

**PIKEVILLE/PIKE COUNTY/ELKHORN CITY  
JOINT PLANNING COMMISSION  
FEBRUARY 13, 2007  
MINUTES**

**BILL BLACKBURN:**

Welcome to the Pikeville, Pike County,  
Elkhorn City Joint Planning Commission Meeting. If you are  
here this evening to speak on any items that are to come before us,  
you'll need to be sworn in. So would everyone who plans on  
speaking on any issues stand up and raise your right hand? Just  
say 'I do' after, if you do agree. Do you swear or affirm to tell the  
truth, the whole truth and nothing but the truth?

**EVERYONE:**

I do.

**BILL BLACKBURN:**

Let it be shown, for the record, that everyone  
kinda stood and took the oath. Judy, if you will, call the roll.

**JUDY COLEMAN:**

Bill Blackburn?

**BILL BLACKBURN:**

Present.

**JUDY COLEMAN:**

Rick Gortney?

**RICK GORTNEY:**

Present.

**JUDY COLEMAN:**

David Sanders?

**DAVID SANDERS:**

Present.

**JUDY COLEMAN:**

John Elliott?

**JOHN ELLIOTT:**

Here.

**JUDY COLEMAN:**

Jimmy Kiser?

**JIMMY KISER:**

Here.

**BILL BLACKBURN:**

It's time now for our public hearing and we're to consider discussion concerning an application from East Kentucky Network to construct wireless communication facilities located at

Shelbiana and Phelps. I think all of you have seen the mail out on this and plus you have the notebooks in front of you and I'll give the floor to them.

**WILL KENDRICK:**

I'm gonna be brief tonight. My name is Will Kendrick and I represent EKN. We have submitted a complete application, complete with all the public notices to the various county and city officials and to the property owners. I will say that this particular site, and let me speak here first to the Phelps site, is on a property that is under an existing mining permit with another business here in the county, Central Appalachian Mining. They, Central Appalachian Mining, has notified us that the site, as located, which their engineers helped us locate, is on a site that was formerly mined and that is going to be, is under the permit but the actual mining is gonna be below the existing tower site and should not compromise the tower and likewise the location of the tower will not impair, impede or reduce recoverable tonnage, which we're all interested in. We do work closely with any and all the coal companies or people that have some economic interest as well as the property holders. This site will really, once this tower is

constructed, this should really help the people up in the Shelbiana area to have better service. Of course, that's why we would put the tower up, to serve the public. At any rate, all the necessary approval has been submitted and we just ask the commission, the joint commission, to approve our application. Is there any questions or comments from any of the panel?

**BILL BLACKBURN:**

Questions or comments?

**WILL KENDRICK:**

I should say I'm with Mr. Marty Thacker and Dennis Shepherd, who are with the company and have done a lot of the site work and dealt with the property owners up in that area. Thank you.

**BILL BLACKBURN:**

Thank you. Any questions or comments from the commission or from the floor? If not, that ought to conclude our public hearing. We'll move on to our meeting. At this time we'll call the meeting to order and I'll -- is there a motion to approve the minutes as you received them?

**JOHN ELLIOTT:**

So moved.

**BILL BLACKBURN:**

A motion has been made to approve the minutes;  
is there a second?

**DAVID SANDERS:**

Second.

**BILL BLACKBURN:**

Motion made in second to approve the minutes as  
you received them in the mail. If there's no objection, they'll stand  
approved as we received them. Move on to the treasurer's report,  
Mr. Rick?

**RICK GORTNEY:**

Okay. We had a beginning balance of \$8,726.00.  
We received two checks for \$2,790.00, we received \$6.68 interest on  
our checking account, which gave us a balance of \$11,496.94. Our  
expenses was for the past two meetings to Ms. Coleman, one check  
for \$210.00, one check for \$322.00, which leaves us a balance of  
\$10,964.94. We have money.

**BILL BLACKBURN:**

He received a statement on a 1099 or whatever on the taxes, \$6.00, and he asked me before the meeting began, we don't have to file any kind of return or anything?

**KAREN HARRIS:**

(Shook head.)

**BILL BLACKBURN:**

Okay. Very good, any questions or comments for Rick? Is there a motion to approve the treasurer's report as stated?

**JOHN ELLIOTT:**

So moved.

**BILL BLACKBURN:**

Second?

**JOHN ELLIOTT:**

Second.

**BILL BLACKBURN:**

If there is no objection, it'll stand approved. There is none. Move on to item number four on the agenda, Consider approval of request from East Kentucky Network to construct two cell towers located at Shelbiana and Phelps. Mr. Kendrick just

discussed that on our public hearing and the floor is open for any discussion, either from the commission, questions, or from the floor. Questions, comments? There being none, is there a motion to approve these towers?

**DAVID SANDERS:**

I would make a motion we approve both tower sites. I think the one at Phelps is a temporary tower that's being converted to a permanent location, is that not correct?

**WILL KENDRICK:**

That's correct.

**DAVID SANDERS:**

The one along 23 is a new location. I make a motion we approve both sites.

**BILL BLACKBURN:**

Motion is made to approve both towers; is there a second to the motion?

**JOHN ELLIOTT:**

Second.

**BILL BLACKBURN:**

Motion has been made and seconded, clerk, call

the roll.

**JUDY COLEMAN:**

Bill Blackburn?

**BILL BLACKBURN:**

Yes.

**JUDY COLEMAN:**

Rick Gortney?

**RICK GORTNEY:**

Yes.

**JUDY COLEMAN:**

David Sanders?

**DAVID SANDERS:**

Yes.

**JUDY COLEMAN:**

John Elliott?

**JOHN ELLIOTT:**

Yes.

**JUDY COLEMAN:**

Jimmy Kiser?

**JIMMY KISER:**

Yes.

**BILL BLACKBURN:**

Next item on the agenda is, Consider request from Michael Hager for approval of preliminary subdivision plat for Lot #9 located in Quail Walk.

**WILL KENDRICK:**

Mr. Chairman, if there's no further questions, I'll just ask if we can be excused?

**BILL BLACKBURN:**

Yes, certainly.

**WILL KENDRICK:**

We thank you, the commission, for its time today.

**BILL BLACKBURN:**

We thank you all.

**MICHAEL HAGER:**

Bill, I've got a, some more pictures of the besides the ones submitted the other day...

**BILL BLACKBURN:**

This is down, isn't this down next to Lonnie

Osborne, am I right?

**MICHAEL HAGER:**

Right behind the Super 8. Right there at the corner lot. The property is located behind the Super 8, it's on the corner lot there right where you go up Quail Ridge. Actually, probably goes up and over and crosses and connects to the road on the other side. It's approximately 204 feet with the road and then it's 136 feet coming out of the hollow toward Super 8 Hotel. What I was gonna do is break it up into two pieces. I'm currently building a house on one lot, which is the lot down next to the road. It has city utilities there and the city utilities running up by the property on the top side on the off side of the road there. It should be a little over 11,000 square feet on the lot that I'm building on now. The other lot should be probably around 16,000 square feet and there'll be enough room for any types of setbacks or anything that it would require, as far as the foundation of the house and things like that.

**DAVID SANDERS:**

I guess the question that I would have is I'm really not familiar with the subdivision restrictions that exist at Quail Ridge when the subdivision was formed. But I do know that the

zoning codes say that all lots in a subdivision area and abutting subdivision area needs to be consistent with those lots that is abuts. I don't, out of my own ignorance, I guess, I just don't know the dimensions of the lots in that area and whether or not this creates an incompatible lot. We've subdivided lots before for different reasons, but in most cases we've limited construction on them. If you recall, we did that at Chloe Ridge and then we just denied one at Bowles Park, or I mean not Bowles Park, but Bowles Addition. I don't know, maybe this is a different situation.

**MICHAEL HAGER:**

I have a copy of those.

**BILL BLACKBURN:**

Of the subdivision restrictions?

**MICHAEL HAGER:**

Yes. Their setbacks are, require a few more footage than yours, than the city does. Theirs is actually 20 feet on the sides and then it has a 2,000 square foot living area requirement.

**BILL BLACKBURN:**

Have you been, Michael, have you been before the

subdivision committee or the home owners there to get their approval on this or is there an association that —

**MICHAEL HAGER:**

No, I talked to Dr. Altman and told him that I would like to break it up and he said that his concern would be, as Mr. Donovan Blackburn, is that the setbacks would be within the requirement, the restrictions. He said that would be, that was his only problem on it. He asked me did he want me to distribute it out to the other community members and I told him, at that point in time, I didn't see any use to until we could find out if it could be split. Because I didn't want to go through all this, uh, meetings and everything, you know, if it doesn't meet the city requirements than it would just be wasting their time.

**BILL BLACKBURN:**

Did you actually talk to Robert Smith about this?

**MICHAEL HAGER:**

Yes, Robert said that he felt that it was, you could divide it and the extra square footage, the square footage it is is double what was required. I think the city requires 5,000 square feet, 50 foot wide lot.

**BILL BLACKBURN:**

Did this go before the engineering committee?

**KAREN HARRIS:**

Well, no, it didn't. Because, probably the fact that we felt that it was a minor subdivision plat.

Because it already has utilities, there's no infrastructure that it needs to be run to the site.

**DAVID SANDERS:**

Again, I'm just trying to go back to what the code says. The code says that relationships to exist in subdivisions, in order to reduce the impact, will forego subdivision on an adjacent preexisting subdivision for their property value. Proper zoning should be required in accordance with the following. It goes on down and says that the term one lot shall be the lot in the primary buffer zone, it shall be comparable in size and dimensions to those of the pre-existing subdivisions. That would be my only concern is if we are creating subdivision areas, wherever they are, and they have some level of compatibility within that subdivision area. If we start changing the structures of those subdivision areas by dividing them up and adding additional housing units, which is part of

what's addressed in this code restriction, it says that except that's here and provided only, and this reading your code restrictions, only one detached single family dwelling and an attached garage shall be erected upon each lot. So they seem to have intended, when they did these restrictions, to only have one house per lot and I don't see where, I don't know if we have any legal standing in subdivision restrictions anyway. We probably don't. I'd feel a whole lot better if I knew the neighbors' thoughts on this and whether or not that they felt that it was going to change the value of their property.

**BILL BLACKBURN:**

It's a point well taken. If you move into a subdivision, you buy there because it consists of large lots, it's acre size lots, and you move in there for that reason, it's sort of like the rules of the game are being changed in the middle of the game. You move on there and you buy it and all of a sudden they're doubling up the lots, when the subdivision restrictions preclude that and I don't know, too, legally, this is a question for Rusty. I don't think we can override a subdivision restriction. I know when there's, I think the way the law, as I remember from some time back; I'm not

a lawyer; but when there's a conflict between the state law and the subdivision, the law in the subdivision, a private subdivision law, when there's a conflict, I know the government law will supercede if the subdivision. In other words, allow the 50 foot frontage, but the government said it had to be 60 foot frontage, then the government's going to be paramount. In this situation, though I don't know how, how it would, that's something we'd need to, I think, check with Rusty.

**DAVID SANDERS:**

This buffer zone and subdivision dimension requirement regulation came about when developer A divided an area and developer B came in adjacent to it with a completely different concept. The regulation clearly said that the first guy in, the second guy on the butting dimensions had to match the dimensions of the existing subdivision. So you couldn't come in and put 50 foot wide lots next to 100 foot wide lots; at least that one set of lots has to be the same. Now, whether or not this applies inside of a subdivision or not, I don't know. But it does make sense that if there is a platted subdivision, per se, and you're gonna divide a lot inside of that subdivision it's consistent and compatible with

the neighbors and that's, I wouldn't have an issue with it if I knew the neighbors was okay with it. That's kinda, that would be my position.

**MICHAEL HAGER:**

Does it fall within what you would require to split it and, if it does, then I could go to them and say, you know, I've got with the city, the city says it falls within the restrictions they require. Now, is it okay if I do it, you know, they want your blessings to do it, you know, just leave it up to them, leave the final word up to them?

**BILL BLACKBURN:**

I would have no problem with this if your, the rest of your sub-, I, myself, I'm just speaking for myself, let the rest of the commission speak. If the rest of the residents around had no problem with it, that you went before the appropriate subdivision regs, there's probably something we need to run by Rusty, and I'm not so sure that I wouldn't want the Technical Advisory just to scan this and look at it and make sure everything is alright according to the -- I believe it is, the dimensions and all that, the size, but I'd still rather they look at that. We did have a situation similar to this

not too long ago in another subdivision and they were just three feet out of compliance of splitting it up. In fact, I think they had the square footage if you counted the bank, but it was just the frontage on it. They went before the Technical Advisory Board and I think there was a hangup there about the rest of the citizens or subdivision neighbors. So I think you need to clear both, check with Technical Advisory and then check with your subdivision --

**MICHAEL HAGER:**

You know, I don't wanna make anybody sitting on this upset or anything like that. If it could be done, I'd like to do it and if it can't, then, you know, it can't be done. It's just, you know, that simple.

**DAVID SANDERS:**

I guess I would say from the dimensions of the plat and the zoning restrictions, you probably conform with the mathematical concept of it, I think the question that, again, I would have would be what Mr. Blackburn said. I would maybe ask, if we don't impose on Rusty too much, if he could maybe give us some guidance on the general concept of a divided lot, particularly those on the inside a subdivision such as this and some others, and

there's many others that we deal with that are outside the subdivisions that we don't seem to, I mean we just gloss through them. I think, to me, that was what the intent of that kind of division was, is, you know, somebody's got a lot out here on the highway somewhere and that's divided into two tracts and we do that. But if it's platted as a subdivision then it becomes a little different creature to me, I think.

**BILL BLACKBURN:**

Any other comments or questions? So, you'll check with your, go through the Tech Committee and check with them and so forth?

**MICHAEL HAGER:**

I'll talk to him tonight.

**BILL BLACKBURN:**

I'm not so sure that you wouldn't even have to, and, getting Rusty to help us with this, you wouldn't have to post notice on that with the rest of the, with the subdivision. But you might wanna check with him and the Technical Review Committee.

**MICHAEL HAGER:**

I appreciate your all's time.

**BILL BLACKBURN:**

Thank you, Mike.

**KAREN HARRIS:**

The Tech Committee. Our subdivision rules and regulations state that they can have an informal meeting with the planning commission before subdividing a lot. He'd like a few minutes of your time to talk with you about something that he's proposing.

**BILL BLACKBURN:**

Welcome, Jim.

**JIM HARRIS:**

Thank you. Here's some drawings I'll share with you guys; there should be enough there to pass around. I'm a part owner with Jim Booth and Coal Mac in a lot up next to where the old Lowe's was, which is on South 23, we've got an interest from an outside party who would like to purchase a half-acre of that lot. I'm here to ask you folks to subdivide that lot in two tracts; it's depicted on the drawing there. One of those tracts is in dark gray, that's the area I'm trying to sell. All the utilities should be there. This, you know, fronts US 23, so it's really an issue to divide the site, you

should be able to tap the water down there. The US 23 runs down beside the sidewalk line. The sewer, it's somewhere around, well, right now you can't see it. Somewhere around where the Coal Mac house is at. We'll have to extend that over to the second lot; but outside those two issues...

**BILL BLACKBURN:**

Of course, we can't take any action on this this evening -- has it been before the Technical Advisory Committee.

**JIM HARRIS:**

It hasn't.

**RICK GORTNEY:**

How would it access US 23? Would it have its own access?

**JIM HARRIS:**

No, right now, it wouldn't have, it would use the same access you got, which is the light gray area, they would use the same access we have to access their property to their lot. Somewhere down the road, they mentioned that they would like to have another entrance off of 23, which probably means removing the -- applying with the, complying with the state highway

departments. I presume they would be the proper authority for that, and moving the entrance up between the two lots, that's something, at this point in time, that's not necessary.

**BILL BLACKBURN:**

I would think this definitely would need to go before the Technical, especially with the ingress and egress and so forth, you know this lot commercial, there's a number of stipulations that come under, Jim, the commercial property, as far as what it's gonna be used for and parking and so forth. I think the appropriate thing would be to do on this, Karen, would be to present a preliminary plat, wouldn't it, and get approval on that? That would need to go before the Technical Advisory Committee, as far as the stats. Am I correct on that?

**DAVID SANDERS:**

It could. I guess I'm, I'd like to talk out of both sides of my mouth, now after what we just said. That's why that I said that verifications from Rusty between the areas that are platted, such as Quail Ridge, and the areas that are not platted, such as this example that Mr. Harris has brought before us. The minor plat revision process says, and again reading the code,

qualify for a minor subdivision plat, meets one of the following conditions, one of the conditions is where the subdivision contains two lots, counting the remainder of the original tract fronting on an existing street, involves no widening of the street for utilities and conforms to the zoning and subdivision regulations of the plan of the city of Pikeville. So this one fits minor plat requirements. What that means, that it says, upon the determination that it meets this requirement, the commission or the chairman himself may waive the preliminary plat procedure. In this case the subdivider may go directly to preparing a final plat as described in Section 231-232. It seems to me and his encroachment is not gonna be on a city street that we've had some issues with in the past. If he has an encroachment issue, it's gonna be on a state highway, he's gonna have to deal with Rick's company.

**JIM HARRIS:**

In all honesty, the state highway department is not something we're even certain that's gonna be needed. It's something right now they've discussed that with us, but that's not something at this point -- They can access their lot as it sits right now.

**DAVID SANDERS:**

They'll use the existing entrance and come down the front.

**JIM HARRIS:**

All this property is known as C2, highway normally...

**BILL BLACKBURN:**

This is on the actual city plan. Is this a copy of that, that's been approved for the commercial here?

**JIM HARRIS:**

I'm not sure that there is a plat -- I mean, this is, all this is prepared by our engineers, which is all of what this is.

**BILL BLACKBURN:**

I mean this isn't taken off of a pre-prepared plat or something?

**JIM HARRIS:**

No, this is based on a survey. No property engineer prepared this research.

**BILL BLACKBURN:**

You just went out and surveyed this recently? So

there's not an existing plat on this?

**DAVID SANDERS:**

No, not that I'm aware of.

**BILL BLACKBURN:**

What's the will of the rest of the commission?

What are you saying? Are you, pretty much, to let him, that it'd be alright to let him just do the one plat process?

**DAVID SANDERS:**

It's my opinion that's what it says and that's 100% opposite from what I just told Mr. Hager, but I think that there was a big difference because he was in a platted subdivision of which people have bought lots and built lots under certain covenants and restrictions. That has not happened here, there is no prior subdivision.

**RICK GORTNEY:**

There's no prior subdivision set up there and...

**DAVID SANDERS:**

Not that I'm aware of.

**JIMMY KISER:**

Are they a difference between residential and

commercial too? Like, where this is commercial?

**DAVID SANDERS:**

Again, I don't know. Not that I'm aware of.

**BILL BLACKBURN:**

You said this was zoned commercial?

**JIM HARRIS:**

It's...

**RICK GORTNEY:**

Zone 2.

**BILL BLACKBURN:**

Well even on doing the one plat process, that would still have to go before the Technical Review to make sure everything was in, which I have no problem with that myself, just as long as all the ducks are in a row and it's appropriate. This is on the four-lane there and you've got the, you come into some complex requirements there. As long as those are met, safety and so forth, but, again, that's the work of the Technical. So you're saying you think he can just go the one plat route as long as he goes before and gets that before the technical review and then that's brought into us?

**DAVID SANDERS:**

Right, that's---

**BILL BLACKBURN:**

That's your opinion on the way the statute reads.

The rest of the commission? That road that goes, that two-story brick building sits back there on the -- I'm roughly picturing it, right before the auto parts...

**JOHN ELLIOTT:**

That used to be Coal Mac, you know, upstream.

They moved -- there's an old house in the middle of Yorktown.

**BILL BLACKBURN:**

Sits back there in back.

**JIM HARRIS:**

Yes, the Advance Auto Parts, is right on up from it.

**BILL BLACKBURN:**

It turns, you turn right off the road into that, don't you? There's not a secondary street there?

**JIM HARRIS:**

It's not, no. Actually, you can see the light, the

light gray area is blacktop area, that's actually the road entrance you come on US 23. That's the turn, it's on the lower end of the property.

**RICK GORTNEY:**

That was the reason for my comment is due to that entrance there it'd be rough for the spacing requirement to be--

**JIM HARRIS:**

Even if we asked for them to move that back, I understand the entrance issue that you guys would have to take that one out and all that would actually satisfy the state if that's even needed. It's not necessary to do all that. If they'd agree to take it as it is. But it would probably work better for the business and perhaps for what else we put on that lot if that entrance was moved and it's not zoned, that's what has to be done.

**BILL BLACKBURN:**

There's other requirements that come into play there as far as commercial, you know, the number of possible customers you'll have, parking and so forth, all that's related to the size of the building and all that. He's interested, he called me

earlier today and they're interested in expediting this as much as possible and I told him, you know, we're for getting things done as quick as possible as long as their done by the law and correctly. That's what we're here for. I told him we could call a special meeting if we needed to this is a possible business that would be coming in and means jobs and so forth and so on. He was worried about us not meeting again for two months and so forth. So I think where we're standing right now, not that we can take any action, you all help me with this, but as long as this goes before the Technical Review Committee and they approve it and then we get the plat and so forth, then we can probably call a meeting and proceed from there. Is that what I'm understanding? Karen, do you have any questions about it? Does that sound right to you?

**KAREN HARRIS:**

That's fine.

**BILL BLACKBURN:**

We just, we want to try to treat everybody fair and square and do things right and I know that's what Jim would want. I think Robert probably -- has Robert even looked at this at all? Did you two call -- I suggest you call him.

**JIM HARRIS:**

I tried and I was unable to...

**BILL BLACKBURN:**

Just weren't able to get up with him. Really, probably need to check with Robert on this. That would be the appropriate protocol and let him know what we discussed. There'll be a copy of that and Karen can relay that to him or he can call me. I don't guess, technically, we can take action, but it, are we putting a bunch into consensus on our discussion? Is there any problem with them going to one plat on this?

**JOHN ELLIOTT:**

Seems fine.

**BILL BLACKBURN:**

To expedite things? So I'd check with Robert and then go with the Technical.

**JIM HARRIS:**

I'll call him tomorrow.

**BILL BLACKBURN:**

Then as soon as you get, your engineer, gets everything together, get up with us, we'll see about calling a special

meeting. If there's any questions between the Technical Review Committee and your engineer, they can work that out.

**JIM HARRIS:**

Alright. Appreciate your time.

**BILL BLACKBURN:**

Thank you, Jim. Any other questions or comments? Do you like short and sweet meetings? Is there a motion for adjourning?

**JOHN ELLIOTT:**

Motion.

**JIMMY KISER:**

Second.

**MEETING ADJOURNED**

DEED OF RESTRICTIONS

QUAIL RIDGE SUBDIVISION

CURTIS D. BLACKBURN, RANDALL BLACKBURN, ERTEL L. WHITT, JR., and JOHN D. HAYS, PARTNERS D/B/A WOODLAND REALTY COMPANY, DEVELOPERS

PHASE I

WHEREAS, Woodland Realty Company, a partnership comprised of Curtis D. Blackburn, Randall Blackburn, Ertel L. Whitt, Jr., and John D. Hays, is the owner of that subdivision located in Pike County, Kentucky, near the Pauley Addition of the City of Pikeville and known as Quail Ridge. A map or plat thereof is filed on record in the Pike County Court Clerk's Office in Map or Plat File 323 B.

The lots in the foregoing subdivision are to be offered for sale for the purpose of constructing homes thereon, and by reference the hereinafter set out restrictions are and shall become a part of each and every deed conveying the lots described in said map or plat.

The following restrictions shall apply to each lot in Phase I of the Quail Ridge Subdivision. These restrictions are intended to constitute a general plan for the benefit of and enforceable by all present and future owners of or parties interested in any of the lots in the subdivision or any part thereof and their heirs and assigns. Each and every covenant shall be considered a covenant running with the land at law as well as in equity and is binding upon and inures to the benefit of the heirs and assigns of the declarants and all present and future persons owning or having an interest in any of said lots or a part thereof. These restrictions are as follows:

(1) Except as herein provided, only one detached single-family dwelling and attached private garage appertinent thereto shall be erected upon each lot, with the exception of one out building which shall be of the same construction and architectural style as the original dwelling. No use shall be made of said dwelling except as incidental to the occupation thereof for residential purposes by one family.

If two or more adjoining lots are owned by the same owner, then such lots may at the election of said owner be treated as a single lot unit for the purpose of construction thereon.

\* (2) No structure or construction of any kind or size whatever shall be permitted in the front yard established by the building line depicted upon said map or plat of the subdivision and, further, shall not be permitted in the side or rear yards within 20 feet from the boundary line of said side or rear yards; provided, however, that water, utility lines, and drainage facilities shall not be deemed in violation of this restriction, nor shall hedges, vegetation, ornamental trees, open patio areas, dusk to dawn lights, or retaining walls. Any permissible permanent construction to be placed in these restricted areas in accordance with the foregoing exception shall be submitted for approval prior to construction to the Architectural Control Committee provided for herein.

(3) All buildings shall be of standard construction, using either brick, natural stone, or wood, with comparable roof. The use of concrete blocks or cinder blocks in the exterior walls is expressly forbidden. Exposed foundations must be finished in accordance with the exterior design of the house.

(4) No dwelling shall be erected upon the premises unless it contains a total living area of 2,000 square feet or more, excluding from the living area utility rooms, attics, basements, and garages.

(5) No building, wall, fences, or other structure shall be commenced, erected, or maintained upon any lot, nor shall any exterior addition to or change or alteration therein or change in the exterior appearance be made until the plans showing the nature, kind, shape, height, exterior appearance, specifications, and location of the same shall have been submitted to and approved in writing by an Architectural Control Committee comprised of the parties hereto or their duly appointed heirs and assigns. The date supplied to the Architectural Control Committee shall consist of the following:

(a) Complete plans and specifications sufficient to secure a building permit in the City of Pikeville, including a plot plan showing the lot and block with the placing of the residence located thereon, garage, cut building, walls, or fences.

(b) Front elevations and both side elevations, or front elevation and one side elevation and rear elevation of building, in addition to elevation of walls and fences if deemed necessary by the Committee.

(c) A perspective drawing, if deemed necessary by the Committee, to interpret adequately the exterior design.

(d) Data and information as to materials, color, and texture of all exteriors, including roof coverings, fences, and walls.

(e) Upon request by the Committee, one set of blueprints shall be left with the Committee until construction is completed.

Should the Committee fail to approve or disapprove the plans and specifications provided them within 30 days after submission of the required data to them, or any one of them, then such approval will be deemed as having been given; provided, however, that all other conditions and restrictions contained herein shall remain in full force and effect. If for any reason the Committee has ceased to exist or the members thereof have failed to designate a representative to act on their behalf, then the need for the approval required herein shall be deemed to have terminated.

(6) Construction of model homes upon the lots is expressly permitted as long as such construction conforms in all respects to each and every restriction stated herein.

(7) No fence, hedge, walls, railings, or other enclosing structures shall be permitted unless the same are aesthetically pleasing and in conformity with the architectural style and type of the dwelling located upon the lot; and all such enclosing structures shall be submitted to the Architectural Control Committee for approval in writing prior to constructing or placing the same upon a lot.

(8) No trailer, double-wide trailer, or mobile homes of any type shall be located or erected on any lot or part thereof either temporarily or permanently, nor shall any houseboat, mobile home, truck in excess of 6,000 gvw (gross vehicular weight), or other commercial vehicle be either temporarily or permanently stored thereon.

(9) Each home owner shall maintain off-street parking for a minimum of four vehicles.

(10) The land and all improvements located thereon shall at all times be maintained by the owner in good condition and repair. All gardens, trees, shrubbery, or other landscaping must be planted and maintained in keeping with the decorative plan of this subdivision. All lots must be reasonably maintained, with weeds or grass to be at mowing level. Vegetable garden activity carried on on any lot in this subdivision shall be restricted to the rear one-half of the lots, and the same shall be camouflaged in such a manner as not to be readily visible from any street located in the subdivision.

(11) All trees indigenous to the area six inches in diameter or greater shall remain in their untrimmed, natural state except those affected by the immediate construction site of the dwelling or any permissible out building or those that are diseased and dangerous to the safety of the users of the lot or the dwelling or other buildings located thereon. Prior to cutting any tree six inches or greater in diameter, the lot owners shall secure approval of the Architectural Control Committee in accordance with the requirements of Restriction No. 5 above.

(12) No billboards or advertising signs shall be erected, placed, or maintained on any lot except that one "For Sale" sign or one "For Rent" sign may be placed thereon, which in no event shall be larger than two feet by two feet.

(13) No lot shall be used or maintained as a dumping ground for trash, rubbish, or refuse. Trash, garbage, or other waste shall not be kept in any manner upon any lot except in sanitary, buried garbage containers, to be located at the side or the rear of the dwelling located upon said lot.

(14) Diversion of surface water drainage from construction sites on any lot must be maintained to insure protection for adjoining property owners and streets. Surface water drainage from drives and yards must be drained to ditch lines and drainage easements. Construction on any lot shall in no manner restrict or hinder the flow of surface waters along street drainage ditches or drainage easements, naturally or man made.

(15) Erection of receiving and/or transmitting antennas shall be submitted for approval to the Architectural Control Committee and shall be situated in such a manner so as to be concealed from visibility or observation from any street located within the subdivision. Further, any transmitting device must be maintained in such a manner so as to eliminate any interference whatsoever with radio and television reception within the subdivision. Further, should any antenna be erected external to the dwelling structure, all lead-in wires and connecting cables shall be buried.

(16) Any and all above surface utility devices, such as meters, regulators, heating and air conditioning units, etc., must be screened from visibility and observation from the streets in the subdivision in an aesthetically pleasing manner and, further, in a manner that will be in architectural conformity to the style of the dwelling upon the lot.

(17) No animals or poultry shall be kept on any lot except that no more than four domesticated household pets not kept for commercial or breeding purposes may be kept upon the premises.

WITNESS our hands this 23 day of January, 1979.

Curtis D. Blackburn  
CURTIS D. BLACKBURN

Randall Blackburn  
RANDALL BLACKBURN

Erteel L. Whitt Jr.  
ERTEL L. WHITT JR.

John D. Hays  
JOHN D. HAYS

(PARTNERS, D/B/A WOODLAND REALTY COMPANY, DEVELOPERS)

STATE OF KENTUCKY

COUNTY OF PIKE

I, Kay W. Lennister, a Notary Public in and for the County and State aforesaid, do hereby certify that the foregoing Deed of Restrictions was this day produced before me in said County and State aforesaid by CURTIS D. BLACKBURN, RANDALL BLACKBURN, ERTEL L. WHITT, JR., and JOHN D. HAYS, partners d/b/a WOODLAND REALTY COMPANY, Developers, who acknowledged the same to be their act and deed individually and as partners d/b/a WOODLAND REALTY COMPANY, Developers.

Given under my hand this 23 day of January, 1979.

My Commission Expires: May 5, 1980

Kay W. Lennister  
NOTARY PUBLIC

This Instrument Was Prepared By:

John D. Hays  
John D. Hays, Attorney at Law  
Pikeville, Kentucky 41501

STATE OF KENTUCKY

COUNTY OF PIKE Clerk's Certificate of Lodgment and Record  
12:55 P.M.

I, JOHN PAUL BLAIR, Clerk of the County Court for the County and State aforesaid, certify that the foregoing Deed of Restrictions was on the 20th day of February, 1979, lodged for record, whereupon the same with the foregoing and this certificate have been duly recorded in my office.

Witness my hand this 21st day of February, 1979.

7-13-07

Jimmy Kiser

DAVID SANDERS

Ray Blackburn

Red Bortner

~~DD. Elliott~~

William S. [Signature] - Appell/EKN

Marty Tracker - Appell/EKN wireless/EKN

Dennis Shepherd - " " "

Karen Harris, City of Pikeville

Phillip Hagen

JIM HARRIS