

* Square footage - pg. 13
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Declaration

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Persimmon Ridge Phase II is made on DECEMBER 11, 1989, by PERSIMMON RIDGE GOLF COURSE, INC., a Kentucky corporation ("Developer").

WHEREAS, Developer owns certain real property in Shelby County, Kentucky, which is to be developed as a residential subdivision;

NOW, THEREFORE, Developer hereby declares that all of the property described in Article I, Section 1, and such additions as may be made pursuant to Article I, Section 2 (the "Property"), shall be held sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the Property. The easements, restrictions, covenants and conditions shall run with the Property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I -- PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS

Section I. Existing Property. The real property which is subject to this Declaration is located in Shelby County, Kentucky, and is more particularly described as follows:

BEING Lots 1 through 23 inclusive, as shown on the plat of Persimmon Ridge, Phase II, of record in Plat and ~~Subdivision~~ Book CABINETS 2 SLIDE 143-144 Page , in the Office of the Clerk of Shelby County, Kentucky.

BEING part of the same property acquired by Developer by Deed dated July 27, 1988 of record in Deed Book 251, Page 402, in said Clerk's office.

Such lots, as well as any additional lots subjected to this Declaration pursuant to Section 2 of this Article I, jointly may sometimes hereafter be referred to as the "Development" or individually as a "Lot".

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Section 2. Additions to Existing Property. Additional real property may become subject to this Declaration in either of the following manners:

(a) Additions in Accordance with a General Plan of Development. Developer may, but shall not be obligated to make this Phase containing 23 Lots a part of a larger community to be developed in accordance with current plans and known as Persimmon Ridge. Additional land (the "Additional Land") described in a deed recorded in Deed Book 251, Page 402, in the Shelby County Clerk's office may be included by Developer as other phases of Persimmon Ridge. Developer shall have the unilateral right, privilege and option, from time to time and at any time until January 1, 2010, to subject to the provisions of this Declaration all or any portion of the Additional Land, by filing in the Shelby County Clerk's office an amendment annexing such real property. Any such annexation shall be effective upon the filing for record of such amendment unless otherwise provided in the amendment. Developer may assign this right of annexation to any person or entity.

Developer reserves the right to create cross easements and to restrict all of the properties according to the terms of this Declaration. The common area initially covered by this Declaration shall inure to the benefit of the owners of any new lots within Persimmon Ridge which may become subjected to this Declaration or a similar set of deed restrictions and any additional lots on other real estate which may hereafter be annexed to and made a part of Persimmon Ridge and subjected to this Declaration or a similar set of deed restrictions, and the common area allocable to the owners of all such Lots, shall inure to the benefit of the owners of Lots recorded earlier, each to enjoy the common area of the other and to have and to hold the same as if each new Lot had been developed and subjected to this Declaration simultaneously.

(b) Other Additions. Additional real property other than that described in the preceding paragraph may be made subject to this Declaration by filing an amendment to this Declaration in the Shelby County Clerk's office. An amendment adding such additional property shall require the written consent or affirmative vote of Developer, as long as Developer owns any part of that real property or, if Developer no longer owns any part of that real property, the written consent or affirmative vote of a majority of the Class A and Class C members of the Association (defined in Article III). Any such amendment shall be signed by Developer, if Developer has adopted the amendment, or by the President and the Secretary of the Association, if the Association has adopted the amendment, and in either case, by the owner of the real property being added, and any such amendment shall be effective upon filing, unless otherwise provided in the amendment.

Section 3. Amendment. This Article shall not be amended without the written consent of Developer, as long as Developer owns any of the Additional Land.

ARTICLE II -- PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment; Exceptions.

Every owner shall have a right and easement of enjoyment including, without limitation, the right of vehicular and pedestrian ingress and egress, in and to the common areas which shall be appurtenant to and shall pass with the title to every Lot. The right and easement shall also be deemed granted to the Association and the Lot owners' families, guests, invitees, servants, employees, tenants and contract purchaser. The term "common areas" means and refers to any areas shown as common area, open space, or a nonresidential Lot (other than areas devoted to use as one or more golf courses, clubhouses and related activities) on a plat of any section of Persimmon Ridge made subject to the Association. Developer releases and quitclaims to the Association its right and title to the common areas. The right of enjoyment is subject to the following provisions:

(a) The right of the Association to adopt rules for the common areas and to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid, and for a period of time for any infraction of its published rules and regulations; and

(b) The right of the Association to dedicate or transfer all or any part of the common areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by a majority of the members of the Association and, if accepted by such agency, authority or utility; provided, the Lot owner's easements of ingress and egress and any public utility easements previously established shall not be affected. Developer may dedicate the sewage treatment facilities to the Association and may dedicate utility service or drainage easements upon, through or under the common areas at its sole discretion so long as there is in existence the Class B membership in accordance with Article III, Section 2. When Class B membership ceases, this right of Developer shall automatically pass to the Board of Directors of the Association.

Section 2. Association's Right of Entry. The authorized representative of the Association or its Board of Directors shall be entitled to reasonable access to the individual Lots as may be required in connection with the preservation of property on an individual Lot in the event of an emergency or in connection with the maintenance of, repairs or replacements within the common areas and the areas described in Section 4 below, or any

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equipment, facilities or fixtures affecting or serving other Lots or the common areas or to make any alteration required by any governmental authority; provided, after any such entry the Association shall restore the Lot to its former condition.

Section 3. No Partition. Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of the common areas or any part thereof, nor shall any person acquiring any interest in the Property have the right of judicial partition. This Section does not prohibit the Board of Directors of the Association from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Section 4. Association Easements. The Association shall have a right and easement, including without limitation the right of vehicular and pedestrian ingress and egress over, under and across the areas designated for any easement on a plat of property subject to this Declaration for the purposes set forth in Article III, Section 3 below.

Section 5. Easement for Golf Course. An easement is declared, granted and established over, upon and along such portions of the Lots that do not have a residence situated thereupon to permit the doing of every act necessary and proper to playing of golf, on, and maintenance of, the golf course or courses (whether now or hereafter constructed and developed) (collectively, the "Golf Course") adjacent to the Development. These acts shall include, but not be limited to, the recovery of golf balls, the flight of golf balls, the use of necessary and usual equipment upon such Golf Course, the usual and common noise level created by the playing of the game of golf, traversing by golfers, caddies, galleries and spectators, and all other normal and usual activities associated with the game of golf; provided, however, that actual golf play or shot-making shall not be permitted upon the land designated in this easement. Notwithstanding anything in the Declaration to the contrary, the easement herein declared, granted and established shall run with the Land as herein provided, but shall terminate at such time as the Golf Course ceases to be used as a Golf Course. The Developer shall have the right and duty to prescribe in writing to the governing body charged with operating the Golf Course the manner and extent to which the rights under this easement shall be exercised. No Owner shall by ownership of a Lot, have any ownership right in membership or right or license to use the Golf Course, and each Owner shall be subject to all rules and regulations promulgated with respect to the Golf Course.

ARTICLE III -- HOMEOWNERS ASSOCIATION

Section 1. Membership. Developer and every owner of a Lot which is subject to an assessment shall be a member of a nonprofit, nonstock corporation called the Persimmon Ridge Homeowners Association, Inc. (the "Association"). Such owner and member shall abide by the Association's Articles of Incorporation, Bylaws, rules and regulations, shall pay the assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's Board of Directors. Conveyance of a Lot (except a conveyance to a mortgagee) automatically transfers membership in the Association without necessity of further documentation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes of Membership. The Association shall have two classes of voting membership:

(a) The membership of the Association shall be classified as follows:

- (1) Class A membership shall consist of all Lot owners, with the exception of the Developer.
- (2) Class B membership shall consist of the Developer and/or any other legal entity or entities owning the Golf Course or the related golfing amenities such as the clubhouse and practice areas, and, in the event a second golf course is developed on the Additional Land, the legal entity owning such golf course, if a different entity.

(b) Each Class A member and each Class B member shall have one vote in respect of each Lot owned by such member, but the right of Class A members to vote may be exercised only in accordance with subparagraphs (c) and (d). For purposes of determining Lot ownership and voting rights of Class B members, the following shall apply: (i) until such time as the Additional Land is actually subdivided into Lots, the Additional Land shall, for purposes of voting, be deemed to consist of 327 Lots, all of which are owned by the Developer; and (ii) upon the subdivision of the Additional Land, or any portion thereof, into Lots, then for purposes of voting, the Additional Land shall be deemed to consist of 327 Lots minus any Lots subdivided from the Additional Land sold by the Developer; and (iii) each 18 hole golf course shall, for purposes of voting, be deemed to consist of 100 Lots. If any Class B member owns, or is deemed to own, no Lots, such member shall have one vote.

(c) Except as provided in subparagraph (d), Class A members shall not be entitled to exercise any vote until the earlier of:

- (1) When, in its discretion, Developer so determines; or
- (2) When none of the proposed 350 single family residential Lots is owned by the Developer or
- (3) January 1, 2010.

(d) Notwithstanding the provisions of subparagraphs (b) and (c), each Class A member and each Class B member, shall have one vote for each Lot owned by such member on all matters pertaining to the use and operation of the sewage treatment facility constructed to serve the Lots, the Additional Land and the Golf Course.

Section 3. Rights and Obligations of the Association. The Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the common areas, including, without limitation, any open spaces, entranceways, streets, medians (even where located in publicly dedicated rights-of-way), sidewalks, crosswalks, storm drains, basins, recreational facilities (other than the Golf Course) and landscaping located therein. All rights reserved by Developer in this Declaration shall automatically pass to the Association when Class B membership ceases pursuant to Article III, Section 2.

ARTICLE IV -- ASSESSMENTS

Section 1. Assessments; Creation of the Lien and Personal Obligation. Each Lot owner, except Developer and the Association, by acceptance of a deed for the Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article IV. Developer shall be responsible for the maintenance costs of the Association incurred over and above assessed amounts payable to the Association by the Lot owners, until Class B membership is converted to Class A membership pursuant to Article III Section 2(b). When Class B membership in the Association is converted to Class A membership, Developer shall pay assessments to the Association for each Lot Developer owns in the same manner and amount as every other Lot owner pays assessments. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the property and shall be a continuing lien upon the property against which each such

assessment is made. Such lien may be enforced by foreclosure in the manner that mortgages are foreclosed. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(e) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and, in particular, for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, or for the use and enjoyment of the common areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the common areas and sanitary sewer facilities leased by the Association, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys, accountants and other professionals to represent the Association when necessary, and such other needs as may arise, and for the improvement and maintenance of the common areas.

(f) Until Class B membership ceases and is converted to Class A membership pursuant to Article III, Section 2(b), Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting the Property, as permitted in this Declaration.

Section 3. Maximum Annual Assessment.

(a) Until January 1, 1991, the maximum annual assessment shall be set at a rate not to exceed a maximum of \$20 per month per Lot, plus costs of maintenance, operation and use of the sewer treatment facilities. From and after January 1, 1991, except for sewer charges, the maximum annual assessment may not be increased each year by more than 25% of the maximum assessment for the previous year without an affirmative vote of two-thirds of each class of members pursuant to the Bylaws.

(b) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum. The Board of Directors shall determine when the assessments shall be paid.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in

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whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common areas, including fixtures and personal property related thereto. Any such assessment shall have the assent of the members of the Association in accordance with the Bylaws.

Section 5. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots, except those owned by Developer during the period when Class B membership exists in the Association as provided in Section 1 of this Article. The Board of Directors may at its discretion waive the assessment for any year or part of a year for any Lot not occupied as a residence.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall begin as to any Lot subject to the assessment on the first day of the month next following the date on which title to the Lot is conveyed to the owner, subject to the waiver provided in Section 5 of this Article. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year when title to the Lot is transferred. The Board of Directors of the association shall determine the dates when assessments are due.

Section 7. Effect of nonpayment of Assessment; Remedies of the Association. Any assessment not paid by the due date shall be subject to late charge as determined by the Board of Directors of the Association. The Association may bring an action at law against the owner personally obligated to pay the assessment or foreclose the lien against the property, and interest, costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessments. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first or second mortgage. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any Lot pursuant to a first or second mortgage foreclosure or any proceeding in lieu thereof 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 owner from liability for any assessments thereafter becoming due or relieve such Lot from the lien for any assessments thereafter becoming due.

ARTICLE V -- USE RESTRICTIONS

Section 1. Primary Use Restrictions. No Lot shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any Lot except one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half stories in height as measured from the front elevation of the Lot.

Section 2. Nuisances. No noxious or offensive trade or activity (including without limitation the emission of noxious lights, noises or odors) shall be conducted on any Lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 3. Interference with Play on Golf Course. Owners of Lots bordering on fairways of the Golf Course shall be obligated to refrain from any actions which would detract from the playing qualities of the course. During any golf tournament which is sanctioned by any professional golfers' association or any international, national or state amateur golf organization, owners of Lots bordering fairways shall suspend all construction activity, lawn maintenance and all other abnormally noisy activities which may cause disturbance to the play on the Golf Course.

Section 4. Use of Other Structures and Vehicles.

(a) No structure of a temporary character including, without limitation, an outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a Lot shall be permitted on any Lot except temporary tool sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed, and no such structure shall at any time be used as a residence, temporarily or permanently.

(b) No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any Lot at any time unless housed in a garage or basement, or kept in the backyard in such a manner as not to be intrusive on neighboring Lots and so as not to be visible from the Golf Course. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street in the subdivision. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in the subdivision for a period in excess of twenty-four hours in any one calendar year.

(c) No automobile shall be continuously or habitually parked on any street in the Property.

Section 5. Animals. No animals, including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, provided they are not kept, bred or maintained for any commercial or breeding purposes. Any pets must be kept on the owner's Lot or within owner's control when not on owner's Lot.

Section 6. Clothes Lines; Fences and Walls, Tennis Courts; Swimming Pools; Antennae and Receivers/Transmitters.

(a) No outside clothes lines shall be erected or placed on any Lot.

(b) No fence or wall of any nature may be extended toward the front or street side property line beyond the front or side wall of the residences. As a "structure" no fence or wall of any nature may be erected, placed or altered on any Lot until construction plans are approved in writing by Developer pursuant to Article VI, Section 1.

(c) No tennis court shall be erected on any Lot unless its design and placement are approved in writing by Developer.

(d) No in-ground swimming pool shall be erected or placed on any Lot from the date hereof unless its design and placement are approved in writing by Developer. No above-ground swimming pools shall be permitted.

(e) No antennae or microwave and other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any Lot unless its design and placement are approved by Developer.

Section 7. Duty to Maintain and Rebuild.

(a) Each owner of a Lot shall, at its sole cost and expense, repair his residence, keeping the same in condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

(b) Each owner of a Lot shall keep the grass on the Lot properly cut, shall keep the Lot free from weeds and trash, and shall keep it otherwise neat and attractive in appearance. Should a Lot owner fail to do so, the Developer or the Association may take such action as it deems appropriate in order to make the Lot neat and attractive. The owner of that Lot shall, immediately

upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest. Developer shall have a lien on that Lot and the improvements thereon equal in priority to the lien for assessments provided in Article IV, Section 1 to secure the repayment of such amounts. Such lien may be enforced by foreclosure.

(c) If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then the owner shall, with all due diligence, promptly rebuild, repaired, or reconstruct such residence in a manner which will substantially restore it to its apparent condition immediately prior to the casualty. Alternatively, the Lot owner shall completely raze the residence and sod or seed the entire Lot until such time as construction of a new residence is begun.

Section 8. Business; Home Occupations. No trade or business of any kind (and no practice of medicine, dentistry, chiropraxy, osteopathy and other like endeavors) shall be conducted on any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Section 1 of this Article, a new house may be used by the builder thereof as a model home for display or for the builder's own office provided said use terminates within eighteen months from completion of the house or upon such additional period of time as may be expressly agreed to in writing by Developer.

Section 9. Signs. No sign for advertising or for any other purpose shall be displayed on any Lot or on a building or a structure on any Lot except two signs (one located in the front yard and one located in the rear yard) for advertising the sale thereof, each of which shall not be greater in area than nine square feet; provided, however, Developer shall have the right to (i) erect larger signs when advertising the Property, (ii) place signs on Lots designating the Lot number of the Lots, and (iii) following the sale of a Lot, place signs on such Lot indicating the name of the purchaser of that Lot. This restriction shall not prohibit placement of occupant name signs and Lot number as allowed by applicable zoning regulations.

Section 10. Drainage. Drainage of each Lot shall conform to the general drainage plans of Developer for the Property. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each Lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

Section 11. Obligation to Construct or Reconvey. Every Lot owner shall, within one year after the date of conveyance of a Lot without a dwelling thereon, commence in good faith the

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construction of a single family dwelling approved according to Article VI, Section 1, upon each Lot conveyed. If construction does not commence within the specified period of time, Developer may elect to repurchase any and all Lots on which construction has not commenced for 100% of the purchase price, without interest, of said Lot or Lots hereunder sold by Developer in which event the Lot owner shall immediately reconvey and deliver possession of said Lot or Lots to Developer by deed of special warranty. If Developer has not exercised this right to repurchase within three years from the date such right vest in Developer, the Developer's right to repurchase shall cease.

Section 12. Underground Utility Service.

(a) Each property owner's electric, water, sewer, gas, cable television and general utility service lines shall be underground throughout the length of service line from the utility company's point of delivery to the customer's building; and the cost of installation and maintenance thereof shall be borne by the respective Lot owner upon which said service line is located.

Appropriate easements are hereby dedicated and reserved to each property owner, together with the right of ingress and egress over abutting Lots or properties to install, operate and maintain electric, water, sewer, gas, cable television and general utility service lines to the utility company's termination points. Service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment therein and no change in the grade or elevation thereof shall be made by any person or Lot owner without the express written consent of the utility company or the telephone company.

(b) Above-ground electric transformers and pedestals may be installed at appropriate points in any electric easement.

In consideration of bringing service to the Property, the utility companies providing utility services to the Property are granted the right to make further extensions of its lines from all overhead and underground distribution lines.

Section 13. Rules for Common Area. The Association is authorized to adopt rules for the use of Persimmon Ridge common area and such rules shall be furnished in writing to the Lot owners.

ARTICLE VI -- ARCHITECTURAL AND LANDSCAPE CONTROL

Section 1. Approval of Construction and Landscape Plans.

(a) No structure may be erected, placed or altered on any Lot until the construction plans and building specifications and a plan showing (i) the location of improvements on the Lot; (ii) the grade elevation (including rear, front and side elevations); (iii) the type of exterior material (including delivery of a sample thereof); (iv) the colors of roofs, trim and other exterior surfaces; and (v) the location and size of the driveway (which shall be either asphalt or concrete) shall have been approved in writing by the Developer.

(b) In addition to the plans referred to in the previous paragraph, a landscape plan shall be submitted to the Developer for its approval in writing, which plan shall include (i) the trees, shrubs and other plantings and (ii) the measures (such as location of dirt storage during construction) which shall be utilized to preserve vegetation scheduled to remain after construction. Thereafter, no additional trees, shrubs or other plantings may be placed on any yard area of a Lot until a supplementary landscape plan has been submitted to Developer for its approval in writing. No tree measuring six inches or more in diameter may be removed without the written approval of Developer.

(c) References to "Developer" shall include any entity, person or association to whom Developer may assign the right of approval. When Developer no longer owns any Lots in the Property, this right of approval shall automatically be assigned to the Association. References to "structure" in these restrictions shall include any building (including a garage), fence, wall, antennae and microwave and other receivers and transmitters (including those currently called "satellite dishes").

Section 2. Building Materials. The exterior building material of all structures shall extend to ground level and shall be either brick veneer or stone veneer, a combination on same or other material approved by Developer.

Section 3. Minimum Floor Areas. The following shall be the minimum floor areas for homes to be constructed after this instrument is recorded:

(a) The total floor area of a one story ranch house shall be a minimum of 2300 square feet.

(b) The total floor area of a two story house shall be a minimum of 2400 square feet. In addition, the ground floor area of a two story house shall be a minimum of 1100 square feet.

(c) The total floor area of any other house shall be a minimum of 2300 square feet and in a configuration acceptable to Developer.

(d) Finished basement areas, garages and open porches are not included in computing floor areas.

Section 4. Setbacks. No structure shall be placed on any Lot nearer to the front, side, or rear Lot lines than minimum building setback lines shown on the recorded plat, if any, or such more restrictive setback requirements as shall then exist under, applicable zoning regulations for single family residential zoning. Developer may vary the established building lines or permit encroachments into such areas, in its sole discretion, where not in conflict with applicable zoning regulations.

Section 5. Garages; Carports.

(a) Unless otherwise approved in writing by Developer, all Lots shall have at least a two car garage which (i) shall be attached to the residence it serves and (ii) shall not have a vehicle entrance facing the front yard or the rear yard of the residence it serves. Garages, as structures, are subject to prior plan approval under Section 1 hereof.

(b) No carport shall be constructed on any Lot.

Section 6. Landscaping; Sidewalks; Driveways.

(a) After the construction of a residence, the Lot owner shall grade and sod that portion of the Lot between the front and street side walls of the residence and the pavement of any abutting streets.

(b) Each Lot owner shall concrete or asphalt the driveway within three months after completion of a single family dwelling; provided, however, that portion of the driveway from the pavement of any abutting street to the sidewalk shall be concrete, broom finish.

(c) Upon an owner's failure to comply with the provisions of this Section 6, Developer may take such action as necessary to comply therewith, and the owner shall immediately, upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer shall have a lien on that Lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced in the same manner and with the same priority that the lien for annual and special assessments may be enforced.

Section 7. Mail and Paper Boxes. All mail and paper boxes shall be of a uniform design as determined by Developer and shall be of a uniform design as determined by Developer and shall be installed in accordance with Developer's specifications.

Section 8. Changes. No materials or colors approved by the Developer shall be changed without the prior written approval of the Developer.

ARTICLE VI -- GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any owner, by the Association, or by Developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. Failure of any owner, the Association, or Developer to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions Run With Land. Unless cancelled, altered or amended under the provisions of this paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten years, unless an instrument signed by a majority of the then owners of all Lots subject to this Declaration has been recorded agreeing to change these restrictions and covenants in whole or in part. These restrictions may be cancelled, altered or amended at any time by a written instrument signed by the owners of the Lots with 75% of the votes in the Association and recorded in the Shelby County Clerk's office, provided, however, with respect to the Golf Course easement contained in Article II, Section 5, no amendment shall be effective to modify such easement unless consented to by the owner of the Golf Course. No amendment shall be effective to release the Association from its responsibility to maintain any medians located in publicly dedicated rights-of-way or to maintain other areas dedicated to the public, unless a successor is appointed and accepts such responsibilities.

Section 4. Amendments to Articles and Bylaws. Nothing in this Declaration shall limit the right of the Association to

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amend, from time to time, its Articles of Incorporation and Bylaws.

Section 5. Non-Liability of the Directors and Officers.

Neither Developer or the directors or officers of the Association shall be personally liable to the owners for any mistake or judgment or for any other acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successors and assigns in accordance with the Bylaws. This indemnification shall include, without limitation, indemnification against all costs and expenses (including attorney fees, amounts of judgments paid and amounts paid in settlement) incurred in connection with any claim, action, suit or proceeding whether civil, criminal, administrative or other.

Section 6. Board's Determination Binding.

In the even of any dispute or disagreement between any owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration or the Bylaws, the determination thereof by the Board of Directors of the association shall be final and binding on each and all such owners.

Section 7. Compliance with Other Laws.

Nothing herein shall limit application of any zoning regulation or any ordinance and where such regulation or ordinance conflicts with this Declaration, the more restrictive shall prevail. No approval given by Developer shall be deemed a representation by Developer that the matter approved complies with any law, ordinance or regulation of any governmental entity having jurisdiction.

WITNESS the signature of Developer by its duly authorized officer as of DECEMBER 11, 1989.

PERSIMMON RIDGE GOLF COURSE, INC.,
a Kentucky corporation

By: _____

Elmer A. Just
President

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112889:12:ASJ
Declaration

STATE OF KENTUCKY)
)
COUNTY OF SHELBY)

The foregoing instrument was acknowledged before me on
DECEMBER 11, 1989 by Edmore H. Just, President of
PERSIMMON RIDGE GOLF COURSE, INC., a Kentucky corporation, on
behalf of the Corporation.

Fielding E. Ballantyne
Notary Public

My Commission Expires: 3-15-92

This instrument prepared by:

Alfred S. Joseph, III
STITES & HARBISON
600 West Main Street
Louisville, Kentucky 40202

FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Persimmon Ridge Golf Course is made on March 7, 1991, by PERSIMMON RIDGE GOLF COURSE, INC., a Kentucky corporation ("Developer").

WHEREAS, Developer owns certain real property in Shelby County, Kentucky, part of which is being developed as a residential subdivision and part of which has been developed as a golf course;

WHEREAS, Developer has declared pursuant to a Declaration of Covenants, Conditions and Restrictions dated December 11, 1989, and of record in Book 260, Page 497 in the office of the Shelby County, Kentucky Clerk (the "Declaration"), that all of the property described in Article I, Section 1 thereof, and such additions as may be made pursuant to Article I, Section 2 thereof (the "Property"), shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions contained therein, for the purpose of protecting the value and desirability of the Property, which easements, restrictions, covenants and conditions run with the Property and are binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner.

WHEREAS, the Developer desires to amend the Declaration in certain respects, which amendment is authorized by Article VI, Section 3 of the Declaration, provided such amendment is signed by the owners of the Lots with 75% of the votes in the Association and recorded in the Shelby County, Kentucky Clerk's office.

WHEREAS, the Developer owns Lots with more than 75% of the votes in the Association.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Amendment to Article I, Section 1. The last sentence of Article I, Section 1 is amended so that, as amended it shall read as follows:

"Such lots, as well as any additional lots subjected to this Declaration pursuant to Section 2 of this Article I, jointly may sometimes hereafter be referred to as the "Development" or individually as a "Lot" and, for purposes of determining membership in the Association described in Article III hereof (but not for the purposes of the assessments referred to in Article IV hereof), the term "Lot" shall also be deemed to refer to include each 18 hole golf course located upon the Additional Land, whether owned by the Developer or an entity different than the Developer."

2. Amendment to Article I, Section 3. Article I, Section 3 is hereby amended so that, as amended, it shall read as follows:

"This Article shall not be amended without the written consent of Developer, as long as Developer owns any of the Additional Land, and the owner of the 18 hole golf course known as "Persimmon Ridge Golf Course" opened for play in June, 1989 (the "First Golf Course"), if other than Developer.

3. Amendment to Article II, Section 5. Article II, Section 5 is amended so that, as amended it shall read in its entirety as follows:

An easement is declared, granted and established over, upon and along such portions of the Lots, including, but not limited to, a distance of 25 feet from the property line of the Lot adjacent to the First Golf Course, to permit the doing of every act necessary and proper to playing of golf on, and maintenance of, the First Golf Course and any other golf course or courses (whether or now hereafter constructed and developed) (collectively the "Golf Course") adjacent to the development. These acts shall include, but not be limited to, the recovery of golf balls, the flight of golf balls, the use of necessary and usual equipment upon such Golf Course, the usual and common noise level created by the playing of the game of golf, traversing by golfers, caddies, galleries and spectators, and all other normal and usual activities associated with the game of golf; provided, however, that actual golf play or shot-making shall not be permitted upon the land designated in this easement. Notwithstanding anything in the Declaration to the contrary, the easement herein declared, granted and established shall run with the Land as herein provided, but shall terminate at such time as the Golf Course ceases to be used as a Golf Course. Upon written request of the Association, the owner of the First Golf Course shall have the right and duty to prescribe in writing the manner and extent to which the rights under this easement shall be exercised and the right to amend the same from time to time. No Owner shall by ownership of any Lot, have any ownership right in membership or right or license to use the Golf Course. Further, Lot owners shall not

trespass upon the First Golf Course or any other golf course or courses, including, without limitation, running, walking, or bicycling on any part of any golf course, including, without limitation, cart paths, whether or not the golf course is open for operation.

4. Amendments to Article III, Section 1 and Section 2. Article III, Section 1, is amended so that, as amended, the first sentence shall read as follows:

"Section 1. Membership. Developer, the owner of each 18 hole golf course located upon the Additional Land (if such owning person or entity is different from Developer), and every owner of a Lot which is subject to assessment shall be a member of a nonprofit, nonstock corporation called the Persimmon Ridge Homeowners Association, Inc. (the "Association")."

Article III, Section 2(b)(iii) is amended to read as follows:

"(iii) each 18 hole golf course shall for purpose of voting, be deemed to consist of 10 lots."

5. Amendment to Article IV, Section 1. Article IV, Section 1 is hereby amended so that, as amended, it shall read in its entirety as follows:

"Section 1. Assessments; Creation of the Lien and Personal Obligation. Each Lot owner, except Developer and the Association, but including the owner (if other than the Developer) of the First Golf Course by acceptance of a deed for the Lot, or the First Golf Course, as the case may be, whether or not it shall be so expressed in any such deed, covenants and agrees to pay to the Association (i) annual assessments or charges, (the "Annual Assessments") (ii) special assessments for capital improvements (the "Capital Assessments"), and (iii) assessments for the costs of maintenance and operation and/or use of the sewer collection, treatment and disposal facilities and all fixtures, appurtenances, connections, trunk, effluent, and other lines, lateral sewers, pumping stations, force mains and all other parts of the collection, treatment and disposal system (collectively,

the "Sewer Treatment Facilities Charge"), all such assessments (the "Assessments") to be established and collected as provided in this Article IV. Developer shall be responsible for all costs defined in Article IV, Section 1, subparagraph (iii) above and Article IV, Section 2 subparagraph (a) below of the Association incurred over and above assessed amounts payable to the Association by the Lot owners and the Owner of the First Golf Course, until such time as Class A members are entitled to exercise their right to vote pursuant to Article III, Section 2(c) (the "General Voting Date"). From and after the General Voting Date, Developer shall pay Assessments to the Association for each Lot Developer owns in the same manner and amount as every other Lot owner pays Assessments; provided, however, that the Developer shall not pay any Annual Assessment or Capital Assessment for the 10 Lots per golf course the Developer or any other owner (if other than the Developer) of the First Golf Course or any other golf course, is deemed to own for voting purposes by virtue of owning any such golf course. The Annual Assessments, Capital Assessments, and the Sewer Treatment Facilities Charge, together with interest, costs and reasonable attorney fees, shall be a charge on the property and shall be a continuing lien upon the property against which each such assessment is made. Such lien may be enforced by foreclosure in the manner that mortgages are foreclosed. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due."

6. Amendment to Article IV, Section 2. Article IV, Section 2 is hereby amended so that, as amended, it shall read in its entirety as follows:

"Section 2. Purpose of Assessments.

(a) The Annual Assessments levied by the Association shall be used exclusively for the use, enjoyment, improvements and maintenance of the common areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, and

payment of taxes assessed against the common areas; for the procurement and maintenance of insurance in accordance with the Bylaws; for the employment of attorneys, accountants and other professionals to represent the Association when necessary, and such other needs as may arise.

(b) Until the General Voting Date or such earlier date as Developer shall determine, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes permitted in this Declaration."

7. Amendment to Article IV, Section 3. Article IV, Section 3 is hereby amended so that, as amended, it shall read in its entirety as follows:

"(a) Until January 1, 1991, the maximum Annual Assessment per Lot, shall not exceed a maximum amount of \$20.00 per month. From and after January 1, 1991, the maximum Annual Assessment per Lot may not be increased in any year by more than 25% of the maximum Annual Assessment for the previous year without the affirmative vote of two-thirds of each class of members pursuant to the Bylaws. For purposes of the foregoing Annual Assessment the owner of the First Golf Course, if not the Developer, shall be deemed to own 10 Lots.

(b) The Sewer Treatment Facilities Charge shall be allocated to the Developer, to the owner of the First Golf Course if other than the Developer, and to each Lot in proportion to the actual quantity of water, measured in gallons, delivered to each Lot, to the First Golf Course, and to any other golf course by the North Shelby Water Company, or its successor, as measured through the water meter(s) serving such Lot, and for the purpose of determining such allocation and usage, the owner of each Lot shall make available to the Association, from time to time, at the Association's request, its records of such usage; provided, however, that any water used for irrigation of the First Golf Course or of any other golf course shall be separately metered and excluded from this allocation. The Sewer Treatment Facilities Charge shall be based on a rate not to exceed the amount such

Lot owner, or owner of the First Golf Course and any other golf course would pay for water and sewer services actually received if charged at the greater of (i) the rate for comparable service set forth in the Louisville and Jefferson County Metropolitan Sewer District's (or its successor's) Schedule of Rates, Rents and Charges or similar schedule, or (ii) the rate for comparable service then in effect for sanitary sewer service provided by the public utility providing such service generally in Shelbyville and/or in Shelby County, Kentucky and, if more than one such public utility, the average of such rates.

(c) The Board of Directors of the Association may fix the Annual Assessment at an amount not in excess of the maximum set forth in subparagraph (a) above and shall set the Sewer Treatment Facilities Charge as required in subparagraph (b). The Board of Directors shall determine when the Annual Assessments shall be paid, and may require that such Annual Assessments be paid annually within thirty (30) days of receipt of an invoice for the same and may require the Sewer Treatment Facilities Charge to be paid monthly."

8. Amendment to Article IV, Section 4. Article IV, Section 4 is hereby amended so that, as amended, it shall read in its entirety as follows:

"In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Capital Assessment for capital improvements applicable to that year only for the purposes of defraying, in whole or in part costs for capital improvements. "Capital improvements" shall mean and refer to the capital cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common areas or the sanitary sewer treatment system, including fixtures and personal property related thereto; provided, however, that no Capital Assessment may be levied to increase the capacity of or extend lines for the sanitary sewer treatment system. Any such Capital Assessment in excess of \$500.00 per Lot per year shall require the affirmative vote of seventy-five percent of each Class of the members of the Association. For purposes of the foregoing Capital

Assessment, the owner of the First Golf Course, if other than the Developer, shall be deemed to own ten (10) Lots."

9. Amendment to Article V, Section 3. Article V, Section 3 is amended so that, as amended it shall read in its entirety as follows:

Owners of Lots bordering the Golf Course shall be obligated to refrain from any actions which would detract from the playing qualities of the course. During any golf tournament which is sanctioned by any professional golfers' association or any international, national, or state amateur golf organization, owners of Lots bordering the Golf Course shall suspend or cause contractors and subcontractors to suspend all construction activity, lawn maintenance and all other abnormal noisy activities which may cause disturbance to the play on the Golf Course. At all other times, owners of Lots adjacent to the Golf Course shall refrain from any harassing or obnoxious activity directed at players on the course, including, yelling, directing obscenities to players or playing loud music from any source which, in the sole discretion of the owner of the First Golf Course, may cause disturbance to the play on the Golf Course.

10. Amendment to Article V, Section 5. The last sentence of Article V, Section 5 is amended so that, as amended it shall read as follows:

Any pets must be kept on the owner's Lot or within owner's control and on a leash or other physical restraint when not on the owner's Lot.

11. Amendment to Article V, Section 7. Article V, Section 7 is amended by the addition of a new subparagraph (d) which shall read as follows:

(d) Each owner of Lot shall refrain from discarding any waste or other materials on any part of the Golf Course, including without limitation, grass clippings and leaves.

12. Amendment to Article VI, Section 1(c): Article VI, Section 1(c) is amended so that, as amended, it shall read in its entirety as follows:

References to "Developer" shall include any entity, person or association to whom Developer may assign the right of approval. When

Developer no longer owns any Lots in the Property, this right of approval shall automatically be assigned to an architectural review board to be created by the Association. The owner of the First Golf Course shall have the right on an annual basis, but not the obligation, to designate a member, including itself, to be on the architectural review board; provided, however, that if the owner of the First Golf Course does not designate a member in any one year it shall not waive its rights hereunder to make an appointment in subsequent years. References to "structure" in these restrictions shall include any building (including a garage), fence, wall, and microwave and other receivers and transmitters (including those currently called "satellite dishes").

13. Amendment to Article VII, Section 3. Article VII, Section 3 is amended so that, as amended it reads in its entirety as follows:

Unless cancelled, altered or amended under the provisions of this paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming unto them for a period of 30 years from the date this document is recorded, after which time they shall be extended automatically for successive periods of 10 years, unless an instrument is signed by (i) the majority of the then owners of all Lots subject to this Declaration and, (ii) the owner of the First Golf Course, has been recorded agreeing to change these restrictions and covenants in whole or in part. These restrictions may be cancelled, altered, or amended at any time by written instrument signed by (i) the owners of the Lots with 75% of the votes in the Association and (ii) the owner of the First Golf Course, which is recorded in the Shelby County Clerk's office. No amendment shall be effected to release the Association from its responsibility maintaining the easements located and publicly dedicated rights of way or to maintain other areas dedicated to the public, unless a successor is appointed and accepts such responsibilities.

14. Amendment to Article VII, Section 6. Article VII, section 6 is hereby amended so that, as amended, it shall read in its entirety as follows:

In the event of any dispute or disagreement between any owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration, or the Bylaws, the determination thereof by the Board of Directors of the Association shall be final and binding on each and all such owners, provided that the owner of the First Golf Course agrees with such determination if it relates to the First Golf Course.

15. Amendment to Numerical Designation of Article entitled "General Provisions." The numerical designation of the Article entitled "General Provisions" is amended from "VI" to "VII."

16. No Other Amendments. Except as specifically amended by this First Amendment to Declaration, the Declaration shall continue in full force and effect.

IN TESTIMONY WHEREOF, Witness the signature of the Developer this 2nd day of March, 1991.

PERSIMMON RIDGE GOLF COURSE, INC.

By: Shore A. Just
Title: President

COMMONWEALTH OF KENTUCKY)
COUNTY OF JEFFERSON) SS.

The foregoing instrument was acknowledged before me this 2nd day of March, 1991, by Shore A. Just as President of Persimmon Ridge Golf Course, a Kentucky corporation, on behalf of the corporation.

My commission expires: Oct. 29, 1991.

Teresa C. Buchheit
Notary Public

THIS INSTRUMENT PREPARED BY:

Teresa C. Buchheit

Teresa C. Buchheit
OGDEN, STURGILL & WELCH
1200 One Riverfront Plaza
Louisville, KY 40202
(502) 582-1601

AMENDMENT ANNEXING REAL PROPERTY

THIS DECLARATION AND AMENDMENT ANNEXING REAL PROPERTY for Persimmon Ridge Golf Course, Inc., a Kentucky corporation, hereinafter referred to as Developer.

WHEREAS, Developer owns certain real property in Shelby County, Kentucky, which is to be developed as a residential subdivision, and

WHEREAS, Developer has restricted a portion of this said real property by a Declaration of Covenants, Conditions and Restrictions of record in Deed Book 260, Page 497, Shelby County Clerk's Office and which was amended by Declaration of record in Deed Book 269, Page 499, and Deed Book 268, Page 563, Shelby County Clerk's Office, and

WHEREAS, Developer desires pursuant to Article I, Section II (a) to annex additional land which is subject to the Declaration of Restrictions and subsequent Amendments.

NOW, THEREFORE, Developer declares the following property to be subject to, the said Declarations and subsequent amendments which is located in Shelby County, Kentucky, and more particularly described as follows:

Being Lots 1 through 29 inclusive, as shown on the plat of Persimmon Ridge, Phase 1, of record in Plat Cabinet 2, Slide _____, in the Office of the Clerk of Shelby County, Kentucky.

Being part of the same property acquired by the Developer by deed dated July 27, 1988, or record in Deed book 251, Page 402, in said Clerk's Office.

WITNESS, the signature of Developer by its duly authorized officer, this _____, 1991.

PERSIMMON RIDGE GOLF COURSE, INC.,
a Kentucky corporation

By: _____


008251

BOOK 0288 PAGE 521

AMENDMENT ANNEXING REAL PROPERTY

THIS DECLARATION AND AMENDMENT ANNEXING REAL PROPERTY for Persimmon Ridge Golf Course, Inc., (dba Persimmon Ridge Development), a Kentucky corporation, hereinafter referred to as Developer:

WHEREAS, Developer owns certain real property in Shelby County, Kentucky, which is to be developed as a residential subdivision, and

WHEREAS, Developer has restricted a portion of this said real property by a Declaration of Covenants, Conditions and Restrictions, of record in Deed Book 260, Page 497, Shelby County Clerk's Office and which was amended by Declaration of record in Deed Book 269, Page 499, Shelby County Clerk's Office and

WHEREAS, Developer desires pursuant to Article I, Section II(a) to annex additional land which is subject to the Declaration of Restrictions and subsequent Amendment mentioned above.

NOW, THEREFORE, Developer declares the following property which is located in Shelby County, Kentucky, to be subject only to the above mentioned Declarations and subsequent amendment. Said property is more specifically described as follows:

Being Lots 58 through 84 inclusive, which lots constitute all of Phase I-B as shown on the plat of Persimmon Ridge Development, Phase I-B, of record in Plat Cabinet ___, Slide ___, in the Office of the Clerk of Shelby County, Kentucky.

Being part of the same property acquired by the Developer by deed dated July 27, 1988, of record in Deed Book 251, Page 402, in said Clerk's Office.

WITNESS, the signature of Developer by its duly authorized officer, this 11th day of March 1993.

PERSIMMON RIDGE GOLF COURSE, INC.
(dba Persimmon Ridge Development)
a Kentucky Corporation

By 

STATE OF KENTUCKY

COUNTY OF SHELBY

The foregoing instrument was acknowledged before me on _____, 1991 by _____, an officer of PERSIMMON RIDGE GOLF COURSE, INC., a Kentucky corporation, on behalf of the Corporation.

Notary Public

My Commission Expires: _____

STATE OF KENTUCKY

COUNTY OF SHELBY

The foregoing instrument was acknowledged before me on 3/11, 1993,
by Lauren A. Just, an officer of Persimmon Ridge Golf Course,
Inc., a Kentucky corporation, on behalf of the corporation.

Barbara C. Gordon
Notary Public, State of Kentucky

My Commission Expires: 1-2-94



BY _____
SUE CYNOLLE PERRY
SHELBY COUNTY CLERK
D.C.

1993 MAR 12 A 9:43

REC'D ST. CLERK
SHELBY COUNTY CLERK
10.50