Prepared By:

Gail P. Pigg, Attorney
219 Second Avenue, North
First Floor Suite
Nashville, TN 37201

Bk 26

BOOK 8060 PAGE 765

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

OF

CHEYENNE TRACE

A RESIDENTIAL PLANNED UNIT DEVELOPMENT

THIS DECLARATION, made on the date hereinafter set forth by K K & H Development Co., a joint venture, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Madison, County of Davidson, State of Tennessee, which is more particularly described as:

> The Cheyenne Trace Residential Planned Unit Development of record in Plat Book 7900, Page 95, Register's Office for Davidson County, Tennessee. A metes and bounds description of said property is attached hereto as Exhibit "A".

NOW THEREFORE, Declarant hereby declares that all of the properties described above 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, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Cheyenne Trace Homeowners' Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

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

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

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on January 2, 1992

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's 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. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be twenty-five dollars ($25.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

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 whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 9 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to 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 from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term 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. This Declaration may be amended during

the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

ARTICLE VII

EASEMENTS

Section 1. Utilities, Etc. There is hereby granted a blanket easement upon, across, over and under the property subject to this Declaration or any portion thereof for ingress, egress, installation, replacing, repairing and maintaining cable television and all utilities, including but not limited to, water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility or cable television company to erect and maintain the necessary equipment to affix and maintain utility wires, circuits and conduits on, above, across and under said property or any portion thereof. The easements provided for in this Section shall in no way affect any other recorded easements on said property.

Section 2. There is hereby granted a blanket easement to the Association, its officers, directors, agents and employees, and to all policemen, firemen, ambulance personnel and all similar persons to enter upon the property subject to this Declaration or any portion thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights accompanying the easements provided for in this Section shall be execised only during reasonable daylight hours and then, whenever practicable, only after advance notice to and with the permission of the owner or owners directly affected thereby.

Section 3. Easement to Metropolitan Government.

The Common Open Space as hereinabove defined is subject to the Zoning Regulations of the Metropolitan Government of Nashville and Davidson County, being expressly Section 81.51 (a) (b) and (c) as follows:

(a) The Metropolitan Planning Commission and the Metropolitan County Council may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space, and such organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the Metropolitan Government of Nashville and Davidson County and the said dedication be approved by the Metropolitan Planning Commission. However, the conditions of any transfer shall conform to the adopted final master development plan.

(b) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of the planned unit development fail to maintain the common open space in reasonable order and condition in accordance with the adopted master development plan, the zoning administrator may serve written notice upon such organization and/or the owners or residents of the planned unit development and hold a public hearing. After thirty (30) days when deficiencies of maintenance are not corrected, the zoning administrator shall call upon any public or private agency to maintain the common open space for a period of one year. When the zoning administrator determines that the organization is not prepared for the maintenance for the common open space such agency shall continue maintenance for yearly periods.

(c) The cost of such maintenance by such agency shall be assessed proportionally against the properties within the planned unit development that have a right of enjoyment of the common open space, and shall become a lien on said properties.

ARTICLE VIII

USE AND BUILDING RESTRICTIONS

Section 1. Residential Purposes. All lots in Cheyenne Trace shall

be, and the same hereby are, restricted exclusively to residential use. No house trailer or mobile home shall be permitted on any lot at any time except for construction purposes during the construction period or as a temporary sales office for the sale of lots. No shack, garage, outbuilding or other appurtenant structure shall be used for residential purposes.

Section 2. Occupancy. Before any lot may be occupied as a residence, the improvements constructed or to be constructed thereon must be substantially complete.

Section 3. Building Materials. No lumber, brick, stone, cinder block, concrete or any other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on such lot for longer than that length of time reasonably necessary, in the sole discretion of the Association's Board of Directors, for the construction in which same is to be used.

Section 4. All residential buildings in Cheyenne Trace shall have masonry or concrete foundations. Materials and design for exterior construction must be seventy-five percent (75%) masonry.

Section 5. All ranch type residences in Cheyenne Trace shall consist of a minimum ground floor area, exclusive of garages and porches, of One Thousand (1,000) square feet; all two stories, shall consist of a minimum area of Seven Hundred (700) square feet on the first floor, exclusive of garages or porches and a minimum area of Five Hundred (500) square feet on the second floor. All one and one-half stories shall consist of a minimum area of seven hundred (700) square feet on the first floor, exclusive of garages or porches and a minimum area of five hundred (500) square feet on the second floor.

Section 6. Hobbies and Activities. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any part of any lot.

Section 7. Prohibited Activities. Noxious or offensive activities shall not be carried on upon any lot; no residence or other structure shall be

used for office or business purposes; and residents shall refrain from any act or use of their property which could reasonably cause embarrassment, discomfort or annoyance to owners and residents of other property made subject to this Declaration; no statuary may be constructed upon any lot without the prior approval of the Architectural Control Committee.

Section 8. Tanks. No exposed above-ground tanks will be permitted for the storage of fuel, water or any other substance.

Section 9. Clotheslines. Outside clotheslines will not be permitted on any lot.

Section 10. Signs. No signs shall be erected or maintained on any lot, except one professionally lettered, builder or realtor sign, or sign of the owner advertising the residence and lot for sale or rent. Such signs shall not be more than 24 x 36 inches in size.

Section 11. Exterior Maintenance of Lots and Improvements Thereon. All lots subject to this Declaration, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, grass, walks and other exterior improvements. Upon the failure or refusal of any owner to maintain his lot and the exterior of all improvements located thereon (including the cutting of grass and pruning of shrubs) in a neat and attractive condition, the Association's Board of Directors, its designated committees or its authorized agents or employees, may, after 14 days' notice to such owner entere upon such lot and perform such exterior maintenance as said Board or committee, in the exercise of its sole discretion, may deem necessary or advisable. Such owner shall be personally liable to the Association for the direct and indirect costs of such maintenance and the liability for such costs shall be a permanent charge and a lien upon such lot enforceable by such organization by any appropriate proceedings in law or in equity.

Section 12. There shall be no parking on the drive or street serving the development except for special occasions of short duration such as open houses, parties, etc., but at no time shall the drive be blocked so as to

impede easy vehicular ingress and egress. Any boat or motor home must be parked in the garage or concealed from public view by means approved by the Architectural Control Committee.

Section 13. No rugs, clothes or any other items shall be hung from the windows on the exterior side of improvements on any lot located within the development. No satellite television discs or exterior antennaes shall be installed or maintained on any lot.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 8th day of March, 1990.

K K & H DEVELOPMENT CO., A Joint Venture

BY: PERRYMAN CONSTRUCTION CO., INC.

by: Keith Perryman
Keith Perryman

BY: KARL E. HAURY CO., INC.

by: Karl E. Haury Jr.
Karl E. Haury, Jr.

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared Keith Perryman, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the President of Perryman Construction Co., Inc., and who further acknowledged Perryman Construction Co., Inc. to be a partner of K K & H Development Co., the within named bargainor, a partnership, and that he being authorized so to do, executed the foregoing instrument for the purpose therein contained for and in behalf of the partnership by signing the name of the corporation by the said Keith Perryman as President.

WITNESS MY HAND AND SEAL, at office in Nashville, Tennessee, this 8th day of March, 1990.

Notary Public

NOTARY PUBLIC STATE OF TENNESSEE LARGE

My Commission Expires: 10/9/91.

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared Karl E. Haury, Jr., with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the Vice President of Karl E. Haury Co., Inc., and who further acknowledged Karl E. Haury Co., Inc., to be a partner of K K & H Development Co., the within named bargainor, a partnership, and that he being authorized so to do, executed the foregoing instrument for the purpose therein contained for and in behalf of the partnership by signing the name of the corporation by the said Karl E. Haury, Jr. as Vice President.

WITNESS MY HAND AND SEAL, at office in Nashville, Tennessee, this 8th day of March, 1990.

Notary Public

My Commission Expires: 10/9/91.

89-058
3157
9/27/89

EXHIBIT "A"

BOOK 8060 PAGE 777

DESCRIPTION

CHEYENNE TRACE

A tract of land in the Second Civil District of Metro Nashville, Davidson County, Tennessee being more fully described as follows:

Beginning at a concrete monument on the east right-of-way line of Cheyenne Boulevard, a 60-foot road, that is 338.4 feet north of the north end of the northeast return curve at the intersection of Cheyenne Boulevard and Canton Pass, a 50-foot road, said monument is the northwest corner of Sequoia Valley as recorded in Book 4460, Page 83, R.O.D.C., Tennessee and proceeding as follows:

1. With the east right-of-way line of Cheyenne Boulevard N20°15'55"W, 428.46 feet to a concrete monument; thence,

2. 286.23 feet with the arc of a curve to the left that has a radius of 1230.00 feet and a chord bearing and distance of N26°55'55"W, 285.59 feet to a concrete monument at the southwest corner of Cumberland View Towers as recorded in Book 5200, Page 99, R.O.D.C., Tennessee; thence,

3. Leaving Cheyenne Boulevard with the south line of Cumberland View Towers N56°24'05"E, 559.44 feet to the low water mark of the Cumberland River; thence,

4. With the downstream meanders of the low water mark

S40°21'50"E, 173.04 feet;
S40°13'36"E, 194.04 feet;
S42°23'00"E, 174.73 feet;
S42°10'11"E, 138.01 feet;
S56°24'30"E, 319.02 feet; thence,

5. Leaving the Cumberland River with the north line of tract vested in Alvin R. Hawkins, et ux., et al as witnessed by deed recorded in Book 4486, Page 441, R.O.D.C., Tennessee and the north line of Sequoia Valley S72°51'01"W, 943.74 feet to the beginning and containing 566,368 square feet or 13.002 acres, more or less.

09355
IDENTIF. REFERENCE
MAR 8 1 45 PM '90
DAVIDSON COUNTY TN.
0732 03/08 0101 03CHECK 45.00

89-058
3157
9/28/89
Revised 2/26/90

EXHIBIT "B"

DESCRIPTION

COMMON AREA
CHEYENNE TRACE

A tract of land in the Second Civil District of Metro Nashville, Davidson County, Tennessee beinng more fully described as follows:

Beginning at a concrete monument on the east right-of-way line of Cheyenne Boulevard, a 60-foot road, that is 338.4 feet north of the north end of the northeast return curve at the intersection of Cheyenne Boulevard and Canton Pass, a 50-foot road, said monument is the northwest corner of Sequoia Valley as recorded in Book 4460, Page 83, R.O.D.C., Tennessee and proceeding as follows:

1. With the east right-of-way line of Cheyenne Boulevard N20°15'55"W, 202.63 feet to a concrete monument; thence,

2. 31.42 feet the the arc of a curve to the right that has a radius of 20.00 feet and a chord bearing and distance of N24°44'05"E, 28.28 feet to a concrete monument; thence,

3. S20°15'55"E, 125.00 feet to a concrete monument; thence,

4. S40°45'15"E, 85.75 feet to a concrete monument; thence,

5. N72°51'01"E, 218.03 feet to a concrete monument; thence,

6. N18°22'11"E, 14.37 feet to a concrete monument; thence,

7. N16°28'13"W, 129.08 feet to a concrete monument; thence,

8. N63°34'49"W, 164.23 feet to a concrete monument on the southeast right-of-way line of an unnamed 40-foot road; thence,

9. Northeastwardly, 15.01 feet with the arc of a curve to the left that has a radius of 120.00 feet and a chord bearing and distance of N26°54'13"E, 15.00 feet; thence,

10. Leaving said road S63°34'49"E, 81.00 feet to a concrete monument; thence,

11. N76°57'50"E, 52.59 feet to a concrete monument; thence,

12. N04°49'41"W, 191.83 feet to a concrete monument; thence,

13. N45°01'21"W, 125.00 feet to a concrete monument; thence,

14. S73°41'23"W, 63.65 feet to a concrete monument; thence,

15. S02°21'00"E, 83.90 feet to a point in the right-of-way of an unnamed court; thence,

EXHIBIT "B" CONTINUED

16. Northwestwardly, 8.34 feet with the arc of a curve to the left that has a radius of 40.0 feet and a chord bearing and distance of S81°40'15"W, 8.33 feet; thence,

17. N14°18'24"W, 77.04 feet to a concrete monument; thence,

18. S66°28'38"W, 72.00 feet to a concrete monument; thence,

19. S55°08'53"W, 25.45 feet to a concrete monument; thence,

20. S66°28'38"W, 106.00 feet to a point on the east right-of-way line of Cheyenne Boulevard, a 60-foot road; thence,

21. Northwardly, 15.00 feet with said line and the arc of a curve to the left that has a radius of 1230.00 feet and a chord bearing and distance of N23°41'21"W, 15.00 feet to a concrete monument; thence,

22. Leaving said road N66°28'38"E, 210.00 feet to a concrete monument; thence,

23. N36°31'15"E, 103.75 feet to a concrete monument; thence,

24. N31°20'41"W, 143.43 feet to a concrete monument; thence,

25. S58°14'36"W, 75.81 feet to a concrete monument; thence,

26. S18°12'09"W, 54.43 feet to a point on the north right-of-way line of an unnamed 40-foot radius turn-around; thence,

27. Northwestwardly, 10.00 feet with said line and arc of a curve to the left that has a radius of 40.00 feet and a chord bearing and distance of N78°57'34"W, 9.97 feet; thence,

28. Leaving said turn-around N03°52'43"E, 72.00 feet to a concrete monument; thence,

29. N33°35'55"W, 29.50 feet to a concrete monument; thence,

30. N56°24'05"E, 348.39 feet to the low water mark of the Cumberland River; thence,

31. With the downstream meanders of the low water mark

S40°21'50"E, 173.04 feet;
S40°13'36"E, 194.04 feet;
S42°23'00"E, 174.73 feet;
S42°10'11"E, 138.01 feet;
S56°24'30"E, 319.02 feet; thence,

32. Leaving the Cumberland River S72°51'01"W, 943.74 feet to the beginning and containing 366,760 square feet or 8.419 acres, more or less.