, as may be applicable. No fence or privacy screen permitted to be constructed on any Lot shall be constructed closer to the front boundary line of the Lot than the plane of the rear wall of the Residence extended in both directions to the side Lot lines and in addition on a corner Lot no fence or privacy screen shall be constructed closer to the side lot line abutting the street than the line established by the plane of the side of the house nearest to the street extended to the rear of the Lot. The Architectural Control Committee, in its discretion, may prohibit all fences, or may restrict the types, design, height, and appearance, and sturdiness of any fence in the Development. Any permitted fence must be constructed with the finished side facing out from the Lot.

23. **Two, Three & Four Wheeled Recreational Vehicles.** No motorcycles, three and four-wheeled vehicles, including all-terrain vehicles and motor bikes of any kind, shall be operated within the Development, either on roads, Common Areas, or within the Lots themselves; provided, however, that they may be used solely for purposes of going to and from work, to one's job, or to school. No such vehicles shall be used within the Development for purposes of recreation. All such vehicles must have a suitable muffler so as to provide for quiet operation. All such vehicles must be stored within a garage or other approved structure. No such vehicle shall be operated in a manner so as to disturb the peace of the occupant of any other Lot.

24. **Open Fires.** No open fires shall be permitted within the Development, with the exception of outdoor fires contained in a grill and used for the preparation of food to be consumed on the premises and with the exception of "fire pits" that have been expressly approved in writing by the ACC.

25. **Common Areas.** No Lot Owner may use any amenity on any Common Area except pursuant to the rules and regulations which have been adopted from time to time pertaining to such usage by the Association. The Association shall have the authority to adopt such rules and regulations as may be necessary in order to provide for the allocation of expenses attributable to those persons who primarily use same.

26. **Outside Improvements, Lawn Ornaments, Vegetable Gardens, Etc.** Nothing shall be placed or located within the front yard of any Lot, or the side yard of any corner lot, other than reasonable sidewalks, reasonable driveways, and normal, reasonable grass, ground cover, trees, shrubs, flowers and other normal, reasonable landscaping materials. All driveway, parking spaces and parking areas shall be subject to approval by the Architectural Control Committee, and shall not be installed without the prior written approval of the above committee. It is specifically intended that paving of any portions of Lots, other than for normal, reasonable driveways, shall be prohibited, and specifically that paving of Lots in order to provide exterior parking pads (other than normal driveways) shall be prohibited. No statues, monuments, or lawn ornaments shall be permitted. Normal, temporary displays, such as Christmas displays, shall be permitted on a short term basis of very short duration (no more than 45 days). No vegetables or grains (including, but not limited to, tomatoes, corn, or other vegetables or cereal grains) shall be planted in any in any Lot. Front yards and side yards shall be restricted to normal sidewalks, normal driveways, usual and customary grass, trees shrubs, flowers and other landscaping materials.

27. **Firewood.** No fire wood shall be stock piled or stored within any portion of a Lot in front of the plane of the rear wall of the building located on the Lot, as such plane is extended to the side Lot lines of the Lot. Firewood shall be stored out of view of the public at all times, even when stored behind the plane of the rear wall of the building as such plane is extended to the side Lot lines of the Lot.

28. **Exterior Storage.** Exterior storage of boats, canoes, tricycles, bicycles, other similar vehicles, lawn mowers, tractors, any equipment of any kind or nature whatsoever (other than permanently installed swings or other playground equipment-which can only be located in a rear yard if approved by the ACC) is specifically prohibited; with the provision that the placement of such functional items such as patio and outdoor living equipment shall be permitted, and that the use of children's bicycles and play equipment (but not the storage of same) shall be permitted.

29. **Swimming Pools, Hot Tubs, Retaining walls and Accessory Improvements and Above-Ground Pools.** All pools, hot tubs, retaining walls and other accessory improvements, as well as decks, walkways, patios and other constructed improvements, must be submitted for approval by the Developer, the Association's Board of Directors or its Architectural Control Committee (whichever hold the architectural control powers) as to location, size, compatibility with adjoining properties and harmony with the Development before construction. IN NO EVENT SHALL ABOVE-GROUND SWIMMING POOLS BE PERMITTED. ABOVE-GROUND SWIMMING POOLS AND ABOVE-GROUND POOLS OF ANY KIND OR NATURE WHATSOEVER, AND ANY SIMILAR IMPROVEMENT, SHALL BE AND THE SAME ARE HEREBY EXPRESSLY PROHIBITED. Above ground hot tubs may be permitted with ACC approval.

30. **Garage Doors.** All garage doors shall be kept closed at all times except when driving vehicles into or out of the garage and except when placing articles in or removing articles from the garage.

31. **Prefabricated Home and the Like.** No prefabricated, modular, manufactured or otherwise preassembled or preconstructed home or mobile home shall be permitted on any Lot and no Residence which has been previously preconstructed at another location shall be moved onto any Lot without the prior approval of the Developer or the Architectural Control Committee, as the case may be.

32. **Casualty Repair.** No Residence or structure on a Lot damaged by fire, windstorm, vandalism or other casualty shall be permitted to remain in said damaged condition for a period of longer than six (6) months without the prior written consent of the Developer or the Architectural Control Committee, as the case may be.

33. **Basketball Goals.** No basketball goal shall be installed on a Lot without the prior written consent of the Developer or the Architectural Control Committee. All backboards shall be either clear or painted white and all poles shall be painted black.

34. **Recreational or Play Structures.** All recreational or play structures (other than basketball goals) located on a Lot must be located behind the rear line of the Residence (extended to each side Lot line). All recreational or play structures shall be kept in good repair and maintained in a neat and orderly manner and must be approved in advance by the ACC.

## ARTICLE IX COMMON AREAS

1. **Members' Easements of Enjoyment.** Every member in the Association, and the members of their families, and their designees and delegates and renters and lessees, shall have the right of ingress and egress and an easement of enjoyment in and to the Common Areas owned by the Developer or the Association and the facilities, improvements and recreational facilities located thereon, and such easements shall be appurtenant to and shall pass with the title to every assessed Lot. Said right of ingress and egress and easement of enjoyment shall exist whether or not the Developer has conveyed title to the Common Area to the Association and shall be subject to the following provisions:

a. The right of the Association, in accordance with its Articles and bylaws, to borrow money for the purpose of improving the Common Area and facilities and in the aid thereof to mortgage said property;

b. The right of the Association to suspend the voting rights and right to use the recreational facilities by a Member for any period during which any Assessment against his/her/their/its Lot remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

c. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association's Board of Directors, provided, however, should the property sought to be transferred be subject to the lien of any mortgage or deed of trust, no such transfer shall be made without first obtaining the written consent of the mortgagee or the beneficial owner of said deed of trust thereto. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-third (2/3) of the votes of the Class A Membership and two-thirds (2/3) of the votes for Class B Membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than ten (10) days nor more than forty (40) days in advance; and unless (in the event the portion of the Common Area to be dedicated or transferred is, for any reason, immediately adjacent to and abutting upon the boundary lines of a Lot or contained within a Lot) the Lot Owners of abutting or immediately adjacent Lots have agreed to such transfer;

d. The right of the Developer and of the Association through its Board of Directors to create, grant and convey easements upon, across and over the Common Areas and utility and sewer easement to public utilities or public bodies or public governments for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones, electric lines and cable or internet wires or lines;

e. The right of the Association to publish rules and conditions to regulate and control the Members' use and enjoyment of the Common Area.

f. The obligations of the Developer or the Association to the City of Columbia or other applicable regulatory body to construct, operate, maintain, repair, replace, inspect, and otherwise perform all work required with regard to storm water facilities and improvements, including, without limiting the foregoing, obligations under that certain "Stormwater Management/BMP Facilities Covenant" entered into by the Developer and the City of Columbia in conjunction with the approval of the Plat. Without limiting the foregoing, Lots 136, 137, 138, and 139 as shown on the Plat contain areas designated on the Plat as "Bioretention I", "Bioretention Basin I Plantings", "Bioretention F", "Bioretention Basin F Plantings", "Bioretention H", and "Bioretention Basin H Plantings" ("Bioretention Cells on Lots 136 – 139") and such Lots shall be specifically subject to the rights of the Developer or the Association to maintain Bioretention Cells on Lots 136 – 139 (in general and to the extent that Bioretention Cells on Lots 136 – 139 may be located solely on an individual Lot) in the sole discretion of Developer or the Association and any obligations of Developer or the Association may have to the City of Columbia or otherwise and the Owners of such Lots shall not take any action to prevent or inhibit Developer or the Association from performing its obligations with regard to the Bioretention Cells on Lots 136 – 139 and the Owners of such Lots shall be further obligated and such Lots further restricted and subject to the rights of Developer or the Association under this section 1 or this Article IX of this Declaration with respect to the Bioretention Cells on Lots 136 – 139. Nothing contained in this section shall limit the rights of Developer or the Association with regard to Common Areas.

2. **Delegation of Use.** Any member may delegate his right of enjoyment to the Common Area and facilities to the members of his immediate family or his tenants, or contract purchasers, who reside on the property.

3. **Title to Common Areas.** The title to certain of the Common Areas may be retained by the Developer until completion of the Development contemplated by the Developer. Even though title to such Common Areas may not be vested in the Association, same shall nevertheless be deemed to be Common Areas, whether or not conveyed to the Association, and shall be maintained by the Association from the Maintenance Fund.

4. **Designation of Common Areas.** The Developer reserves the right to designate any part of the Real Estate located within the Development, now or in the future, as Common Area. No requirement that the Developer designate Common Areas shall be deemed to be expressed or implied.

## **ARTICLE X GRANTS AND RESERVATIONS OF EASEMENTS**

1. **Easements for Repair, Maintenance and Restoration.** The Association, its directors, employees and agents, shall have a right of access and an easement to, over and through all of the Development, including each Lot and buildings and structures located thereon, for ingress and egress and all other purposes which enable the Association to perform its

obligations, rights, and duties with respect to maintenance, repair, restoration and/or servicing of the Common Areas and any improvements located on Lots which the Association is entitled to maintain for any reason whatsoever; provided that the exercise of this easement as it affects the individual Lots shall be at reasonable times and with reasonable notice to the individual Lot Owners in the absence of an emergency requiring immediate attention.

2. **Other Easements.** All other easements, as shown by the Plat, whether public or private, shall exist as shown by the Plat.

3. **Easements Over Common Areas.** All Common Areas, including any lake, pond, trail, walkway or bike path shall be imposed with a perpetual, irrevocable, permanent easement, running with the Common Areas, which shall inure to the Association and each Lot Owner and the occupants of each Lot and the members of their family and guests and personal invitees, such that the Association and its contractors and designees may enter upon the Common Areas at all times for the purposes of maintaining, repairing, replacing, building, rebuilding and servicing same and placing any improvements thereon which are approved by the Association's Board of Directors; and the Lot Owners and the occupants of the Lots and the members of their families, guests and personal invitees, subject to the limitation under this Declaration, such as in Article IX, enter upon the Common Area owned by the Developer or the Association and make use of same for their intended purposes.

4. **Easements of Encroachment.** There shall be reciprocal appurtenant easements for maintenance between each Lot and any adjacent Common Areas.

5. **Easements for Utilities, Etc.** There are hereby reserved unto the Developer, the Association, and the designees of each, which may include, without limitation, City of Columbia, Missouri and Boone County, Missouri, and any public utility company access and maintenance easements upon, across, over, and under all of the Lots and Common Areas to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and, electricity, and for the purpose of installing any of the foregoing. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner.

Developer and the Association specifically grant to the local water supplier, electric company, telephone, cable and internet companies and natural gas supplier easements across the Lots and Common Areas for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling on any Lot, nor shall any utilities be installed or relocated within the Development, except as approved by the Association.

6. **Easements for Collection of Storm Water Runoff and Flood Water.** The Developer reserves for itself, and for the Association, and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon any Lot or Common Area to:

- a. install, keep, maintain, and replace pumps in order to provide water for the irrigation of any Common Area;
- b. construct, maintain, and repair any structure designed to divert, collect or retain water; and
- c. remove trash and other debris.

The Developer's rights and easements provided in this paragraph shall be transferred to the Association at such time as the Developer shall cease to own any property subject to the Declaration, or such earlier time as Developer may elect, in its sole discretion, to transfer such rights by a written instrument. The Developer, the Association, and their designees shall have an access easement over and across any of the Lots or Common Areas to the extent reasonably necessary to exercise their rights under this paragraph.

7. **Easements to Serve Additional Property.** The Developer hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Areas for the purposes of enjoyment, use, access, and development of adjacent property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities on such property. Developer agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of such property. Developer further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Developer, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

8. **Easements for Cross-Drainage.** Every Lot and the Common Areas shall be burdened with easements for natural drainage of storm water runoff from other portions of the Development; provided, no person shall alter the natural drainage on any Lot so as to materially change the drainage of storm water onto adjacent portions of the Lots without the consent of the Owner of the affected Lot.

9. **Right of Entry.** The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance pursuant to the Declaration, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental declaration, bylaws, and rules, which right may be exercised by any member of the Association, the Association's Board of Directors, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during

reasonable hours and after notice to the Lot Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event a Lot Owner fails or refuses to cure the condition within a reasonable time after requested by the Association's Board of Directors, but shall not authorize entry into any dwelling without permission of the Lot Owner, except by emergency personnel acting in their official capacities.

## **ARTICLE XI GENERAL PROVISIONS**

1. **Term and Amendment.** This Declaration shall run with and bind the Real Estate, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years each, unless an instrument in writing, signed by not less than sixty percent (60%) of the then Lot Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein. During the first twenty (20) year period of this Declaration, it may be amended in whole or in part only by an instrument signed by the Developer so long as it holds Class B voting rights and/or any architectural control rights. All amendments to this Declaration shall be recorded in the records of Boone County, Missouri.

2. **Enforcement.** The Developer or the Developer's assignee of the Developer's rights as Developer hereunder, or the Association, or any Lot Owner or any Owner of any Lot, shall have the right to enforce, by any proceedings, at law or in equity, any covenants, restrictions or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Developer, the Developer's assignee, the Association or any Lot Owner to enforce any covenants or restrictions herein contained shall in no event be deemed to be a waiver of the right to do so thereafter.

3. **Attorney's Fees.** If any party shall seek to enforce against any other party any of the provisions of this Declaration, by legal or equitable proceedings, then the prevailing party in such proceedings shall receive from the other party to such proceedings, in addition to such other rights and remedies to which such prevailing party shall otherwise be entitled, such prevailing party's reasonable costs, expenses and attorneys' fees incurred in connection with such proceedings, and in the preparation for such proceedings, and shall be entitled to judgment for such attorneys' fees, costs and expenses.

4. **Notices.** Any notice required to be sent to any Lot Owner under the provisions of this Declaration shall be deemed to have been received when mailed, postage prepaid in the proper amount, to the last known address of the Lot Owner as reflected on the records of the office of the Boone County Collector, Columbia, Missouri, on the third day subsequent to the date when deposited in the U.S. Mails. Alternative, any notice actually received (hand delivered) by any person to a Lot Owner shall be deemed received on the date of such hand delivery.



5. **Severability**. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

6. **Language Variation**. The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.

7. **Titles and Captions**. The titles or captions of the various provisions of this Declaration are not part of the covenants hereof, but are merely labels to assist in locating paragraphs and provisions herein.

8. **Effective Date**. This Declaration shall be effective upon the date of its recordation in the office of the Recorder of Deeds of Boone County, Missouri.

9. **No Waiver**. The covenants set forth in this Declaration are independent. No laches, waiver, estoppel, or lapse of time or failure to enforce these covenants shall have any effect on the validity or enforceability of these covenants at any time thereafter.

10. **Binding Effect**. This Declaration shall be binding upon the Developer, each Lot Owner, and their respective heirs, executors, successors, administrators, and assigns.

11. **Construction**. This Declaration shall be construed in accordance with the laws of the state of Missouri.

12. **Incorporation of Declaration in Conveyances of Lots**. Any deed conveying any Lot within the Development to a Lot Owner shall be deemed to have incorporated within the terms and conditions of said deed the covenant that any Lot Owner or said Lot Owner's successor in title will be bound by the terms and conditions of this Declaration.

13. **Adequate Consideration**. Each Lot Owner, by accepting a conveyance of a Lot in the Development, agrees that there is full and adequate consideration for the Lot Owner's obligation to be bound in accordance with the terms of this Declaration, and regardless of the fact that no express consideration was paid to said Lot Owner or received by said Lot Owner in order to obtain said Lot Owner's agreement to be bound by the terms of this Declaration. Instead, the mutual benefits and burdens which are represented by this Declaration insofar as all Lot Owners are concerned shall be deemed full and adequate consideration for the mutual promises and obligations set forth herein.

14. **Intent of Developer**. The Developer does not intend that this Declaration violate the rule against perpetuities or any rule with respect to unlawful restraints on alienation. Accordingly, this Declaration shall be construed so as to comply with any applicable statute of limitation or any applicable rule regarding unlawful restraints on alienation. However, any such construction shall be that construction which permits the longest duration of the covenants set forth in this Declaration which can exist and remain enforceable without violating any such rule.

IN WITNESS WHEREOF, the Developer has executed this Declaration on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**Southside Trail Estates, LLC**

By: \_\_\_\_\_  
Rob Hill, Authorized Agent

State of Missouri       )  
                                  ) ss.  
County of Boone       )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared Rob Hill, who upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent of **Southside Trail Estates, LLC**, a Missouri limited liability company, that he executed this Agreement on behalf of said limited liability company, as the free act and deed of said limited liability company, and pursuant to the authority vested in him to execute this Agreement by the members of said limited liability company, that the foregoing Agreement is binding in all respects upon said limited liability company, and that said limited liability company is duly empowered by its operating agreement to enter into this Agreement.

\_\_\_\_\_, Notary Public  
Commissioned in \_\_\_\_\_ County, MO

My commission expires \_\_\_\_\_.

Introduced by \_\_\_\_\_

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Council Bill No. B 65-14

### **AN ORDINANCE**

approving the Final Plat of Parkside Estates, Plat No. 1, a major subdivision; accepting the dedication of rights-of-way and easements; authorizing a performance contract; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council hereby approves the Final Plat of Parkside Estates, Plat No. 1, as certified and signed by the surveyor on March 6, 2014, a major subdivision located on the east side of Route K and adjacent to Southbrook Court, containing approximately 33.04 acres in the City of Columbia, Boone County, Missouri, and hereby authorizes and directs the Mayor and City Clerk to sign the plat evidencing such approval.

SECTION 2. The City Council hereby accepts the dedication of all rights-of-way and easements as dedicated upon the plat.

SECTION 3. The City Manager is hereby authorized to execute a performance contract with Southside Trails Estates, LLC in connection with the approval of the Final Plat of Parkside Estates, Plat No. 1. The form and content of the contract shall be substantially as set forth in "Exhibit A" attached hereto.

SECTION 4. This ordinance shall be in full force and effect from and after its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor

## PERFORMANCE CONTRACT

This contract is entered into on this day \_\_\_\_\_ of \_\_\_\_\_, 2014 between the City of Columbia, MO ("City") and **Southside Trails Estates, LLC**. ("Subdivider").

City and Subdivider agree as follows:

1. Subdivider shall construct, erect and install all improvements and utilities required in connection with the final plat of **Parkside Estates, Plat No. 1**, including sidewalks and all improvements and utilities shown on the plat and related construction plans, within 36 months after the City Council approves the plat.
2. If street, utility or other construction of public improvements should occur on or adjacent to land in the subdivision at the initiative of the City Council, as benefit assessment projects, Subdivider agrees to bear Subdivider's equitable and proportionate share of construction costs, as determined by such assessments.
3. No utility service connections or occupancy permits shall be issued to the Subdivider or to any other person for any structure on land in the subdivision unless and until improvements have been constructed, erected and installed in the structure and upon the lot or lots on which the structure is situated in accordance with all applicable ordinances, rules and regulations of the City.
4. No occupancy permit shall be issued to the Subdivider or any other person for any structure constructed on land in the subdivision unless the street and sidewalk adjacent to the structure have been completed in compliance with the City's Standard Street Specifications.
5. City may construct, erect or install any improvement or utility not constructed, erected or installed by Subdivider as required by this contract. City may perform such work using City employees or City may contract for performance of the work. Subdivider shall reimburse City for all costs and expenses incurred by City in connection with the construction, erection, or installation of improvements in utilities under this paragraph. Subdivider agrees to pay City all expenses and costs, including reasonable attorneys' fees, incurred by the City in collecting amounts owed by Subdivider under this paragraph.
6. City shall not require a bond or other surety to secure the construction of the improvements and utilities required in connection with the final plat.

7. The obligations of Subdivider under this contract shall not be assigned without the express consent of the City Council.
8. The remedies set forth in this contract are not exclusive. City does not waive any other remedies available to enforce Subdivider's obligations under this contract or to recover damages resulting from Subdivider's failure to perform its obligations under this contract.
9. This contract is not intended to confer any rights or remedies on any person other than the parties.

IN WITNESS WHERE OF, the parties have executed this contract on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

BY: \_\_\_\_\_  
Mike Matthes, City Manager

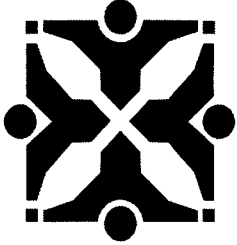
ATTEST:

\_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Thompson, City Counselor

Southside Trails Estates, LLC  
BY: Robert A. Hill  
Robert A. Hill, Manager



Source: Community Development - Planning <sup>TT</sup>

Agenda Item No:

To: City Council

From: City Manager and Staff <sup>MM</sup>

Council Meeting Date: Mar 17, 2014

Re: Parkside Estates, Plat No. 1 - final major plat (Case 14-16)

#### **EXECUTIVE SUMMARY:**

A request by Southside Trail Estates (owner) for approval of a 50-lot final major plat on PUD (Planned Unit Development) zoned land, to be known as "Parkside Estates, Plat No. 1". The 33.04-acre subject site is located on the east side of Route K, across from E. Southbrook Court. (Case #14-16)

#### **DISCUSSION:**

The applicant is requesting approval of a 50-lot plat on PUD (Planned Unit Development) zoned land to accommodate the construction of 49 single-family detached houses. The proposed plat is substantially consistent with the Parkside Estates PUD development plan, and meets the conditions contained within the associated rezoning ordinance and statement of intent, which were approved by Council on September 3, 2013.

More specifically, the final plat satisfies the following conditions, which are noted on the preliminary plat/PUD development plan, and contained within the rezoning ordinance and statement of intent:

1. The Type 2 stream buffer has been expanded from 100 feet to 200 feet to meet the Type 1 width standard
2. Direct driveway access to Route K is prohibited
3. Common lot "C1" is reserved for storm water drainage and utility easements
4. A tree preservation plan has been approved
5. All lots are for single-family detached housing
6. A 75-foot wide parkside buffer is shown along the plat's southern boundary
7. Per the statement of intent, draft covenant excerpts pertaining to impervious area, landscaping, lawn care, and storm water mitigation are attached, and the complete declaration of covenants, conditions and restrictions must be recorded prior to approval of the final plat.

It should be noted that there are many requirements listed within the PUD plan notes and statement of intent that pertain to final build-out conditions. While staff will continue to track them in order to ensure future compliance, these conditions cannot be verified at this phase of development. The maximum impervious surface ratio of 15 percent is acknowledged on the plat and will be checked with each construction permit.

The plat has been reviewed by City departments and external agencies, and meets all applicable requirements of the City's Zoning and Subdivision Regulations. Locator maps, a reduced copy of the plat and PUD plan, the rezoning ordinance and statement of intent, excerpts from the pending covenants & restrictions, and performance contracts are attached.

#### **FISCAL IMPACT:**

None

#### **VISION IMPACT:**

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

None

#### **SUGGESTED COUNCIL ACTIONS:**

Approval of the proposed final major plat, subject to the above-referenced covenants and restrictions being completed and recorded prior to plat approval.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	NA
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	NA
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	NA

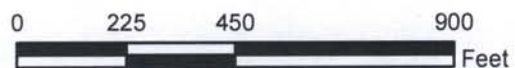




# **14-16: Parkside Estates Plat No. 1 Final Major**



Hillshade Data: Boone County GIS Office  
Parcel Data Source: Boone County Assessor  
Imagery: Boone County Assessor's Office, Sanborn Map Company  
Created by The City of Columbia - Community Development Department







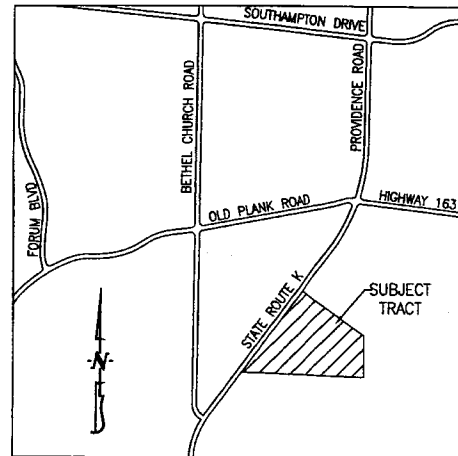
## 14-16: Parkside Estates Plat No. 1 Final Major



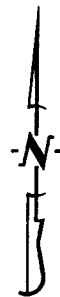
Hillshade Data: Boone County GIS Office  
 Parcel Data Source: Boone County Assessor  
 Imagery: Boone County Assessor's Office, Sanborn Map Company  
 Created by The City of Columbia - Community Development Department







LOCATION MAP  
NOT TO SCALE



BEARINGS ARE REFERENCED TO GRID  
NORTH, OF THE MISSOURI STATE PLANE  
COORDINATE SYSTEM (CENTRAL ZONE),  
OBTAINED FROM GPS OBSERVATION.

**LEGEND:**

- E EXISTING
- SET 1/2" IRON PIPE  
(UNLESS NOTED OTHERWISE)
- STONE
- PERMANENT MONUMENT
- (M) MEASURED DISTANCE
- (REC) RECORDED DISTANCE
- (R) RADIAL LINE
- DH x DRILL HOLE
- W/ CHISELED X

**NOTES:**

1. THIS TRACT IS NOT LOCATED IN THE 100-YEAR FLOOD PLAIN AS SHOWN BY BOONE COUNTY & CITY OF COLUMBIA FLOOD PLAIN MAP 29019C 0290D DATED MARCH 17, 2011.
2. THIS SURVEY CONFORMS TO THE ACCURACY STANDARDS FOR URBAN PROPERTY AS DEFINED BY MISSOURI STATUTE 20 CSR 2030-16.040(2)(A).
3. A CURRENT TITLE COMMITMENT WAS NOT PROVIDED FOR THIS SURVEY.
4. THIS TRACT IS REGULATED BY THE STREAM BUFFER REQUIREMENTS IN SECTION 12A-230, ARTICLE X OF THE CITY OF COLUMBIA CODE OF ORDINANCES. THERE IS A REGULATED STREAM ON THIS SITE AS SHOWN BY THE COLUMBIA USGS QUAD MAP.
5. ALL MONUMENTS WILL BE SET AFTER CONSTRUCTION OF STREET AND UTILITIES ARE COMPLETE.
6. THERE SHALL BE NO DIRECT ACCESS FROM LOTS 101,131,132,133, 134,135,136,137 OR 148 ONTO STATE ROUTE K.
7. LOT C1 IS TO BE A DRAINAGE AND UTILITY EASEMENT.
8. NO BUILDINGS WILL BE CONSTITUTED WITHIN THE PARKSIDE BUFFER WITHOUT PERMISSION FROM MISSOURI PARKS DEPARTMENT.

# FINAL PLAT PARKSIDE ESTATES, PLAT No. 1

A MAJOR SUBDIVISION LOCATED IN SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST  
COLUMBIA, BOONE COUNTY, MISSOURI  
JANUARY 27, 2014

**KNOW ALL MEN BY THESE PRESENTS:**

THAT SOUTHSIDE TRAIL ESTATES, LLC. IS THE SOLE OWNER OF THE HEREON DESCRIBED TRACT AND THAT SAID LIMITED LIABILITY COMPANY HAS CAUSED SAID TRACT TO BE SURVEYED, SUBDIVIDED, AND PLATTED AS SHOWN ON THE ABOVE DRAWING. THE STREET RIGHT OF WAY SHOWN BY THE ABOVE DRAWING IS HEREBY DEDICATED TO THE CITY OF COLUMBIA FOR THE PUBLIC USE FOREVER. THE EASEMENTS AS SHOWN, ARE HEREBY DEDICATED TO THE CITY OF COLUMBIA FOR THE PUBLIC USE FOREVER. THE ABOVE DRAWING AND DESCRIPTION SHALL HEREAFTER BE KNOWN AS "PARKSIDE ESTATES, PLAT NO. 1"

IN WITNESS WHEREOF, SOUTHSIDE TRAIL ESTATES, LLC, LLC HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS MANAGER, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

SOUTHSIDE TRAIL ESTATES, LLC.

ROBERT A. HILL, MANAGER

STATE OF MISSOURI }  
COUNTY OF BOONE } SS

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014 BEFORE ME PERSONALLY  
APPEARED \_\_\_\_\_ AND \_\_\_\_\_, TO ME KNOWN, WHO BY  
ME DULY SWORN, DID SAY THAT THEY HE IS THE MANAGER OF SAID LIMITED LIABILITY  
COMPANY AND THAT HE FURTHER ACKNOWLEDGE THIS INSTRUMENT TO BE HIS FREE ACT  
AND THE FREE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY.

NOTARY PUBLIC  
DANIELLE GRIFFITH  
MY COMMISSION EXPIRES OCTOBER 28, 2016  
COMMISSION NUMBER 12409201



ACCEPTED BY ORDINANCE OF THE CITY COUNCIL OF COLUMBIA,  
MISSOURI, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

ROBERT McDAVID, MAYOR

SHEELA AMIN, CITY CLERK

SHEET 1 OF 2

**CERTIFICATION:**

I HEREBY CERTIFY THAT IN JANUARY OF 2014, I COMPLETED A SURVEY AND SUBDIVISION FOR SOUTHSIDE TRAIL ESTATES, LLC, OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST, BOONE COUNTY, MISSOURI AND BEING PART OF THE LAND SHOWN IN THE SURVEYS RECORDED IN BOOK 2920, PAGE 90, AND BOOK 3080, PAGE 187 AND DESCRIBED BY THE WARRANTY DEED RECORDED IN BOOK 4045, PAGE 119 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 1 ALSO BEING THE SOUTHEAST CORNER OF TRACT 2 OF THE SURVEY RECORDED IN BOOK 3080, PAGE 187 AND WITH THE QUARTER SECTION LINE AND THE LINES OF SAID SURVEY, N 87°37'20"W, 1313.03 FEET; THENCE N 88°09'10"W, 100.78 FEET; THENCE LEAVING SAID QUARTER SECTION LINE AND THE LINES OF SAID SURVEY, N 1°57'20"E, 276.97 FEET; THENCE N 53°30'00"W, 176.05 FEET; THENCE 47.12 FEET ALONG A 30.00-FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A CHORD, S 81°30'05"W, 42.43 FEET; THENCE N 53°30'00"W, 25.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROUTE KK; THENCE WITH SAID EASTERLY RIGHT-OF-WAY LINE, N 36°30'00"E, 1135.85 FEET; THENCE LEAVING SAID EAST RIGHT-OF-WAY LINE AND CONTINUING WITH THE LINES OF SAID SURVEY, S 53°30'35"E, 1170.55 FEET; THENCE S 0°51'25"W, 664.88 FEET TO THE CENTER OF SAID SECTION 1 AND THE POINT OF BEGINNING AND CONTAINING 33.04 ACRES.

I FURTHER CERTIFY THAT I SURVEYED THE ABOVE DESCRIBED PROPERTY AND SUBDIVIDED IT AS SHOWN ON THE PLAT IN ACCORDANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

SURVEY AND PLAT BY:

CROCKETT ENGINEERING CONSULTANTS, LLC  
2608 NORTH STADIUM BLVD.  
COLUMBIA, MO 65202

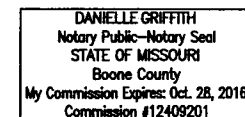
CORPORATE NUMBER: 2000151304

*David T. Butcher*  
DAVID T. BUTCHER, PLS-2002014095  
3/6/2014  
DATE

STATE OF MISSOURI }  
COUNTY OF BOONE } SS

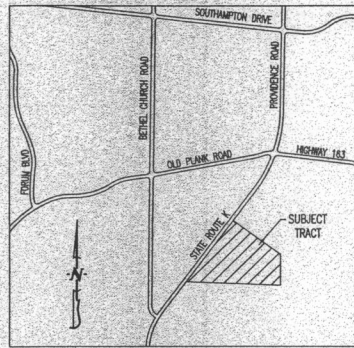
SUBSCRIBED AND AFFIRMED BEFORE ME THIS 6 DAY OF MARCH, 2014.

*Danielle Griffith*  
DANIELLE GRIFFITH  
NOTARY PUBLIC  
MY COMMISSION EXPIRES OCTOBER 28, 2016  
COMMISSION NUMBER 12409201





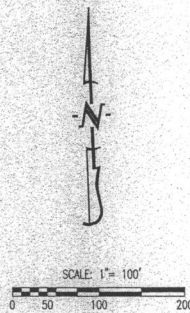




LOCATION MAP  
NOT TO SCALE

LEGEND:

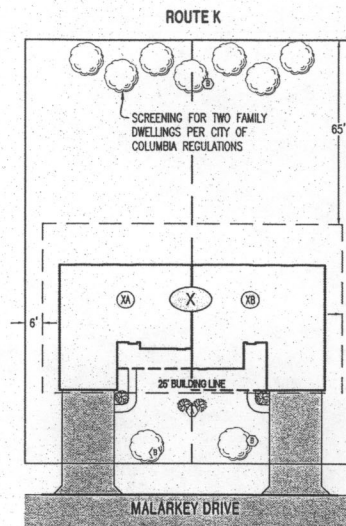
- EXISTING 2FT CONTOUR
- EXISTING 10FT CONTOUR
- PROPOSED 2FT CONTOUR
- PROPOSED 10FT CONTOUR
- EXISTING STRUCTURE
- EXISTING TREELINE
- PROPOSED TREELINE
- EDGE OF WATERWAY
- EXISTING SANITARY SEWER
- PROPOSED SANITARY SEWER
- MANHOLE
- PROPOSED SANITARY SEWER LATERAL
- PROPOSED WATERLINE
- PROPOSED FIRE HYDRANT
- PROPOSED STORM SEWER
- BUILDING LINE
- LOT NUMBER
- STREAM BUFFER (OUTER LIMITS)



OWNER:  
SOUTHSIDE TRAIL ESTATES  
5796 S. ROUTE K  
COLUMBIA, MO 65203

# PRELIMINARY PLAT & PUD PLAN PARKSIDE ESTATES

A MAJOR SUBDIVISION LOCATED IN SECTION 1,  
TOWNSHIP 47 NORTH, RANGE 13 WEST  
COLUMBIA, BOONE COUNTY, MISSOURI  
JUNE 2013



- PROPOSED SHRUBS
  - PROPOSED TREE
- TYPICAL PUD LANDSCAPING  
FOR LOTS 1-8

NOTES:

WATER DISTRIBUTION TO BE DESIGNED BY THE CITY WATER AND LIGHT DEPARTMENT.

ALL PUBLIC SANITARY SEWER EXTENSIONS SHALL BE MINIMUM OF 8" DIAMETER. SEWERS NOT CONSTRUCTED ALONG FRONTS OF LOTS TO BE LOCATED WITHIN 16 FOOT WIDE EASEMENTS OR EASEMENTS EQUAL TO THE DEPTH OF THE SEWER IF SEWER IS GREATER THAN 16 FEET. NO SEWER TAPS WILL BE GREATER THAN 20 FEET.

NO PART OF THIS TRACT LIES WITHIN THE 100 YEAR FLOODPLAIN AS ADOPTED BY THE CITY OF COLUMBIA AS SHOWN BY FIRM PANELS 29019C 02900 DATED MARCH 17, 2011.

THE STREET R/W SHALL BE 50 FOOT WIDE, UNLESS OTHERWISE NOTED.

THERE SHALL BE A 10 FOOT UTILITY EASEMENT ALONG THE SIDE OF EACH LOT ADJACENT TO STREET RIGHT-OF-WAY.

NATURAL GAS DISTRIBUTION TO BE DESIGNED BY AMEREN UE.

LOT NUMBERS SHOWN ARE FOR INVENTORY PURPOSES ONLY.

THE EXISTING ZONING OF THIS TRACT IS COUNTY A-1 AND R-S (PENDING REZONING TO PUD 2.0).

THIS PLAT CONTAINS 35.84 ACRES.

A 5' SIDEWALK SHALL BE CONSTRUCTED ALONG ONE SIDE OF ALL STREETS.

ELECTRIC DISTRIBUTION TO BE DESIGNED BY THE CITY OF COLUMBIA WATER & LIGHT DEPARTMENT.

A REGULATED STREAM BUFFER AS IDENTIFIED BY ARTICLE X, CHAPTER 12A OF THE CITY CODE OF ORDINANCES, IS LOCATED ON THIS TRACT AND IS AS SHOWN ON THE ADJACENT DRAWING. SAID STREAM BUFFER HAS BEEN EXPANDED PER THE STATEMENT OF INTENT.

NO DIRECT ACCESS SHALL BE ALLOWED FROM LOTS 1-8 AND 21-22 ONTO STATE ROUTE K.

LOT C1 IS NOT FOR RESIDENTIAL DEVELOPMENT, BUT MAY CONTAIN NEIGHBORHOOD AMENITIES SUCH AS SWIMMING POOL, RESTROOM FACILITIES, RECREATIONAL FACILITIES, SHELTERS, STORM WATER FEATURES, ETC.

ALL LOTS SHALL HAVE A MINIMUM WIDTH OF 60' AT THE BUILDING LINE.

A MINIMUM OF 25% OF THE TREES CLASSIFIED AS CLIMAX FOREST AND LOCATED ON THIS TRACT SHALL BE PRESERVED. A TREE PRESERVATION PLAN SHALL BE SUBMITTED AND APPROVED BY THE CITY ARBORIST PRIOR TO LAND DISTURBANCE.

THE MAXIMUM RELEASE RATE FROM THIS DEVELOPMENT SHALL BE CONTROLLED BY LIMITING THE POST-DEVELOPMENT STORM WATER RELEASE RATES TO THE PREDEVELOPMENT RATES FOR THE 1, 2, 10 AND 100 YEAR STORMS.

THE TWO ENTRANCES ONTO ROUTE K SHALL BE DESIGNED TO ACCOMMODATE A STANDARD LENGTH SCHOOL BUS. TURNING RADI AND PATH MODELS SHALL BE SUBMITTED WITH FINAL DESIGN PLANS TO ILLUSTRATE PROPOSED IMPROVEMENTS WILL BE ADEQUATE.

VEGETATIVE LANDSCAPING SHALL BE INSTALLED ALONG THE REAR OF LOTS 22-28.

NO DETACHED BUILDINGS SHALL BE ALLOWED ON ANY PRIVATE LOT WITHIN THIS DEVELOPMENT.

LOTS 1-8 SHALL CONTAIN A SINGLE FAMILY RESIDENTIAL OR TWO FAMILY RESIDENTIAL BUILDING. ALL TWO FAMILY DWELLINGS SHALL MEET THE STANDARDS FOR VILLA STYLE UNITS AS DEFINED BY THE CITY OF COLUMBIA AND THE STATEMENT OF INTENT.

LOTS 9-56 SHALL ALL CONTAIN SINGLE FAMILY RESIDENTIAL UNITS ONLY.

LOT 57 SHALL CONTAIN A PRIVATE DRIVE AND 5 SINGLE FAMILY RESIDENTIAL UNITS. LOT 57 MAY BE SUBDIVIDED ACCORDINGLY IN ORDER TO SELL EACH UNIT.

LEGAL DESCRIPTION:

THREE (3) TRACTS OF LAND LOCATED IN SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST AND BEING ALL OF TRACTS 1, 2 AND 3 OF THE SURVEY RECORDED IN BOOK 3080, PAGE 187, ALSO BEING ALL OF A TRACT OF LAND SHOWN BY THE SURVEY RECORDED IN BOOK 2920, PAGE 90, COLUMBIA, BOONE COUNTY, MISSOURI AND CONTAINING, 35.84 ACRES.

ACCEPTED BY ORDINANCE OF THE CITY COUNCIL OF COLUMBIA,  
MISSOURI, THIS 3rd DAY OF September, 2013.

ROBERT McDAVID, MAYOR

SHEELA AMIN, CITY CLERK

PREPARED BY:  
**CROCKETT**  
ENGINEERING CONSULTANTS  
8500 North Stadium Boulevard  
Columbia, Missouri 65202  
(314) 447-0292

www.crockettengineering.com  
Crockett Engineering Consultants, LLC  
Missouri Certificate of Authority  
#0000000775



TIMOTHY D. CROCKETT - PE-2004000775

APPROVED BY THE CITY OF COLUMBIA PLANNING AND ZONING  
COMMISSION THIS 8th DAY OF August, 2013.

DOUG WHEELER, CHAIRPERSON

021788

Permanent Record  
Filed in City Clerk's Office

Introduced by McDavid  
First Reading 8-19-13 Second Reading 9-3-13  
Ordinance No. 021788 Council Bill No. B 229-13 A

### AN ORDINANCE

extending the corporate limits of the City of Columbia, Missouri, by annexing property located on the south side of Route K, approximately 2,000 feet south of the intersection of Providence Road, Route K and Old Plank Road; directing the City Clerk to give notice of the annexation; placing the property annexed in District PUD-2.0; approving the Preliminary Plat & PUD Plan of Parkside Estates; granting a variance from the Subdivision Regulations relating to sidewalk construction; setting forth conditions for approval relating to impervious surface restrictions and best management practices; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council hereby finds that a verified petition was filed with the City on June 10, 2013, requesting the annexation of land which is contiguous and compact to the existing corporate limits of the City and which is described in Section 4 of this ordinance. The petition was signed by Robert Hill, a member of Southside Trail Estates, LLC, the owner of the fee interest of record in the land proposed to be annexed. A public hearing was held concerning this matter on August 19, 2013. Notice of this hearing was published more than seven days prior to the hearing in a newspaper of general circulation qualified to publish legal matters. At the public hearing all interested persons, corporations and political subdivisions were permitted to present evidence regarding the proposed annexation.

SECTION 2. The Council determines that the annexation is reasonable and necessary to the proper development of the City and that the City has the ability to furnish normal municipal services to the area to be annexed within a reasonable time.

SECTION 3. The Council determines that no written objection to the proposed annexation has been filed within fourteen days after the public hearing.

SECTION 4. The City Council hereby extends the city limits by annexing the land described in Section 1-11.19 of the Code of Ordinances of the City of Columbia, Missouri, which is hereby added to Chapter 1 of the City Code and which reads as follows:



Section 1-11.19. September, 2013 Extension of Corporate Limits.

The corporate limits of the City of Columbia shall include the following land:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST, BOONE COUNTY, MISSOURI AND BEING ALL OF THE LAND SHOWN IN THE SURVEYS RECORDED IN BOOK 2920, PAGE 90, AND BOOK 3080, PAGE 187 AND DESCRIBED BY THE WARRANTY DEED RECORDED IN BOOK 4045, PAGE 119 AND CONTAINING 35.84 ACRES.

SECTION 5. The City Clerk is hereby authorized and directed to cause three certified copies of this ordinance to be filed with the Clerk of Boone County, Missouri and three certified copies with the Assessor of Boone County, Missouri. The City Clerk is further authorized and directed to forward to the Missouri Department of Revenue, by registered or certified mail, a certified copy of this ordinance and a map of the City clearly showing the area annexed to the City.

SECTION 6. The property described in Section 4 is in the Fifth Ward.

SECTION 7. The Zoning District Map established and adopted by Section 29-4 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended so that the property described in Section 4 will be zoned and become a part of District PUD-2.0 (Planned Unit Development) with a development density not exceeding 2.0 dwelling units per acre. Hereafter the property may be used for single-family and two-family dwellings.

SECTION 8. The City Council hereby approves the terms and conditions contained in the statement of intent dated August 26, 2013, attached hereto as "Exhibit A" and made a part of this ordinance provided, however, paragraph 18 of such statement of intent shall be amended to provide for a maximum total impervious area of development of fifteen percent (15%). The statement of intent shall be binding on the owners until such time as the Council shall release such limitations and conditions on the use of the property.

SECTION 9. The City Council hereby approves the Preliminary Plat & PUD Plan of Parkside Estates, dated June 2013, a major subdivision containing approximately 35.84 acres, and hereby confers upon the subdivider the following rights for a period of seven years from the date of this approval:

- A. The terms and conditions under which the Preliminary Plat was given will not be changed.
- B. The subdivider may submit on or before the expiration date the whole or any part of the subdivision for final approval.

- C. The time for filing the final plat may be extended by the Council for a specified period on such terms and conditions as the Council may approve.

SECTION 10. Prior to approval of the Final Plat of this Subdivision, the subdivider shall have completed the improvements required by the Subdivision Regulations, or in lieu of completion of the work and installations referred to, present security to the City Council with surety and conditions satisfactory and acceptable to the City Council, providing for and securing the actual construction and installation of the improvements and utilities; or put the City Council in an assured position to do the work, obligating the developer to install the improvements indicated on the plat, provided that no occupancy permit will be issued to any person for occupancy of any structure on any street that is not completed in front of the property involved, or the utilities have not been installed to the satisfaction of the City.

SECTION 11. Subdivider is granted a variance from the requirements of Section 25-48.1 of the Subdivision Regulations so that sidewalks shall not be required along internal streets within the subdivision, subject to the condition that the maximum impervious surface ratio shall not exceed fifteen percent (15%).


SECTION 12. The developer shall incorporate the impervious surface restrictions into the covenants and restrictions for the development. No variance to construct any improvement which would increase the impervious surface area within the development may be granted by the Board of Adjustment without approval, in advance, of the City Council.

SECTION 13. The developer shall incorporate best management practices to ensure the level of service identified by the City Code, Bonne Femme Watershed Plan, and Stormwater Manual are exceeded by at least one point.

SECTION 14. This ordinance shall be in full force and effect from and after its passage.

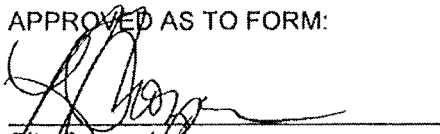
PASSED this 3rd day of September, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Counselor

**VAN MATRE, HARRISON, HOLLIS, TAYLOR, AND BACON, P.C.**

A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS AT LAW  
1103 EAST BROADWAY  
POST OFFICE BOX 1017  
COLUMBIA, MISSOURI 65201

CRAIG A. VAN MATRE  
THOMAS M. HARRISON  
ROBERT N. HOLLIS  
GARRETT S. TAYLOR  
BRYAN C. BACON\*  
CASEY E. ELLIOTT  
RICHARD B. HUCKS

(573) 874-7777  
TELECOPIER (573) 875-0017  
E-MAIL: [robert@vanmatre.com](mailto:robert@vanmatre.com)

EVERETT S. VAN MATRE  
(1922-1998)

\*ADMITTED IN MISSOURI AND ILLINOIS

August 26, 2013

Tim Teddy, Director  
Department of Planning & Development  
City of Columbia  
701 E Broadway  
Columbia, MO 65201  
*Via E-mail: [ttteddy@gocolumbiamo.com](mailto:ttteddy@gocolumbiamo.com)*

Pat Zenner  
Department of Planning & Development  
City of Columbia  
701 E Broadway  
Columbia, MO 65201  
*Via E-mail: [przenner@gocolumbiamo.com](mailto:przenner@gocolumbiamo.com)*

RE: Statement of Intent / Application for Permanent Rezoning and PUD Plan /  
Southside Trail Estates, LLC (the "Applicant") / Case No. 13-100

Dear Mssrs. Teddy and Zenner,

The following is intended to satisfy the requirements of Section 29-10(e)(2) of the City's  
Zoning Ordinances:

1. The proposed uses for this property would include single-family and two-family dwellings.
2. This development shall be allowed to have single-family and two-family dwellings. The two-family dwellings shall only be allowed on Lots 1-8 of the proposed PUD Plan. The maximum number of units on the entire property shall be 69. The net density of the development shall not exceed 2.0 units per acre.
3. The maximum building height shall not exceed 35 feet.
4. The minimum percentage of the site to maintained in open space shall be 70%. This amount shall be further delineated as 15% existing vegetation and 55% landscaping.
5. The total number of parking spaces proposed for this development shall be in conformance with the current regulations for the City of Columbia for single-family and two-family dwellings.
6. Additional amenities may include a gazebo, walking trail, shelter houses, and picnic areas.
7. This project is a residential development with internal public streets. There is a portion of the development that would utilize a private street to access a maximum of 5 single-family residences. A small portion of the lots that abut Missouri Route K shall be allowed to have two-family dwellings constructed on them. Adequate screening shall be installed along Route K to screen these units.



8. A 75-foot parkside buffer shall be granted by the developer at the time of the final plat. The location of the buffer shall be along the southerly side of the property and more specifically as shown by the PUD Plan. No buildings shall be allowed within this buffer without consent of the Missouri State Parks.

9. Ninety percent (90%) of the existing trees (4" and larger measured at 2 feet above grade) within the parkside buffer shall remain in place once construction is complete.

10. The developer shall be required to record covenants and restrictions applicable to the real estate within the development prior to final plat approval, which shall include the requirements of items 11, 12, 13, 14, and 15 of this Statement of Intent as obligations of the applicable homeowner's association and shall name the Missouri State Park Board as a third-party beneficiary.

11. The covenants and restrictions shall require that all planted materials within the development shall be native species to this area (with the exception of the individual yards). The developer shall also generate an approved list of acceptable plantings with the assistance of the Missouri State Park Board personnel.

12. The covenants and restrictions shall require that each lot shall have a minimum of 4 trees planted at the time of building construction and that 4 trees shall be maintained with each lot at all times. The trees planted shall be native species that are listed on the approved list of plantings.

13. The covenants and restrictions shall require that there be held an annual seminar available to the residents of the development and at which the Missouri State Park Board personnel is permitted to educate the homeowners about the park as well as environmentally friendly practices in lawn care, pesticide use, and native species of plant materials.

14. The covenants and restrictions shall include provisions requiring the lot owners within the development to use only organic lawn care materials and products on yards within the development.

15. The covenants and restrictions shall require that each initial purchaser of a lot within the development shall be provided with two rain barrels for use on the purchaser's lot within the development.

16. Developer shall increase Type II stream buffer located on the easterly side of the development from standard 100 feet wide to 200 feet in width.

17. The maximum density on Lot 57 shall be 5 single-family residences.

18. The developer shall limit the total impervious area of development, not inclusive of the Missouri Route K right-of-way, to twenty four percent (24%). This impervious area shall include all impervious surfaces including houses, driveways, sidewalks, streets, patios, etc. The project engineer shall keep a running total of the impervious area of the site that shall be submitted with each building permit for any lot within the development.

Sincerely,

Van Matre, Harrison, Hollis, Taylor, and Bacon, P.C.

By:

  
Robert N. Hollis

RNH/jac  
CC: Tim Crockett and Rob Hill (Via E-mail)



Steve MacIntyre <sjmacint@gocolumbiamo.com>

---

## Fwd: Hill / Parkside Estates / Covenants

---

Robert Hollis <robert@vanmatre.com>

Mon, Mar 10, 2014 at 10:45 AM

To: Steve MacIntyre <sjmacint@gocolumbiamo.com>

Cc: Tim Crockett <tim@crockettengineering.com>, Rob Hill <hillrst@aol.com>

Steve - Please see below the modified covenant provisions, which now include the impervious surface information. Let me know if you need anything else from me.

Thanks.

Robert

**"Statement of Intent"** shall mean the Statement of Intent approved by the City of Columbia by Ordinance No. 021788 as Council Bill No. B229-13A passed on September 3, 2013.

### ARTICLE II

#### STATEMENT OF INTENT PROVISIONS

The Lots, and the buildings, structures and dwelling units located thereon, shall be subject to the requirements of paragraphs 11, 12, 13, 14, 15, and 18 of the Statement of Intent, to-wit:

1. All planted materials within the Development shall be native species to the Mid-Missouri area (with the exception of the individual yards). The Developer or the Association shall create a list of acceptable plantings with the assistance of the Missouri State Park Board personnel, which shall be made available to Lot Owners.

2. Each Lot shall have a minimum of 4 trees planted at the time of building construction and a minimum of 4 trees shall be maintained within each Lot at all times. The trees planted shall be native species that are listed on the approved list of plantings described in paragraph 1 above in this Article II.

3. There be held an annual seminar available to the Lot Owners and residents of the Development and at which the Missouri State Park Board personnel shall be permitted to educate the Lot Owners and residents about the adjacent park as well as environmentally friendly practices in lawn care, pesticide use, and native species of plant materials.

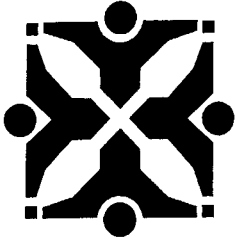
4. Lot Owners may only use organic lawn care materials and products on yards within the Development.

5. Each initial purchaser of a Lot within the Development shall be provided with two rain barrels for use on the purchaser's Lot.

6. The Developer shall limit the total impervious area of the Development, not inclusive of the Missouri Route K right-of-way, to fifteen percent (15%). This impervious area shall include all impervious surfaces including houses, driveways, sidewalks, streets, patios, etc. The project engineer shall keep a running total of the impervious area of the site that shall be submitted with each building permit for any Lot within the Development.

**Third Party Beneficiary.** The Missouri State Park Board shall be a third party beneficiary with respect to the obligations described in Article II of this Declaration.

[Quoted text hidden]



Source: Community Development - Planning

Agenda Item No: B65-14

To: City Council

From: City Manager and Staff

Supplemental  
Information

Council Meeting Date: Apr 7, 2014

Re: Parkside Estates, Plat No. 1 - final major plat (Case 14-16) - Supplemental Information

**EXECUTIVE SUMMARY:**

Staff reported in the original memo for the Parkside Estates, Plat 1 that the PUD ordinance approved for the development required a set of restrictive covenants to be prepared and recorded *prior to the approval of the subdivision plat*. As of this writing the applicant has not provided a complete declaration in recordable form, only a fragment describing the content that appeared in the PUD ordinance. Staff recommends that Council table the plat until the covenants have been prepared, reviewed and recorded.

**DISCUSSION:**

While the City does not enforce private covenants, the requirement to have them was made part of the Parkside annexation and zoning ordinance.

**FISCAL IMPACT:**

None

**VISION IMPACT:**

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

**SUGGESTED COUNCIL ACTIONS:**

Table the subdivision plat until the April 21, 2014 Council meeting.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Epands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	