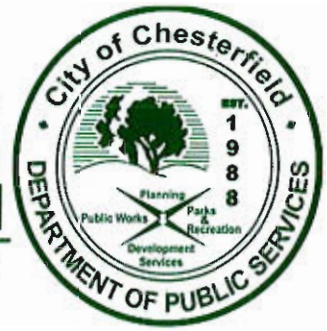


MEMORANDUM



DATE: May 11, 2015
TO: Michael Herring, City Administrator
FROM: Mike Geisel, ^{mos} Director of Public Services
RE: Shenandoah Subdivision – Park offer

✓ mgH
5/11/15

City Staff received a request from the trustees of Shenandoah subdivision, that the City consider accepting a tract of land owned by the subdivision for parks purposes. Specifically, the trustees refer to a 3.71 acre lot, immediately north of the Shenandoah Elementary School. This tract, while not technically described as common ground, is owned by the subdivision and is reserved for recreational and common usage. This specific tract of land is individually identified on the Final Development plan as a recreational site and as such is not subject further residential development. It is our understanding, that until recently, this parcel was used by the adjacent elementary school, but they have discontinued their use.

Attached hereto, are detailed analyses prepared by department staff in response to the request. In summary, for all intrinsic purposes, the parcel should be considered common ground and not subject to further development. It is not possible, given the current zoning, for this parcel to be developed as a residential property, thus losing the open space it affords. The responsibility for maintenance of this property is borne by the Shenandoah residents. Within this tract of land, there exists a detention basin, deteriorated storm sewers and a deteriorated walking trail. If the City Council desires to acquire the tract, it could be used for passive open space purposes, requiring investments to add amenities, repair existing hazards, repair storm sewers, and generally improve property. Under any circumstances, if acquired and improved, the use and benefits would be localized without significant infrastructure improvements. Further, given the current work demands of parks maintenance staff, acquiring this property would most certainly require a nominal increase in parks maintenance staffing.

While Council has expressed a continuous desire to acquire property for the purpose of preserving open space, the loss of open space is not in question for this tract. In staff's opinion, there is nominal benefit and substantial liability involved in acquiring this parcel and thereby assuming the associated maintenance responsibilities. More importantly, is the potential precedent of assuming responsibility for a subdivision common ground with limited universal benefit to the

Shenandoah Park

May 11, 2015

Page 2

City. There may be opportunities for public common ground use which may be beneficial to the general public. But this site is limited in size and in a location close in proximity to Faust Park. There is simply little if any additional benefit to the City as a whole, in acquiring this tract of land.

Accordingly, I request that this item be placed on the next Parks, Recreation and Arts Committee agenda for discussion.

If you have any questions or require additional information, please advise.

attachments

Cc Tom McCarthy - Parks, Recreation and Arts Director
Kari Johnson – Superintendent of Recreation Operations



April 15, 2015

Thomas McCarthy

tmccarthy@chesterfield.mo.us

City of Chesterfield
690 Chesterfield Parkway West
Chesterfield, MO 63017-0760

RE: Parcel 18R410706/1090 Appalachian Trail.

Mr. McCarthy,

Thank you for the time spent discussing the Parcel 18R410706 adjacent to the Shenandoah Valley Elementary School.

As discussed, the subdivision trustees are interested in dedicating the parcel to the City of Chesterfield with the concept that the property would be developed and maintained as a park for the local community and for certain Shenandoah Valley Elementary School's activities.

If the city would develop an overall plan for the park, including picnic tables, benches, artwork, drinking fountain, dog waste supply/station/waste receptacle, grass and tree maintenance, I am absolutely certain the community and the trustees would support the dedication of this parcel to the city.

I have spoken with Mayor Nation and Councilman Grissom about this concept and feel that they are overall in support of this type of project.

Please let me know if there is any additional information needed for this project.

Sincerely,

David Fingerhut
Subdivision Trustee

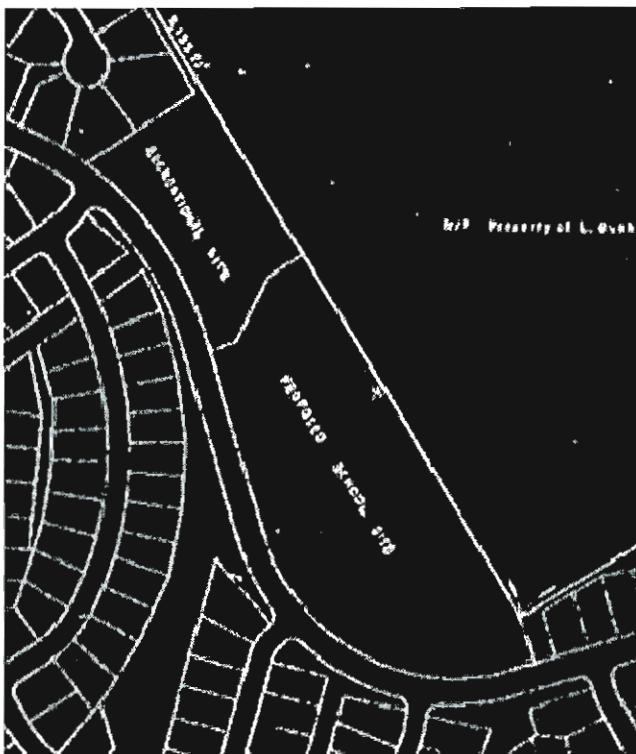
CONFIDENTIAL MEMORANDUM



TO: Mike Geisel, Director of Public Services
FROM: Thomas McCarthy CPRP, Parks, Recreation and Arts Division
DATE: April 3, 2015
SUBJECT: Potential Shenandoah Park

Mike, attached are some pictures of the proposed 3.71 acre Shenandoah park site located at 1090 Appalachian Trail (parcel #18R410706. The Parcel is zoned R3/PEU.) I think this would be a nice addition to our parks system and give us a small park in the Ward Two portion of the City. By taking over the operation of the parcel of land, we would be enhancing this area of Chesterfield. If we take this area over, it would also be a big plus for the neighboring Shenandoah grade school as the kids use the trail for some Physical Education classes during the week. With the addition of a few picnic tables and benches, there would be some additional usage for having a nice lunch stop and a peaceful reading spot under a tree. One of the first things we would need to address on the property, if the approval was given to take this over would be the replacement of the trail as soon as possible because it is in such poor condition and there are multiple trip hazards and crumbling path issues. I would also like to add a few benches around the trail and maybe a picnic table or two for visitors to use.

Below are some general budget numbers for the amenities mentioned above along with Steve's amount of Parks maintenance hours it would take to maintain the park.



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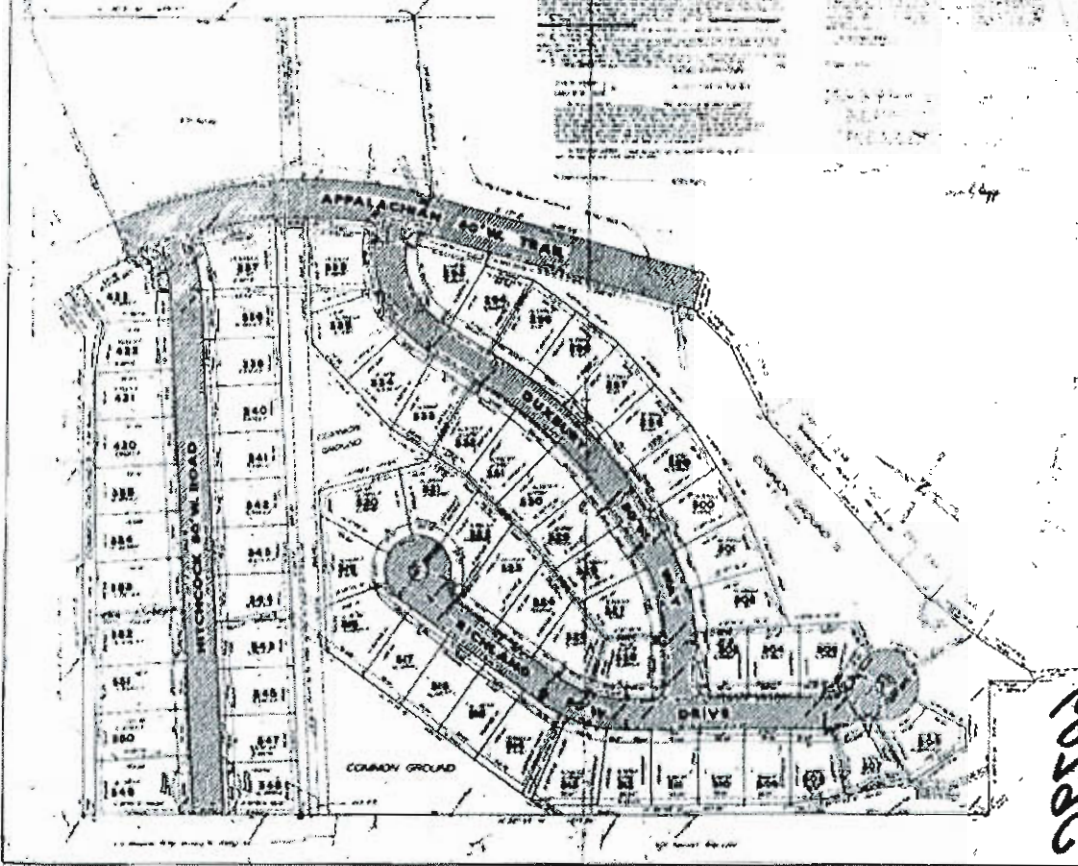
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SHENANDOAH PLAT 3

U.S. SURVEY 1911
TOWNSHIP 45 NORTH, RANGE 4 EAST
ST. LOUIS COUNTY, MISSOURI
ORD 8308

RECORDED
JAN 20 1912

THE FOLLOWING IS A SUMMARY OF THE CONTENTS OF THIS PLAT:
 1. A description of the land surveyed, including the names of the owners and the amount of land owned by each.
 2. A description of the roads and other improvements shown on the plat.
 3. A description of the boundaries of the land surveyed.
 4. A description of the corners and other points of interest on the land surveyed.
 5. A description of the survey and the instruments used.
 6. A description of the surveyors and the date of the survey.
 7. A description of the survey and the instruments used.
 8. A description of the surveyors and the date of the survey.
 9. A description of the survey and the instruments used.
 10. A description of the surveyors and the date of the survey.



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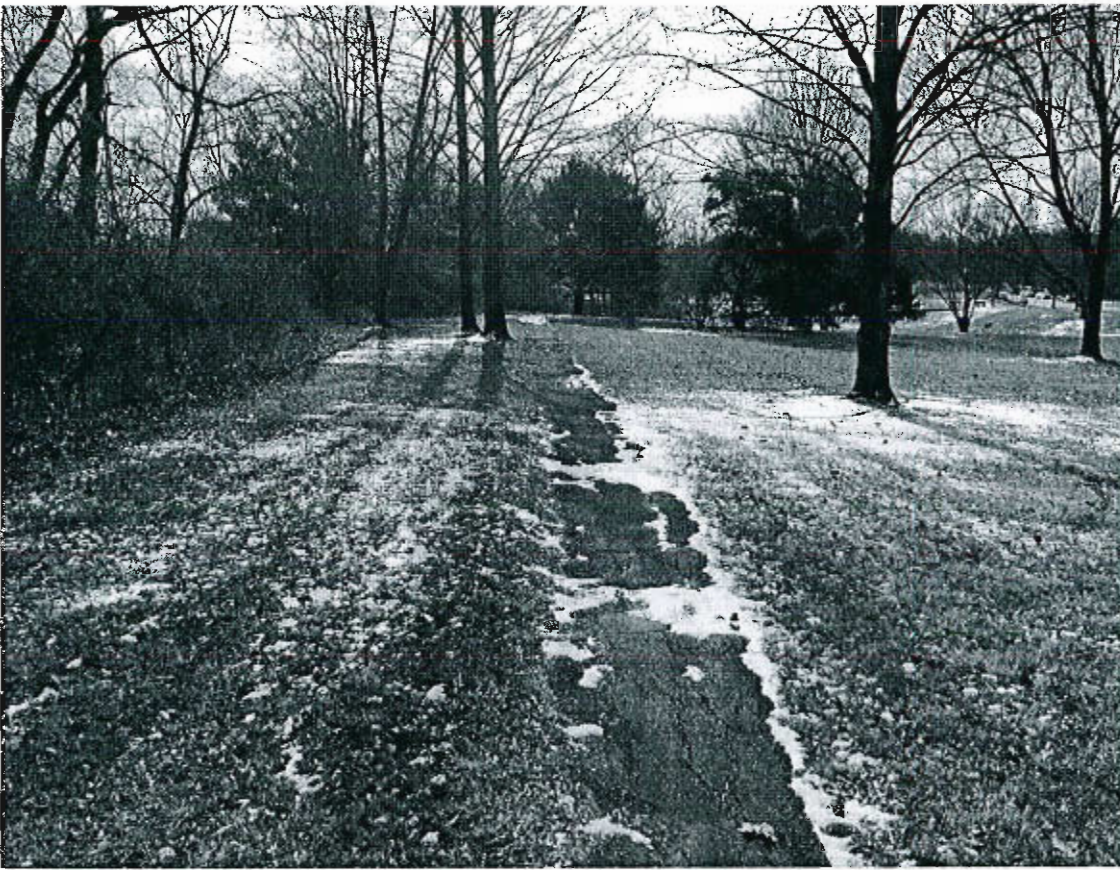
POOR ORIGINAL



Frontage of property along Appalachian Trail



Western end of Property. The storage unit would need to be moved as this is on the common ground they would like us to take over.



Picture of the smaller trail on Northern edge of property in need of repair.



Picture of the Eastern end of the property

General cost

Park sign	\$ 8,750
Replace the trail	
Large loop 1,200' long and 7' wide (concrete figured at \$5psq)	\$ 42,000
Short extension loop 500' 4.5' wide (concrete figured at \$5psq)	\$ 2,250
Picnic tables 3 (8' foot aluminum)	\$ 3,000
Park benches 4	\$ 2,400
Installation of a piece of public art	\$ 10,000
Other amenities for the park: tables, trash cans, dog waste stations, benches, trees	\$ 25,000
Man hours to maintain the park are projected to be 1000 hours a year (1/2 an employee, no benefits)	\$ 18,000
• The man hours would be a yearly cost	

General total

\$111,400

Mike, if additional information is needed, please let me know.

Memorandum

Planning & Development Services Division



To: Mike Geisel, Director of Public Services
Aimee Nassif, Planning and Development Services Director
Tom McCarthy, Parks, Recreation and Arts Director

From: John Boyer, Senior Planner

Date: April 28, 2015

RE: Possible Park within Shenandoah – 1090 Appalachian Trail

Request

Planning Staff has been asked to look into the zoning history of the above parcel to see if a City Park would be allowed at this location.

Parcel Information

The parcel number for this tract is 18R410706, it consists of 3.71 acres and is under the ownership of the Shenandoah Residents Association. The parcel is zoned R3, Residence District with a PEU, Planned Environment Unit procedure by St. Louis County Ordinances 5,305 and 12,104. This parcel is located within the Shenandoah Subdivision and recorded under Plat 3 of said development. Associated with the approval of the zoning, a Final Development Plan was approved by St. Louis County in 1970. This plan indicates this piece was intended as a "Recreational Site" north of the proposed school site (See below Figure 1 excerpt of Final Development Plan).



Figure 1: Excerpt of Final Development Plan

Review of an aerial photo, as well as field observations, indicates that this site is used as a Recreational Site with trails which ring the perimeter of the parcel and provides connection to the Nooning Tree subdivision to the east via Common Ground in that subdivision. In addition to the recreation use, a detention basin is located on the southern portion of this site. A review of the Improvement Plans indicates a retention basin was installed at this southern portion. A site visit to the property reveals multiple storm water structures within this basin which appear to be in substandard condition. Pictures of these structures can be found attached to the end of this report.



Figure 2: Aerial Photo with portion of Improvement Plans

Zoning Standards and Plat Information

As indicated above, this property is zoned R3, Residence District with a PEU, Planned Environment Unit procedure. At the time of zoning approval, per the County requirements under the PEU Procedure, Recreation Areas can be established as part of the review process. The area's acreage can still be counted towards total gross acreage in order to determine density for the development. However, since this area was set aside as a "Recreation Area" by the Final Development Plan, an indenture was required to be recorded with the plat indicating continued maintenance. This subdivision contains 229 acres (more or less) and allowed a maximum of 496 single-family dwelling units or a density of 2.16 units/acre. A total of 495 were built or 1 less than approved (2.16 units/acre).

Per the PEU requirements, as well as the recorded indentures, Common Ground shall be for the sole benefit of the residents of the PEU, or it can be dedicated for public use. Review of Plat 3 of the Shenandoah Subdivision indicates this property was created within the plat, but not specifically as common ground, private/public park or as a buildable lot (see below Figure 3). Review of the dedication script on Plat 3 also does not give any reference to this parcel. Based upon the approved Final Development Plan, which indicates this parcel as a "Recreational Site" (see Figure 1 on page 1), the record plat and the definitions of common land in the recorded indentures, it appears this parcel functions as common ground and can be reasonably assumed its official status. No minimum area for open space or for the recreations facilities was established by ordinance at the time of approval by St. Louis County.

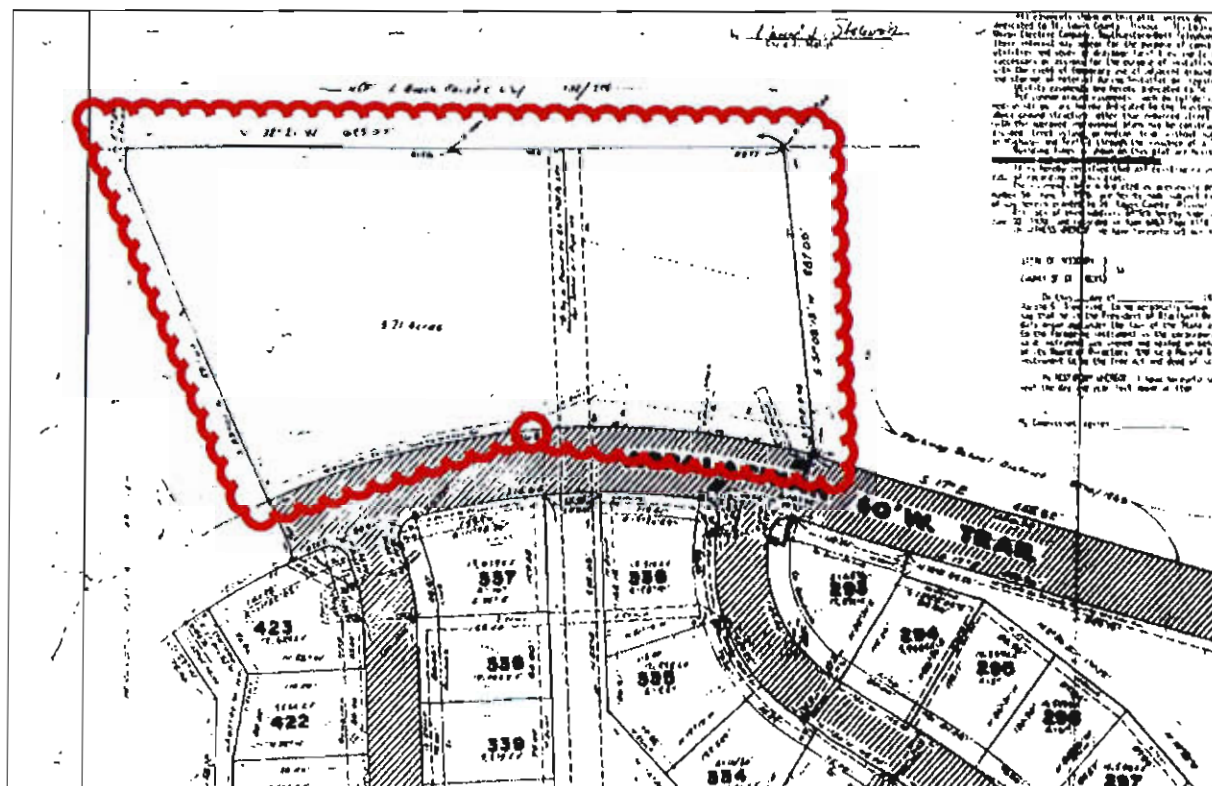


Figure 3: Excerpt of Record Plat of Subject Parcel

As mentioned earlier, the PEU may also include land designated for public park use. That land could be considered part of the gross acreage of the development in computing the maximum number of lots/dwelling units provided no tract less than 10 acres could be dedicated for a public park. However, a tract less than 10 acres may be dedicated if accepted by the Department of Parks and Recreation as part of a system of hiking or riding trails.

Recommendation

After review of the above information, while the subdivision was approved based upon the creation of this recreational site, whether the site is owned and maintained by the Shenandoah Resident Association as a private site for the use and enjoyment of their residents or purchased by the City for a future park, the parcel will still function as a recreational site as long as the site never becomes anything but a recreational site (buildable lot, etc.). Review of all documentation indicates there would be no zoning violation if the City were to purchase the above lot for the use of citizens of the City of Chesterfield. This is especially true as St. Louis County PEU requirements, as well as the private indentures, allowed dedication of public ground for recreation areas. While purchase of this

property for a park would not violate any zoning issues, there are a number of concerns which may present challenges to this site if the City were to purchase. Please see the list below in no particular order;

Items for consideration

- *If the City were to purchase this property, would the City be subject to the development's indentures? Would the indentures have to be updated to reflect our ownership? Do we become a member of the subdivision through land ownership and thus a voting member, etc.? Can we vacate the parcel from those indentures? The Indentures are attached for your convenience.*
- *It appears the existing storm water structures associated with the detention basin are in substandard condition. From my point of view, it certainly appears likely these may need improvements/updates in the near term as these look original to the development (mid to late 1970's). I would recommend a full evaluation of these structures prior to purchase. Pictures of some of these structures are below in Figures 5-7 on pages 5 & 6.*
- *Associated with the storm water structures, is the City assuming additional liability since this basin collects water from the adjacent developments?*
- *Does the City want to get involved with buying common facilities from subdivisions? The intention for common ground is for the use and enjoyment of the residents of the development (private amenities) and not public parks.*

As noted above, the Shenandoah Indentures are attached to this report for informational purposes. I have highlighted pertinent sections of those indentures for convenience.

Site Photos



Figure 4: Photo of Recreational Site



Figure 5: Looking into the Detention area on the southern portion of the site



Figure 6: Structures of Detention Basin



Figure 7: Additional Storm Water Structures

2500

INDENTURE OF TRUST AND RESTRICTIONS
SHENANDOAH SUBDIVISION
COUNTY OF ST. LOUIS, MISSOURI

THIS INDENTURE, made and entered into this 30th day of JUNE, 19 70, by and between ALFRED H. MAYER COMPANY, a Corporation of the State of Missouri, Party of the First Part, and SHENANDOAH RESIDENTS ASSOCIATION, a not-for-profit Corporation of the State of Missouri, Party of the Second Part, hereinafter referred to as the "Trustee".

WITNESSETH THAT:

WHEREAS, the County Council of St. Louis County, Missouri, by ORDINANCE 5305 adopted on the 8TH day of JANUARY, 19 70, has approved and authorized development of SHENANDOAH Subdivision, a subdivision of St. Louis County, Missouri, under the PLANNED ENVIRONMENTAL UNIT procedure, Section 1003.187, St. Louis County Revised Zoning Ordinance, hereinafter called the Subdivision and described as follows:

(See description on Exhibit A hereto attached and by this reference incorporated as if fully set forth herein)

WHEREAS, Party of the First Part has recorded SHENANDOAH Subdivision Plat 1 on the 30th day of June, 19 70, as Daily No. 188 of the St. Louis County Recorder's Office, and contemplates that the remainder of the aforescribed tract will also be subdivided, and the plats thereof, designated as SHENANDOAH Subdivision Plat 2, Plat 3, etc. will be recorded in the St. Louis County Records pursuant to and in conformity with the aforesaid Order; and

WHEREAS, Party of the First Part its successors or assigns may acquire additional tracts of land adjoining or in the vicinity of the above described tract of land and may petition for these tracts to be authorized and approved to be developed as additions or annexations to the SHENANDOAH Subdivision under the Special Procedures Sections of the Zoning Ordinance. It is the intent of Party of the First Part that the original SHENANDOAH Subdivision and any subsequent additions all be developed as one community with the SHENANDOAH RESIDENTS ASSOCIATION having control and serving as Trustee.

WHEREAS, "Common Land" for park and recreational area has been reserved in SHENANDOAH Subdivision Plat 1, and "Common Land" for similar purposes will be reserved in the subsequent plats of SHENANDOAH Subdivision first described above and will be recorded in the Office of Recorder of Deeds of St. Louis County after approval by St. Louis County Council; and

WHEREAS, as each of the subsequent plats of the Subdivision is recorded, Party of the First Part will adopt this Indenture of Trust and Restrictions and all provisions thereof for each of said plats; and

WHEREAS, there may be designated, established and recited on the recorded plats of the Subdivision, certain streets, common land and certain easements which are for the exclusive use and benefit of the residents of the Subdivision (except those streets or easements which are now or may hereafter be dedicated to public bodies and agencies and public utilities) and which have been provided for the purpose of constructing, maintaining and operating sewers, pipes, poles, wires, storm water drainage, parks and other facilities and public utilities for the use and benefit of the said residents of the Subdivision; and

BOOK 6463 PAGE 1114

189

STATE OF MISSOURI
COUNTY OF ST. LOUIS
FILED FOR RECORD

'70 JUN 30 PM 1:30

Edna J. Perry
RECORDER OF DEEDS

WHEREAS, there may be certain right-of-ways, easements, drives, roads, streets, walks, pedestrian ways, landscaping, plantings, seedings, sodding, fences, structures, buildings, recreational facilities, signs, parks, lakes, utilities, lights, water systems, gas systems, electric facilities, sanitary sewer systems, storm sewer systems, swales, drainage ways, and facilities, pipes, trails, gates, entrances, and other common facilities, and improvements constructed and provided for the use and benefit of the owner or owners of the lots shown and to be shown on the record plats of the Subdivision; and

WHEREAS, it is the purpose and intention of this Indenture to preserve said tract of land as a restricted neighborhood and to protect the same against certain uses by the adoption of a sound urban environment plan and scheme of restrictions, and to apply that plan and scheme of restrictions to all of said land and every parcel thereof, including all "Common Land", and mutually to benefit, guard and restrict present and future residents of the Subdivision and to foster the health, welfare and safety of all who reside in the said area; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained, any and all of which are hereafter termed "Restrictions", are jointly and/or severally for the benefit of all persons who may purchase, hold or reside upon, any of the lots covered by this instrument; and

WHEREAS, Party of the First Part has, by separate instrument simultaneously herewith, conveyed to the Trustee and established the following as "Common Land"

(See description on Exhibit B attached and by this reference incorporated as if fully set forth herein)

WHEREAS, the above described instrument conveys the property described therein to the Trustee hereafter designated and established for a period of fifty (50) years, and after expiration of said time, fee simple title to the above described property shall vest in all of the then record owners of all lots and dwelling units in all recorded plats of the Subdivision as tenants in common, but the rights of said tenants in common shall only be appurtenant to and in conjunction with their ownership of lots and dwelling units in the Subdivision, and any conveyance or change of ownership of a lot or dwelling unit in the Subdivision shall carry with it ownership in common property so that none of the owners of lots or dwelling units in the Subdivision and none of the owners of the common property shall have such rights of ownership as to permit them to convey their interest in the common property except as an incident to the ownership of such lot or dwelling unit; and any sale of any lot or dwelling unit in the Subdivision shall carry with it without specifically mentioning it, all of the incidents of ownership of the common property; provided, however, that all of the rights, powers and authority conferred upon the Trustee of the Subdivision, a subdivision as aforesaid, shall continue to be exercised by the said Trustee.

NO THEREFORE, in consideration of the promises and of the mutual promises, covenants and agreements made by the Parties hereto each to the other, the Parties hereto covenant and agree to and with each other, collectively and individually, for themselves, their successors and assigns, and for and upon behalf of all persons who may hereafter derive title to or otherwise hold through them, their heirs, successors or assigns, any of the lots and parcels of land in the Subdivision, all as described herein as follows, to-wit:

I.

RESERVATION OF EXPENDITURES

The Party of the First Part reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided by it for joint main sewers, gas pipes, water pipes, conduits, poles, wires, street lights, roads, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to the creation of the subdivision of the within described tract.

BOOK 6463 PAGE 1115

II.

DEFINITIONS

1. "Party of the First Part" shall mean and refer to _____
ALFRED H. MAYER COMPANY, its successors and assigns.
2. Party of the Second Part, the "Trustee", shall mean and refer to the
SHENANDOAH Residents Association.
3. "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 part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
4. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision Plat of the Subdivision with the exception of the Common Land.
5. "Common Land" shall mean all real property which is shown on a recorded Subdivision Plat of the Subdivision and which is held by the Trustee for the common use, benefit, and enjoyment of the owners.
6. "The Subdivision" shall mean and refer to that certain real property heretofore described, and such additions and annexations thereto as may be brought within the jurisdiction of the Trustee.

III.

TRUSTEE'S DUTIES AND POWERS

The Party of the First Part hereby invests the Trustee and its successors and assigns with the rights, powers and authorities described in this instrument, and with the following rights, powers and authorities:

(1) The Trustee shall acquire and hold the "Common Ground" hereinabove described and conveyed to the Trustee by separate instrument on even date herewith, which said "Common Ground" is set forth and shown on Shenandoah Plat No. 2 a Subdivision, and any subsequently recorded plat of the Subdivision for which this Indenture of Trust and Restrictions is adopted.

The Trustees shall deal with any "Common Ground" so acquired under the provisions hereinafter set forth.

(2) To supervise, maintain, repair, construct, rebuild, and exercise such control over the right-of-ways, easements, drives, roads, streets, walks, pedestrian ways, landscaping, plantings, fences, structures, buildings, recreational facilities, signs, parks, lakes, utilities, lights, water systems, gas systems, electric facilities, sanitary sewer systems, storm sewer systems, swales, drainage ways and facilities, pipes, trails, gates, entrances, and other common facilities and improvements constructed and provided to insure the proper use and care of said right-of-ways, easements, etc., by the necessary public utilities, agencies, and others, including the right to it and others to whom it may grant permission to construct, operate, and maintain on and under and over said right-of-ways, easements etc., and other facilities and public utilities for the use and benefit of the owner or owners of lots in the Subdivision.

To abandon, petition for vacation, join in a vacation, of an easement or portion thereof, and to dedicate additional easements by executing and recording a proper and appropriate instrument in the office of the Recorder of Deeds of St. Louis County, Missouri, but an easement or portion thereof may be abandoned only when all Directors of the Trustee unanimously agree that it is in the best interest of the Subdivision that same be abandoned.

(3) To exercise control over the Common Land of the Subdivision as shown on all record plats of the Subdivision and in its sole discretion to determine the extend and schedule of grading, landscaping and any other improvements, if any, shall be undertaken in its development, including, but not limited to deciding which areas shall be left in their natural state and which shall be changed from their natural state; to pay real estate taxes and assessments on said Common Land out of the general assessment hereinafter provided for, to maintain and improve same with shrubbery, vegetation, decorations, buildings, recreational facilities of any kind or description, other structures, and any and all other types of facilities in the interest of health, welfare, safety, recreation, entertainment, education and general use of the residents in said subdivision, all in conformity with all applicable laws; to prescribe by reasonable rules and regulations the terms and conditions of the use of said Common Land and all improvements thereon, all for the benefit and use of the residents in this Subdivision and according to the discretion of the said Trustees.

(4) Publicly to dedicate any private streets constructed or to be constructed on said Common Land whenever such dedication would be accepted by a public agency, in the event the recorded plat does not provide for public use and maintenance.

In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the Trustee for any public purpose, the Trustee, during the period of Trust as well as the times fixed for the appointment or election of Trustees, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Trustee need be made parties, and in any event the proceeds received shall be held by the Trustee for the uses and purposes herein described to be within their authority, duty and control.

(5) To prevent as Trustee of an express trust, any infringement and to compel the performance of any restriction set out in this Indenture or established by law, and also any rules and regulations issued by said Trustee covering the use of said Common Land or any matters relating thereto. This provision is intended to be cumulative and not to restrict the right of any lot owner to proceed in his own behalf, but the power and authority herein granted to the Trustee is intended to be discretionary and not mandatory.

(6) To clean up rubbish and debris and remove grass and weeds from, and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon any vacant or neglected lots or property, and the owners thereof may be charged with the reasonable expenses so incurred. The Trustee or its officers, agents or employees shall not be deemed guilty or liable for any matters of trespass or any other act for any such injury, abatement, removal or planting.

(7) To consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached buildings, outbuildings, accessory buildings, swimming pools or tennis courts proposed for construction and erection on said lots, proposed additions to such buildings or alterations in the external appearance of buildings already constructed, it being provided that no buildings or structures, fences, detached buildings, outbuildings, accessory buildings, swimming pools, tennis courts or other structures may be erected or structurally altered on any of said lots unless there shall be first had the written approval of the Trustee to the plans and specifications therefor and to the grade proposed therefor. In the event the Trustee fails to approve or disapprove within thirty (30) days after building plans or other specifications for fences, swimming pools or tennis courts, accessory buildings and other outbuildings have been submitted to in hereunder, approval will not be required and the applicable restrictions shall be deemed to have been fully complied with. Provisions of this section shall not apply to buildings and improvements constructed by Party of the First Part, its successors and assigns, in the normal course of development of the Subdivision.

(8) To require a reasonable deposit in connection with the proposed erection of any building or structure, fence, detached building, outbuilding, swimming pool, tennis court or other structure on any of said lots in order to provide that upon completion of the project, all debris shall be removed from the site and from adjacent lots, and that any and all damages to subdivision improvements shall be repaired.

(9) The Trustee may provide said Subdivision with adequate fire and police protection and for the collection of trash, rubbish or garbage, and may otherwise provide for the public health, safety, welfare and morals of property and assume contracts for such purposes covering such periods of time as it may consider advisable.

(10) The Trustee may receive, hold, convey, dispose of and administer IN TRUST for any purpose mentioned in this Indenture any gift, grant, conveyance or donation of money or real or personal property.

(11) The Trustee in exercising the rights, powers, and privileges granted to it, and in discharging the duties imposed upon it by the provisions of this Indenture, may from time to time enter into contracts, employ agents, servants, clerks, other employees and labor as it deems necessary or advisable, and to institute and prosecute such suits as it deems necessary or advisable, and defend suits brought against it in its capacity as Trustee, or against its officers, Directors and employees.

(12) At the discretion of the Trustee, in the interest of the health, welfare, safety and morals of the lot owners and home owners of the land now or in the future subject to this Indenture, and provided that same is not prohibited by law or Federal, State, County or Municipality regulations, said Trustee shall have the right and power to provide lights on streets, parks, gateways, entrances, *common property and other public or semi-public places; to provide pest and insect control measures and services throughout the subdivision; to erect and maintain signs for the marking of trails, walkways, and streets; to repair, oil, maintain repave and reconstruct paved streets or roads, lanes, and pedestrian ways and to clear streets, gutters, sidewalks and pedestrian ways; to provide for the plowing and removal of snow and ice from sidewalks and streets; to plant, care for, maintain, spray, trim and protect trees, shrubbery and vegetation; to construct, maintain, and reconstruct sewers and sewer facilities, swales, drainage ways and structures, recreational facilities, buildings, fences, parks, lakes, utilities, water systems, gas systems, trails, gates, entrances, seeding, sodding, walks, electrical systems, and other common facilities and improvements, all on streets, right-of-ways, easements, public property, and elsewhere.*

To provide at suitable locations, when and if the Trustees decide to render such service, receptacles for the collection of rubbish and for the disposal of such rubbish as is collected, and for the connection and disposal of garbage.

(13) The right to power to establish, operate, conduct, regulate, maintain, repair, such common property, buildings and facilities as may exist or be established in the Subdivision; to make rules and regulations, not inconsistent with the law and this Indenture, for the use and operation thereof and in every and all respects govern the operation, functioning and government thereof.

(14) The Trustee shall have the full and unqualified right, power and authority concerning all of the property, real, personal or mixed, owned or held by said Trustee to:

- a. Make all contracts and incur all liabilities necessary, related or incidental to exercise of the Trustee's power and duties hereunder including the construction of improvements.
- b. Purchase insurance against all risks, casualties and liabilities of every nature and description.
- c. To borrow money on same; encumber and hypothecate same; make and execute promissory notes or incur liabilities and obligations secured by deed of trust, mortgage, lien or encumbrance on same.
- d. To make all types of permanent, temporary, construction or other loans.
- e. To use, handle, manage, control, operate, hold deal in and in all respects treat with same, limited only as provided in this instrument.

(15) At such time (fifty years after the date of any warranty deed by which the Trustee acquired the "Common Land") as the then owners of all the lots and dwelling units in all recorded plats of the Subdivision become owners as tenants in common of all of the "Common Land" theretofore conveyed to and held by the Trustee, the Trustee shall continue to exercise all the same rights and authorities and have the same duties and responsibilities with respect to the said "Common Land" as hereinbefore set forth, and particularly, the Trustee shall continue to collect for and make payment of the real estate taxes which may be levied on the "Common Land" by the County of St. Louis or other governmental body or agency.

(16) These restrictive covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of fifty (50) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots and dwelling units has been recorded, agreeing to change said covenants in whole or in part, excepting that, as long as Party of the First Part owns one or more lots in the Subdivision its consent to each change is required.

(17) All covenants and agreements herein are expressly declared to be independent and not interdependent; nor shall any laches, waiver, estoppel, condemnation or failure of title as to any part or lot of said tract be of any effect to modify, invalidate or annul any grant, covenants or agreements herein, with respect to the remainder of said tract, saving always the right to amendment, modification or repeal as hereinabove expressly provided.

IV.

ASSESSMENTS

The Trustee and its successors and assigns are hereby authorized, empowered, and granted the right to make assessments upon and against the several lots and said parcels of land in the Subdivision for the purposes herein stated and at the rate hereinafter provided, and in the manner and subject to the provisions of this instrument;

(1) a. The Trustee and its successors and assigns are authorized to make uniform assessments upon and against the lots in said Subdivision for the purpose of carrying out any and all of the general duties and powers of the Trustee as herein described and for the further purpose of enabling the Trustee to defend and enforce restrictions; adequately to maintain streets, if required, "Common Land", utilities, parking spaces and trees in the crosswalks, and to dispose of garbage or rubbish, to perform or execute any powers or duties provided for in this instrument; or otherwise property to protect the health, safety and general welfare of the residents in the Subdivision:

Excepting as hereinafter provided the assessments shall not exceed the following amounts in any calendar year:

\$100 for each lot on which a single family residence has been constructed.
Said sum shall not include membership or usage rights in any swim or bath & tennis club facilities.

b. If at any time the Trustee shall consider it necessary to make any expenditure requiring an assessment additional to the assessments above provided, it shall submit in writing to the then owners of lots for approval an outline of the plan for the project contemplated and the estimated amount required. If such project and the assessment so stated be approved either at a meeting of the owners of lots called by the Trustee, by a two-thirds (2/3) majority vote of those present in person or by proxy, or on written consent of two-thirds (2/3) of the said owners, the Trustee shall notify all owners in said tracts of the additional assessments. The limit of the annual assessments for general purposes as set forth in 1 a. above, shall not apply to any assessment made under the provision of this paragraph 1 b.

(2) All assessments, made by the Trustee for the purposes hereinabove enumerated, shall be made in the manner and subject to the following procedure, to-wit:

a. Notice of all assessments may be given by mail addressed to the last known or usual post office address of the holder of a fee simple estate and deposited in the United States mail with postage prepaid, or may be given by posting a brief notice of the assessment upon the lot or dwelling unit itself.

b. Every such assessment shall become due and payable within thirty (30) days after notice is given as hereinabove provided. From and after the date when said payment is due, it shall bear interest at the rate of eight percent (8%) per annum until paid, and such payment and interest shall constitute a lien upon said lot, and said lien shall continue in full force and effect until said amount is fully paid. At any time after passage of the resolution levying an assessment and its entry in its minutes, the Trustee may, in addition, execute and acknowledge an instrument reciting the levy of the assessment with respect to any one or more lots or dwelling units and cause same to be recorded in the Recorder's Office in the County of St. Louis, State of Missouri, and the Trustee may, upon payment, cancel or release any one or more lots or dwelling units from the liability of assessments (as shown by recorded instrument) by executing, acknowledging and recording (at the expense of the owner of the property affected) a release of such assessment with respect to any lot or dwelling unit affected, and the Trustee shall cause to be noted from time to time in the minutes of its proceedings, the payments made on account of any assessments.

(3) The Trustee shall deposit the funds coming into its hands as Trustee in a State or National Bank, protected by the Federal Deposit Insurance Corporation at interest, when deemed feasible by it, in its discretion. The Trustee shall designate one of its officers as "Treasurer" of the Subdivision funds collected under this instrument and such funds shall be placed in the custody and control of such Treasurer. The Treasurer shall be bonded for the proper performance of his duties in an amount to be fixed by the Trustee.

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(4) The Trustee is authorized and empowered to procure such insurance, including but not limited to public liability and property damage, as it may deem necessary and proper.

(5) The assessment provisions of this Indenture shall not apply to any vacant lot owned by the Parties of the First Part, its successors or assigns, nor to any lot having thereon a building which lot and building are offered for sale by the Parties of the First Part, its successors or assigns.

INDENTURE OF RESTRICTIONS

The following restrictions are hereby imposed upon all property in the subdivision, to-wit:

1. Building Location: No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown, or variation of side line in the manner described on the said recorded plat. In the event that the builder inadvertently builds beyond the building line as established, the Trustee is hereby empowered to amend said building line or lines and eliminate any violation of this restriction.
2. Fences and Hedges: Any fence or hedge on any lot, other than one which does not exceed 50 inches in height and has a minimum of 35% openings, must be approved by the Trustee, prior to installation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved.
3. Sight Distance at Intersections: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 30 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight line.
4. Temporary Structures: No structure of a temporary character and no trailer, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently, without approval by the Trustee. The Trustee shall make its approval or disapproval in writing. In the event the Trustee fails to approve or disapprove within thirty days after plans and specifications have been submitted to it, the plans shall stand approved.
5. Signs: No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five feet square advertising the property for sale or for rent, or signs used by the builder to advertise the property during the construction and sale period.
6. Livestock and Poultry: No animals, livestock, or poultry of any kind shall be raised, bred and kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.
7. Garbage and Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
8. Easements: For installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of said subdivision. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, excepting for those improvements for which a public authority or utility company is responsible.
9. No lot shall be resubdivided nor shall a fractional part of any lot be sold without the consent of the Trustee. This provision shall not, however, require the consent of the Trustee for the sale of an entire lot as shown on a recorded plat.

10. The above restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded, after which time said restrictions shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots and dwelling units has been recorded, agreeing to change said restrictions in whole or in part, except that, as long as Party of the First Part owns one or more lots in SHENANDOAH Subdivision, its consent to each change is required.

11. All restrictions are expressly declared to be independent and not inter-dependent; nor shall any laches, waiver, estoppel, condemnation or failure of title as to any part or lot of said tract be of any effect to modify, invalidate or annul any restriction with respect to the remainder of said tract, saving always the right of amendment, modification or repeal as hereinabove expressly provided.

12. The right is reserved to the owner or owners of any lot or lots to put additional restrictions on their property which are not inconsistent herewith.

13. Enforcement of any of these restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any such restriction and may be brought to restrain any such violation and/or to recover damages therefor. Invalidation of any one of these restrictions or of any other provision of this Indenture, shall not affect any other restriction or provision.

EXHIBIT A

PARCEL 1: A tract of land in U. S. Surveys 415 and 1911, Township 45 North, Range 4 East, St. Louis County, Missouri, and being more particularly described as follows: Beginning at a point in the Southeast line of Olive Street Road, 60 feet wide, said point being the Northeast corner of property now or formerly of John A. Davis, Jr. by deed recorded in Book 3799, Page 581 of the St. Louis County Records; thence Northeastwardly along the Southeast line of Olive Street Road North 37 degrees 32 minutes East 251.22 feet to a point of curve; thence continuing along the Southeast line of Olive Street Road along a curve to the left having a radius of 1176.28 feet, a distance of 266.23 feet to a point; thence leaving said Olive Street Road line and in a Northeastwardly direction North 57 degrees 32 minutes East, 193.58 feet to a point in the Southwest line of property now or formerly of L. Busch Faust and wife by deed recorded in Book 1742, Page 279 of the St. Louis County Records; thence Southeastwardly along the Southwest line of said Faust property South 32 degrees 21 minutes East, 3073.02 feet to the most Southern corner of said Faust property; thence South 58 degrees 21 minutes West, 1270.53 feet to a corner of property now or formerly of Samuel Albrecht; thence Northwestwardly along the Northeastern lines of said Albrecht property and property now or formerly of Meramec Valley Nursery Company by deed recorded in Book 5832, Page 124 of the St. Louis County Records, North 32 degrees 22 minutes West, 1477.20 feet to the Southwest corner of said Davis property; thence North 57 degrees 29 minutes East, 561.76 feet to the Southeastern corner of said Davis property; thence North 32 degrees 20 minutes West, 1547.22 feet to the point of beginning and containing 68.739 Acres.

PARCEL 1-A: All that part of Lot 3 allotted to Woodville Bates by Commission in Partition in case of Lucian L. Bates et al and described on plat accompanying said Commissioner's report recorded in Book 3, Page 461 of the St. Louis County Records lying South of Olive Street Road.

PARCEL 2: A tract of land in U. S. Survey 370 and U. S. Survey 1911, Township 45 North Range 4 East, St. Louis County, Missouri, and more particularly described as follows: Beginning at a point on the centerline of Conway Road, said point being the intersection of the said centerline of Conway Road and the extension Southwardly of the Southeast line of a tract of land conveyed to Morris H. Mandel by deed recorded in Book 5190 Page 585 of the St. Louis County Records; thence along the Southeast line of said Mandel tract North 58 degrees 40 minutes East 398.24 feet to a point; thence along the Northeast line of said Mandel tract and a tract of land conveyed to Gordon Garrey and wife by deed recorded in Book 4079 Page 639 of the St. Louis County Records and a tract of land now or formerly of Samuel Albrecht North 32 degrees 28 minutes West 723.09 feet to a point on the Southeast line of a tract of land now or formerly of Mathilda Schreve; thence along the Southeast line of said Schreve tract North 58 degrees 21 minutes East 1058.53 feet to the Southeast corner of said Schreve tract; thence along the Southeast line of a tract of land conveyed to L. Bush Faust and wife by deed recorded in Book 1742 Page 279 of the St. Louis County Records North 58 degrees 30 minutes East 21.77 feet to a point; thence South 1 degree 59 minutes East 1961.11 feet to a point in the centerline of Conway Road; thence along the centerline of said Conway Road the following courses and distances: North 58 degrees 29 minutes West 1038.09 feet to a point; North 58 degrees 41 minutes West 64.05 feet to the point of beginning; excepting therefrom the right of way of Conway Road.

PARCEL 3: A tract of land in U. S. Survey 366, U. S. Survey 370, U. S. Survey 1911, Township 45 North, Range 4 East, St. Louis County, Missouri and more particularly described as follows: Beginning at a point of the centerline of Conway Road, said point being the intersection of the said centerline of Conway Road and the extension southwardly of the Southeast line of a tract of land conveyed to Morris H. Mandel by deed recorded in Book 5190 Page 585 of the St. Louis County Records; thence along the centerline of Conway Road the following courses and distances: South 58 degrees 41 minutes East 64.05 feet to a point; South 58 degrees 29 minutes East 1038.09 feet to the point of beginning of the herein described tract of land; thence North 1 degree 59 minutes 16 seconds West 1961.11 feet to a point on the Southeast line of a tract of land conveyed to L. Bush Faust and wife by deed recorded in Book 1742 Page 279 of the St. Louis County Records; thence along the Southeast line of said Faust tract North 58 degrees 30 minutes East 1308.58 feet to a point in the centerline of a creek; thence eastwardly and downstream with the meanders of said creek along the Southern line of property conveyed to Wade DeWoskin by deed recorded in Book 5126 Page 199 of the St. Louis County Records, to the intersection of said creek with the Western line of property conveyed to Henry W. Wuellner by deed recorded in Book 1749 Page 319 of the St. Louis County Records; thence along the West end South line of said Wuellner tract the following courses and distances: South 1 degree 57 minutes 42 seconds East 7118.08 feet to a point; South 58 degrees 58 minutes 30 seconds East 361.30 feet to a point; South 52 degrees 13 minutes 30 seconds East 275.09 feet to a point in the centerline of Conway Road; thence along the centerline of said Conway Road the following courses and distances: North 73 degrees 55 minutes West 359.00 feet to a point; North 85 degrees 49 minutes West 498.30 feet to a point; North 85 degrees 03 minutes West 1002.48 feet to a point; North 85 degrees 23 minutes West 249.45 feet to a point; South 86 degrees 37 minutes West 577.47 feet to a point; North 58 degrees 29 minutes West 270.79 feet, to the point of beginning; excepting therefrom the right-of-way of Conway Road. EXCEPTING the following described tract: A tract of land partly in U. S. Survey 370 and 366, Township 45 North, Range 4 East, St. Louis County,

Missouri, and being more particularly described as follows: Beginning at a point in the Northeast line of Conway Road, 40 feet wide, at its intersection with the Southeast line of property now or formerly of Morris H. Mandel et al by deed recorded in Book 5190 Page 585 of the St. Louis County Records; thence Southeastwardly along the North line of Conway Road, the following bearings and distances: South 58 degrees 41 minutes East, 53.74 feet, South 58 degrees 29 minutes East 1302.63 feet, and North 86 degrees 37 minutes East, 572.58 feet to a point; thence leaving said Conway Road and running North 14 degrees 20 minutes West, 371.21 feet to the beginning point of the following described tract; thence North 46 degrees 14 minutes 12 seconds West, 368.23 feet to a point; thence North 20 degrees 15 minutes East, 454.86 feet to a point; thence North 6 degrees 48 minutes 32 seconds East, 126.87 feet to a point; thence North 8 degrees 38 minutes 51 seconds West, 204.82 feet to a point; thence North 2 degrees 47 minutes 10 seconds West, 100.53 feet to a point; thence South 86 degrees East, 180 feet to a point on a curve, the center of which curve bears South 86 degrees East, 215 feet; thence Northwardly along a curve to the right having a radius of 215 feet, a distance of 30.02 feet to a point; thence South 78 degrees East, 126.81 feet to a point; thence South 8 degrees 47 minutes 24 seconds East, 43.19 feet to a point; thence North 81 degrees 13 minutes 01 seconds East, 130.00 feet to a point; thence North 8 degrees 46 minutes 59 seconds West 7.74 feet to a point; thence North 81 degrees 13 minutes 01 seconds East, 50 feet to a point; thence South 8 degrees 46 minutes 59 seconds East, 117.74 feet to a point; thence North 81 degrees 13 minutes 01 seconds East, 133.99 feet to a point; thence South 11 degrees 17 minutes 52 seconds East 68.70 feet to a point; thence South 35 degrees 04 minutes 04 seconds East, 51.50 feet to a point; thence South 39 degrees 34 minutes 13 seconds East, 163.53 feet to a point; thence South 25 degrees 36 minutes 52 seconds East, 99.82 feet to a point; thence South 12 degrees East 323.48 feet to a point; thence South 8 degrees 11 minutes 48 seconds East 85.35 feet to a point; thence South 0 degrees 33 minutes 45 seconds East, 176.65 feet to a point; thence South 80 degrees 27 minutes 36 seconds West, 495.83 feet to a point and thence South 87 degrees 34 minutes 08 seconds West, 293.67 feet to the point of beginning, containing 20.00 acres,

PARCEL 4: A tract of land partly in U. S. Survey 370 and 366, Township 45 North, Range 4 East, St. Louis County, Missouri, and being more particularly described as follows: Beginning at a point in the Northeast line of Conway Road, 40 feet wide, at its intersection with the Southeast line of property now or formerly of Morris H. Mandel et al by deed recorded in Book 5190 Page 585 of the St. Louis County Records; thence Southeastwardly along the North line of Conway Road, the following bearings and distances: South 58 degrees 41 minutes East, 53.74 feet, South 58 degrees 29 minutes East, 1302.63 feet, and North 86 degrees 37 minutes East, 572.58 feet to a point; thence leaving said Conway Road and running North 14 degrees 20 minutes West, 371.21 feet to the beginning point of the following described tract; thence North 46 degrees 14 minutes 12 seconds West, 368.23 feet to a point; thence North 20 degrees 15 minutes East, 454.86 feet to a point; thence North 6 degrees 48 minutes 32 seconds East, 126.87 feet to a point; thence North 8 degrees 38 minutes 51 seconds West, 204.82 feet to a point; thence North 2 degrees 47 minutes 10 seconds West, 100.53 feet to a point; thence South 86 degrees East, 180 feet to a point on a curve, the center of which curve bears South 86 degrees East, 215 feet; thence Northwardly along a curve to the right having a radius of 215 feet, a distance of 30.02 feet to a point; thence South 78 degrees East, 126.81 feet to a point; thence South 8 degrees 47 minutes 24 seconds East, 43.19 feet to a point; thence North 81 degrees 13 minutes 01 seconds East, 130.00 feet to a point; thence North 8 degrees 46 minutes 59 seconds West 7.74 feet to a point; thence North 81 degrees 13 minutes 01 seconds East, 50 feet to a point; thence South 8 degrees 46 minutes 59 seconds East, 117.74 feet to a point; thence North 81 degrees 13 minutes 01 seconds East, 133.99 feet to a point; thence South 11 degrees 17 minutes 52 seconds East 68.70 feet to a point; thence South 35 degrees 04 minutes 04 seconds East, 51.50 feet to a point; thence South 39 degrees 34 minutes 13 seconds East, 163.53 feet to a point; thence South 25 degrees 36 minutes 52 seconds East, 99.82 feet to a point; thence South 12 degrees East, 323.48 feet to a point; thence South 8 degrees 11 minutes 48 seconds East, 85.35 feet to a point; thence South 0 degrees 33 minutes 45 seconds East, 176.65 feet to a point; thence South 80 degrees 27 minutes 36 seconds West, 495.83 feet to a point and thence South 87 degrees 34 minutes 08 seconds West, 293.67 feet to the point of beginning, containing 20.000 acres.

EXHIBIT B

A tract of land in U. S. Survey 366 and 370, Township 45 North, Range 4 East, St. Louis County, Missouri being more particularly described as follows: Beginning at a point, said point being the Northeast corner of Lot 146 of Shenandoah Plat 1, a Subdivision filed for record in Plat Book 133 Page 213 of the St. Louis County Records, said point also being on the South line of Signal-Knob Court, 50 feet wide, thence along said road line along a curve to the left having a radius of 54.00 feet a distance of 46.29 feet to a point, said point being the most Western corner of Lot 147, thence leaving said road line in a radial direction along the South line of Lot 147 South 47 degrees 17 minutes 02 seconds East 45.00 feet to a point, thence continuing along the South line of Lot 147, South 75 degrees 02 minutes 52 seconds East 157.96 feet to a point, said point being the common corner of Lots 137, 138 and 147, thence along the West line of Lot 138, South 25 degrees 45 minutes East, 144.24 feet to a point on the North line of Springrun Drive, 50 feet wide, thence along said North line, South 64 degrees 15 minutes West 140.30 feet to a point, thence leaving said road line and along the East line of Lot 139, North 25 degrees 45 minutes West 138.00 feet to a point, thence along the North line of Lot 139, South 66 degrees 59 minutes 37 seconds West, 61.42 feet to a point, thence along the North line of Lot 140 North 77 degrees 12 minutes 44 seconds West, 52.45 feet to a point, said point being the common corner of Lots 140, 141 and 146, thence along the East line of Lot 146, North 01 degrees 50 minutes 10 seconds East, 132.98 feet to the point of beginning containing 40,047.83 square feet.

A tract of land in U. S. Survey 366 and 370, Township 45 North, Range 4 East, St. Louis County, Missouri, being more particularly described as follows: Beginning at a point, said point being the Southeast corner of Lot 107 of Shenandoah Plat 1, a Subdivision filed for record in Plat Book 134 Page 217 of the St. Louis County Records, thence along the East line of Lot 107, North 25 degrees 45 minutes West, 154.56 feet to a point on the South line of Springrun Drive, 50 feet wide, thence along said South line North 64 degrees 15 minutes East, 60.00 feet to a point, thence leaving said road line and along the West line of Lot 108, South 25 degrees 45 minutes East, 172.00 feet to a point, thence South 80 degrees 27 minutes 36 seconds West, 62.48 feet to the point of beginning containing 9,796.70 square feet.

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