




Tom Leatherwood
Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

	
05163118	
10/04/2005 - 03:29 PM	
5 PGS : R - SUB RESTRICTION	
DAVEJ 349654-5163118	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	25.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	12.50
TOTAL AMOUNT	39.50
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

This Instrument Prepared By and Return to:
Paul F. T. Edwards, Esq.
Evans & Petree, P.A.
1000 Ridgeway Loop Road, Suite 200
Memphis, Tennessee 38120

**FIFTH AMENDMENT
TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BRAYSTONE PARK SUBDIVISION**

THIS FIFTH AMENDMENT TO THE DECLARATION made as of the 31st day of October, 2005, by **BRAY STATION, L.L.C.**, a Tennessee limited liability company, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant did execute that certain Declaration of Convenants, Conditions and Restrictions for Braystone Park Subdivision as recorded as Instrument No. 02206915 in the Register's Office of Shelby County, Tennessee (the "Declaration"); and

WHEREAS, Declarant did execute that certain Amendment to the Declaration of Covenants, Conditions and Restrictions for Braystone Park Subdivision as recorded as Instrument No. 02218722 in the Register's Office of Shelby County, Tennessee (the "First Amendment"); and

WHEREAS, Declarant did execute that certain Amendment to the Declaration of Covenants, Conditions and Restrictions for Braystone Park Subdivision as recorded as Instrument No. 03233152 in the Register's Office of Shelby County, Tennessee (the "Second Amendment"); and

WHEREAS, Declarant did execute that certain Amendment to the Declaration of Covenants, Conditions and Restrictions for Braystone Park Subdivision as recorded as Instrument No. 04169697 in the Register's Office of Shelby County, Tennessee (the "Third Amendment"); and

WHEREAS, Declarant did execute that certain Amendment to the Declaration of Covenants, Conditions and Restrictions for Braystone Park Subdivision as recorded as Instrument No. 04185796 in the Register's Office of Shelby County, Tennessee (the "Fourth Amendment"); and

WHEREAS, Declarant does desire to amend the Declaration as provided in Article III, Section 3 of the Declaration to add additional land to be subject to the terms and provisions of the Declaration.

NOW THEREFORE, Declarant hereby declares that the Declaration shall be amended as follows:

1. Exhibit "B" attached to the Declaration is hereby amended to include the Final Plan of Braystation Park Subdivision Phase 4, as recorded in Plat Book 221, Page 62 in the Register's Office of Shelby County, Tennessee so that Phase 4 is subject to the provisions of the Declaration, and the amended Exhibit "B" is attached hereto.

2. All other provisions of the Declaration shall remain in full force and effect and unchanged unless specifically amended hereby.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Fifth Amendment to Declaration on the day and year first above written.

Bray Station, L.L.C.,
a Tennessee limited liability company

By: Charles H. Claiborne
Charles H. Claiborne, Treasurer

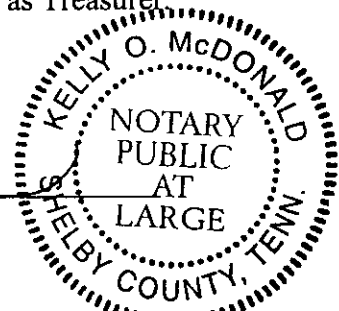
ACKNOWLEDGEMENT

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public of the state and county mentioned, personally appeared **Charles H. Claiborne**, 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 Treasurer of **Bray Station, L.L.C.**, a Tennessee limited liability company, the within named bargainor, and that he as such Treasurer executed the foregoing instrument for the purposes therein contained, by signing the name of **Bray Station, L.L.C.**, a limited liability company, by himself as Treasurer.

WITNESS my hand, at office, this 3RD day of OCTOBER, 2005.

Kelly O. McDonald
Notary Public



My Comm. Exp. May 8, 2007

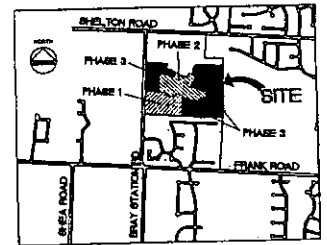
My Commission expires:
May 8, 2007

EXHIBIT B

NOTE:

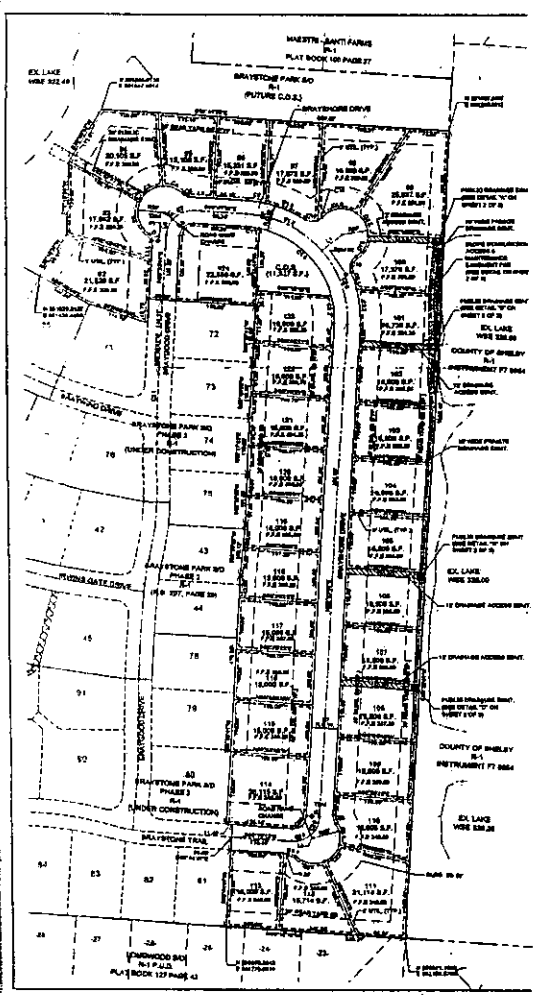
1. THERE IS A FIVE (5) FOOT UTILITY EASEMENT ALONG THE FRONT, REAR AND SIDE LOT LINES OF ALL LOTS UNLESS SHOWN OTHERWISE. ALL UTILITY EASEMENTS ARE TO BE OUTSIDE ALL PUBLIC EASEMENTS.
2. THE HOMEOWNERS ASSOCIATION SHALL MAINTAIN THE LIGHT FIXTURES AND LIGHTING IN COMMON OPEN SPACES, PERIMETER FENCING, ENTRY STRUCTURE, ALL COMMON OPEN SPACES AND THE AMENITIES WITHIN THE COMMON OPEN SPACES.
3. THE PRIVATE COVENANTS AND RESTRICTIONS FOR BRAYSTONE PARK S/D ARE RECORDED PER INSTRUMENT NO. 0228772 IN THE SHELBY COUNTY REGISTER'S OFFICE. WITH AN AMENDMENT TO SAID COVENANTS RECORDED PER INSTRUMENT NO. 0228772, THE BRAYSTONE PARK HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR MAINTENANCE OF ALL SURFACE DRAINAGE, INCLUDING SIDE YARD SWALES.
4. ALIGNMENT OF WALKWAYS WITHIN C.O.S. SHALL BE APPROVED BY THE DESIGN REVIEW COMMISSION. A PUBLIC PEDESTRIAN EASEMENT SHALL EXIST ALONG ALIGNMENT OF SAID WALKWAYS.

SETBACKS:
FRONT 40'
REAR 40'
SIDE 25' TOTAL WITH NEITHER SIDE LESS THAN 10'



SITE LOCATION

TBM	DESCRIPTION	ELEV.
#1	SET OVER MARK ON TOP OF CURB @ E.A. OF BRAYWOOD DRIVE	280.00
#2	SET OVER MARK ON TOP OF CURB @ E.A. OF BRAYSTONE DRIVE	291.91
#3	SET OVER MARK ON TOP OF CURB @ E.A. OF BRAYSTONE DRIVE	288.31



SLOPE STABILIZATION ACCESS & MAINTENANCE EASEMENT

THE SLOPE STABILIZATION ACCESS & MAINTENANCE EASEMENT LOCATED ALONG THE REAR OF LOTS 98-102 GRANTS THE TOWN OF COLLIERVILLE AN ABSOLUTE AND EXCLUSIVE EASEMENT INCLUDING THE RIGHT TO MAINTAIN, REPAIR, REBUILD AND/OR INSTALL SLOPES OVER, THROUGH AND ACROSS THAT PORTION OF LOTS 98-102 WITHIN THE SAID EASEMENT. THE TOWN OF COLLIERVILLE, ITS AGENTS, EMPLOYEES, CONSULTANTS, CONTRACTORS AND OTHER REPRESENTATIVES SHALL HAVE THE RIGHT TO ENTER INTO AND UPON SAID EASEMENT AS REASONABLY NECESSARY TO EFFECTUATE THE PURPOSES OF THE EASEMENT IN ORDER TO CONDUCT SUCH INSPECTIONS, MAINTENANCE, IMPROVEMENTS AND REPAIRS AS NECESSARY TO ASSURE THE CONTINUING EFFICIENT FUNCTIONING OF THE SLOPE INTO AND ACROSS THE EASEMENT. THE TOWN OF COLLIERVILLE IS NOT OBLIGATED NOR REQUIRED TO MAINTAIN OR IMPROVE THE SAID SLOPE TO THE BENEFIT OF THE LOT OWNERS OR ANY OTHER THIRD PARTY.

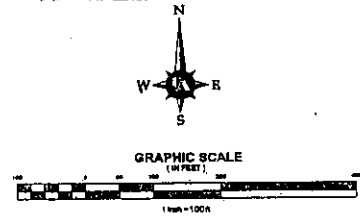
THE TOWN OF COLLIERVILLE SHALL, NEVERTHELESS, DEFEND AND HOLD HARMLESS THE OWNER OF LOTS 98-102 FROM AND AGAINST ALL COSTS, CLAIMS, CAUSES OF ACTION AND EXPENSES (INCLUDING WITHOUT LIMITATION, ALL ATTORNEY AND OTHER PROFESSIONAL FEES, LICENSES, PERMITS, FINES, PENALTIES, OR OTHER CHARGES) RESULTING FROM ALL ACTIVITIES OF THE TOWN OF COLLIERVILLE, ITS AGENTS, EMPLOYEES, CONSULTANTS, CONTRACTORS AND OTHER REPRESENTATIVES ENTERING UPON THE REAL PROPERTY OF LOTS 98-102.

PRIVATE DRAINAGE EASEMENT

THE PRIVATE DRAINAGE EASEMENT LOCATED ALONG THE REAR OF LOTS 100-108 IS FOR THE PURPOSE OF MAINTAINING SURFACE DRAINAGE ACROSS THE REAR OF THE LOTS VIA ABOVE GROUND SWALES AS INDICATED BY THE DIRECTIONAL FLOW ARROWS ON THE PLAT. THE DRAINAGE SWALES SHALL NOT BE ALTERED NOR BLOCKED BY ANY BUILDING, LOT OWNER OR OTHER THIRD PARTY. THE TOWN OF COLLIERVILLE IS NOT RESPONSIBLE FOR THE ENFORCEMENT OF SAID PRIVATE DRAINAGE, BUT DOES RESERVE THE RIGHT TO ENTER INTO AND REMOVE AND/OR ALTER ANY IMPROVEMENTS WHICH VIOLATE THE INTENT OF SAID PRIVATE DRAINAGE EASEMENT AS IT RELATES TO ITS EFFECT ON THE FUNCTIONALITY OF THE PUBLIC DRAINAGE SYSTEM OF WHICH THE PRIVATE DRAINAGE ENTERS. THE TOWN OF COLLIERVILLE SHALL HAVE THE RESPONSIBILITY FOR MAINTENANCE OF THE PUBLIC DRAINAGE SYSTEM OF WHICH THE PRIVATE DRAINAGE ENTERS. HOWEVER THE INDIVIDUAL LOT OWNERS SHALL BE RESPONSIBLE FOR KEEPING THE SURFACE ENTRY OF THE PUBLIC DRAINAGE INLETS FREE OF DEBRIS AND FOR MAINTAINING ALONG THE BOTTOM OF ANY INSTALLED SIDE YARD FENCE A MINIMUM HEIGHT CLEARANCE OF SIX (6) INCHES A MINIMUM WIDTH OF FIVE (5) FEET ACROSS CENTERED OVER THE GROUND SWALE WITHIN THE PRIVATE DRAINAGE EASEMENT.

PUBLIC DRAINAGE ACCESS EASEMENT

THE PUBLIC DRAINAGE ACCESS EASEMENTS LOCATED OVER AND ACROSS LOTS 100, 101, 106 AND 108 GRANT THE TOWN OF COLLIERVILLE, ITS AGENTS, SUBCONTRACTORS, REPRESENTATIVES AND EMPLOYEES ACCESS OVER AND ACROSS SAID LOTS WITHIN SAID EASEMENT AS REASONABLY NECESSARY TO ACCESS THE PUBLIC DRAINAGE EASEMENTS LOCATED IN THE REAR OF SAID LOTS.



THIS PROPERTY IS NOT LOCATED IN A 100 YEAR FLOOD HAZARD AREA. F.E.M.A. PANEL 47197G 0346E, DATED DEC. 2, 1984. 100 YR. FLOOD EL. 296.0

**FINAL PLAT
BRAYSTONE PARK S/D
PHASE 4
COLLIERVILLE, TENNESSEE**

PREPARED JANUARY 2008
TOTAL AREA: 18.888 ACRES (877,000 S.F.)
TOTAL LOTS: 59. ZONED: R-1

PREPARED FOR:
BRAY STATION, L.L.C.
8900 POPLAR AVE.
MEMPHIS, TN 38119



FISHER & ARNOLD, INC.
1000 Company 2000 Dallas - Memphis, Tennessee 38128-4838
901-498-0221 • Fax 901-769-4222 • Web: www.fisherandarnold.com

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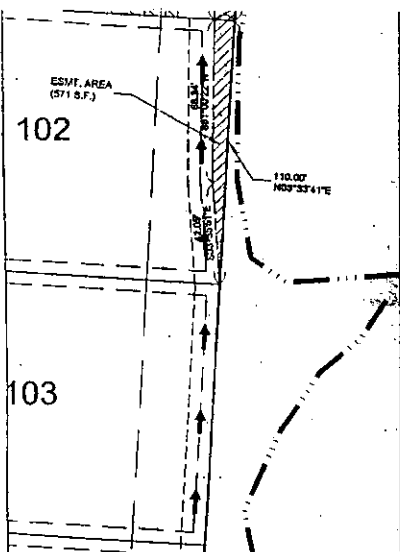
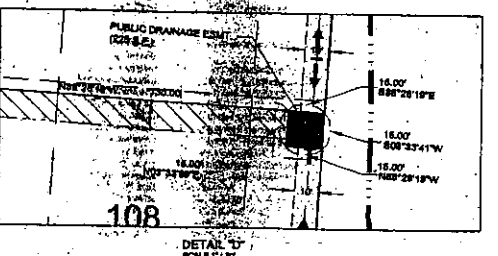
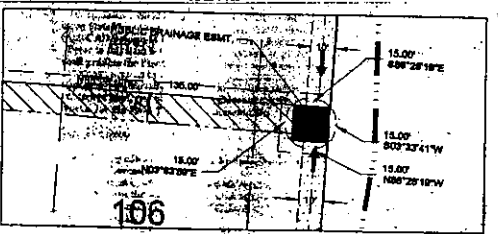
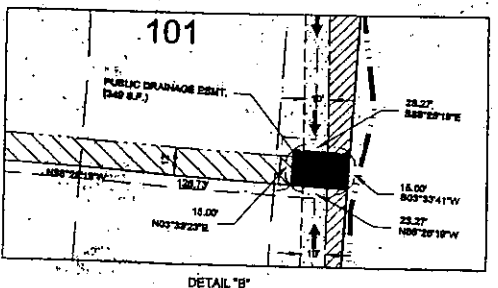
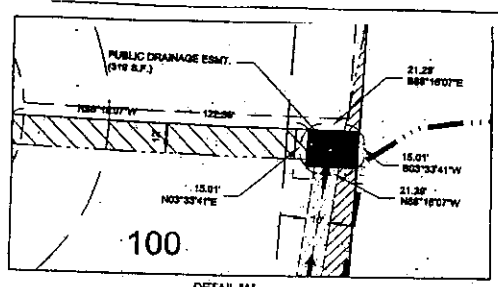
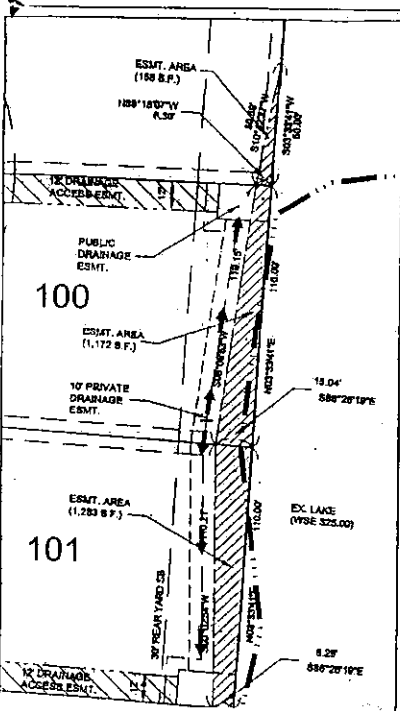
BY: CAROL ANN - SALLS, JR.
JAN 14, 2008
JAN 14, 2008

PLAT BOOK: 1 221

PAGE: 1 62

TOM LEATHERWOOD
REGISTER OF DEEDS

EXHIBIT B cont.



CURVE	INTERM	BACKS	DELTA	TANGENT	CHD. R.	CHD. LEN.
C1	15.17	15.00	87°00'00"	15.17	80°28'19"W	14.52
C2	15.17	15.00	87°00'00"	15.17	80°28'19"E	14.52
C3	20.17	20.00	87°00'00"	20.17	80°28'19"W	19.52
C4	20.17	20.00	87°00'00"	20.17	80°28'19"E	19.52
C5	11.12	11.00	87°00'00"	11.12	80°28'19"W	10.52
C6	11.12	11.00	87°00'00"	11.12	80°28'19"E	10.52
C7	32.27	32.00	87°00'00"	32.27	80°28'19"W	31.52
C8	32.27	32.00	87°00'00"	32.27	80°28'19"E	31.52
C9	45.27	45.00	87°00'00"	45.27	80°28'19"W	44.52
C10	45.27	45.00	87°00'00"	45.27	80°28'19"E	44.52
C11	34.27	34.00	87°00'00"	34.27	80°28'19"W	33.52
C12	34.27	34.00	87°00'00"	34.27	80°28'19"E	33.52
C13	23.27	23.00	87°00'00"	23.27	80°28'19"W	22.52
C14	23.27	23.00	87°00'00"	23.27	80°28'19"E	22.52
C15	15.27	15.00	87°00'00"	15.27	80°28'19"W	14.52
C16	15.27	15.00	87°00'00"	15.27	80°28'19"E	14.52
C17	25.27	25.00	87°00'00"	25.27	80°28'19"W	24.52
C18	25.27	25.00	87°00'00"	25.27	80°28'19"E	24.52
C19	35.27	35.00	87°00'00"	35.27	80°28'19"W	34.52
C20	35.27	35.00	87°00'00"	35.27	80°28'19"E	34.52
C21	45.27	45.00	87°00'00"	45.27	80°28'19"W	44.52
C22	45.27	45.00	87°00'00"	45.27	80°28'19"E	44.52
C23	55.27	55.00	87°00'00"	55.27	80°28'19"W	54.52
C24	55.27	55.00	87°00'00"	55.27	80°28'19"E	54.52
C25	65.27	65.00	87°00'00"	65.27	80°28'19"W	64.52
C26	65.27	65.00	87°00'00"	65.27	80°28'19"E	64.52
C27	75.27	75.00	87°00'00"	75.27	80°28'19"W	74.52
C28	75.27	75.00	87°00'00"	75.27	80°28'19"E	74.52
C29	85.27	85.00	87°00'00"	85.27	80°28'19"W	84.52
C30	85.27	85.00	87°00'00"	85.27	80°28'19"E	84.52
C31	95.27	95.00	87°00'00"	95.27	80°28'19"W	94.52
C32	95.27	95.00	87°00'00"	95.27	80°28'19"E	94.52

LINE	LENGTH	BEARING
L1	37.85	80°28'19"W
L2	10.50	84°22'00"E
L3	18.47	88°14'32"E
L4	50.00	80°48'22"W
L5	8.38	84°20'45"E

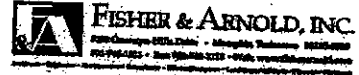


THIS PROPERTY IS NOT LOCATED IN A 100 YEAR FLOOD HAZARD AREA
F.E.M.A. PANEL 4715C (DKE, DATED DEC. 2, 1989)
100 YR. FLOOD EL. 288.8

FINAL PLAT
BRAYSTONE PARK S/D
PHASE 4
COLLIERVILLE, TENNESSEE

OCTOBER 2004
TOTAL AREA: 16.65 ACRES (87,286 S.F.)
TOTAL LOTS: 31 ZONED R-1

PREPARED FOR:
BRAYSTONE LLC
600 POPULAR AVE.
NASHVILLE, TN 37219



RECORDED

05163118

05/22/2005 - 03:14 PM

PLAT BOOK : 221

PAGE : 62

TOM LEATHERWOOD
REGISTER OF DEEDS - SHELBY COUNTY, TENNESSEE

EXHIBIT B cont.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS IS A CATEGORY 1 SURVEY AND THAT THE BASIS OF PRECISION OF THE UNADJUSTED SURVEY IS 4 DECIMAL DECIMALS THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY PERSONAL SUPERVISION AND CONFORMS WITH APPLICABLE STATE LAWS AND LOCAL ZONING ORDINANCES, GOVERNMENT REGULATIONS AND THE SPECIFIC CONDITIONS IMPOSED ON THIS DEVELOPMENT AND PERTAINING TO THE PRACTICE OF SURVEYING.



BY: TECHNICAL SURVEYING

ENGINEER'S CERTIFICATE

IT IS HEREBY CERTIFIED THAT THIS PLAN IS TRUE AND CORRECT, IS IN CONFORMANCE WITH THE DESIGN REQUIREMENTS OF THE ZONING ORDINANCE, THE SUBDIVISION REGULATIONS AND THE SPECIFIC CONDITIONS IMPOSED ON THIS DEVELOPMENT, AND TAKES INTO ACCOUNT ALL APPLICABLE FEDERAL, STATE AND LOCAL REGULATIONS AND ORDINANCES.



BY: TECHNICAL SURVEYING

OWNER'S CERTIFICATE

WILBRAY STATION, L.L.C. THE UNDERSIGNED (OWNER) OF THE PROPERTY HEREIN, HEREBY ACCEPTS THIS AS A PLAN OF DEVELOPMENT AND DEDICATE THE STREET RIGHTS-OF-WAY, AND GRANT THE EASEMENTS AS SHOWN AND/OR DECISION TO PUBLIC USE. HEREBY, WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF SAID PROPERTY IN FEW SIMPLE, FULLY PAID FOR, AND THAT SAID PROPERTY IS NOT ENCLUMBERED BY ANY OTHER BORROWING OR MORTGAGES THAT HAVE BECOME DUE AND PAYABLE.

[Signature]
DAVE WILSON, REGISTERED MANAGER
BRAY STATION, L.L.C.

NOTARY'S CERTIFICATE
STATE OF TENNESSEE
COUNTY OF SHELBY

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE AND COUNTY AT MEMPHIS, DEBT COMMISSIONER AND QUALIFIED, PERSONALLY APPEARED *[Signature]* WITH WHOM I AM PERSONALLY ACQUAINTED AND WHOSE SIGNATURE ON THIS ACKNOWLEDGE HEREBY TO BE THE OWNER OF THE PROPERTY, THE WITHIN-SIGNED MANAGER AND HE EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED AND WHEREAS I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL AT MY OFFICE IN MEMPHIS, TENNESSEE, THIS 15th DAY OF *[Date]*.

[Signature]
NOTARY PUBLIC
[Signature]
MY COMMISSION EXPIRES



BOARD OF ZONING AND SUBDIVISION CERTIFICATE

I HEREBY CERTIFY THAT ALL REQUIREMENTS HAVE BEEN MET AND THAT A PERFORMANCE BOND COVERING COLLECTIBLE IMPROVEMENT AMOUNT TO SUBSCRIPTION OF ALL REQUIRED IMPROVEMENTS HAS BEEN POSTED FOR THE SUBDIVISION WORK ON THIS PLAN AND AREA HEREBY APPROVED BY THE BOARD OF ZONING AND SUBDIVISION.

9-27-2005
[Signature]
DATE: VILLANOVA TOWN OF COLLETSVILLE

I, *[Signature]* DO HEREBY CERTIFY THAT THE TOWN OF COLLETSVILLE PLANNING COMMISSION HAS APPROVED THIS PLAN OF SUBDIVISION FOR RECORDING.

10-20-2005
[Signature]
DATE: SECRETARY, PLANNING COMMISSION
TOWN OF COLLETSVILLE

**OCTOBER 4, 2004 - PLANNING COMMISSION
AGENDA ITEM PC 04-02
BRAYSTONE PARK SUBDIVISION, PHASE 4 - FINAL SUBDIVISION PLAN
CONDITIONS OF APPROVAL**

Memorandum

- The Narrative Comments shall include a note that the Home Owner's Association has full maintenance responsibility for all Common Open Areas (COA), private streets, private utilities, private swimming pool/party pavilion, private and public water, and landscaping areas. This note shall also appear on the Final Subdivision Plat and reference the Narrative Comments to Subdivision Plat.
- The Narrative Comments shall include a note that the Home Owner's Association shall include a Tree Mitigation Plan that shows the specific tree banked and fifty (50) percent of the tree banked trees shall be replanted.
- The applicant shall provide the Planning Commission with a copy of the final plan documents using State Mass Coordinate System with NAD-83 datum on disk or CD in DWG format (AutoCAD Release 14 or earlier) prior to recording of plan documents.
- Prior to this time being issued by the Board of Zoning and Subdivision, the applicant shall provide the Authority (Shelby County) with a letter of approval and/or approval required by the Planning Commission and Design Review Committee.

Engineering Division

- The following notes shall appear on the Final Site Subdivision Plat and be included in the Narrative Comments.
 - Storm Rehabilitation, Access and Maintenance Easement - The intent of this easement is to allow this area to remain in a natural condition. Any required maintenance shall be determined by the Town of Collierville Parks and Recreation and/or Engineering Department.
 - Storm Drainage Easement - The individual lot owner shall be responsible for maintaining drainage system as designed to provide for positive drainage.
 - Public Drainage Access Easement - The individual lot owner shall be responsible for positive maintenance along this easement to include keeping drainage clear of debris. The Town of Collierville shall approve any access and water distribution system.
- One copy of the final approved platting and water plans shall be provided to the Engineering Division.
- Required landscaping shall not be placed on utility, water, sewer or drainage easements.
- Before work commences on this project, the contractor/developer must provide the Town Engineer with a copy of Tennessee Department of Environment and Conservation (TDEC) Notice of Coverage (NOC).
- Proper erosion control and slope loss prevention measures shall be in place before clearing begins and regularly maintained throughout the construction phase until all areas are stabilized to the satisfaction of the Town Engineer and the Tennessee Department of Environment and Conservation.
- All easements, public and private, shall be shown on the Final Plat.
- Street easement shall be approved by MLDLW and the Town. A copy of MLDLW Street Name Approval Map shall be submitted to the Town's Engineering Division.
- All non-light commercial (E-2/E-3) Use & Zoning requirements.

Plat

- The slope along east boundary of Phase 4 and adjacent to lot 41 shall be added with 4:1 Tiltway Sloped Area.

**FINAL PLAT
BRAYSTONE PARK S/D
PHASE 4
COLLIERVILLE, TENNESSEE**

CONTRACTORS 22004
TOWN AND/or SHELBY COUNTY (BY/AS A/E)
TOTAL LOTS: 25 ZONED: R-1
PREPARED BY:
WILBRAY STATION, L.L.C.
REGISTERED MANAGER
DAVE WILSON, REGISTERED MANAGER
1000 Commerce Blvd - Memphis, Tennessee 38103
901-521-1111 - Fax 901-521-1112 - www.wilbraystation.com



RECORDED:

0516311859	
10/15/05	
PLAT BOOK : 221	
PAGE : 62	
APPROVED FOR	J.H.
BY	L.H.
DATE	10-15-05
TOM LEATHERWOOD	
REGISTER OF DEEDS COUNTY SHELBY	