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April 9, 2008

Land Use Control Board
125 North Main Street
Room 468
Memphis, TN 38103

**RE: Memphis Theological Seminary Planned Development Application
Case No. P.D. 06-368**

Dear Members of the Land Use Control Board:

I am in receipt of a copy of a Notice of Public Hearing which was recently distributed regarding Memphis Theological Seminary's Planned Development Application. Our family has lived at 196 East Parkway South since 1987. Our home is directly south of the residence located at 184 East Parkway South which is proposed to be converted into an office. My wife and I and our neighbors are very concerned about this proposal and we are very opposed to it.

It was disappointing to learn that the Seminary had scheduled this for hearing, since I had led the effort over many months to negotiate and draft a Declaration of Restrictive Covenants Agreement with the Seminary, and it appeared that the matter would be resolved amicably. The negotiations unexpectedly and abruptly ended with my receiving a call from the Seminary's lawyers and the Notice of this hearing.

As a result, I have been forced to scramble and try to put together a quick opposition to the Planned Development Application, because neither I nor my neighbors knew that we were headed in this direction. Further, I have filed a lawsuit in Chancery Court against the Seminary to enjoin them from proceeding with the Planned Development and from using the duplexes on Roberta Drive and St. Agnes as student housing, which is in violation of the zoning ordinances and to prevent them from violating the terms of the Park-Moor Subdivision Restrictions which require that all properties be used solely for residential purposes.

Accordingly, I would like to advise you of the events leading up to this hearing:

1. History of Regular Variance Requests. The Seminary has, since prior to my moving into the neighborhood, regularly petitioned the Board of Adjustment and subsequently the Land Use Control Board for variances for various things such as non-conforming uses, building a library, building parking lots, converting residences to office space and other similar matters in a historic residential neighborhood on an ad hoc piecemeal basis. The Office of

Planning and Development advised the Seminary that they would be required to present a master plan so that the Office of Planning and Development and the neighbors will know exactly what is going to happen in the neighborhood and what their true long range plans are. As described further below, the current Planned Development Application does not address this concern adequately because the Seminary has presented a Planned Development Application for only half of the property it actually owns and has not included other properties which will be the subject of a subsequent Planned Development Application.

2. **Failure to Comply with Conditions and Need for Certainty.** With respect to previous variance requests, the Seminary had sometimes been successful in obtaining these variances, however, various conditions were imposed. The Seminary has routinely ignored those conditions which were imposed upon them. For example, when the Seminary was granted the right to place parking behind the residence at 170 E. Parkway S., it was required to build a six-foot site-proof fence around the parking lot to avoid the unsightliness of the parking lot to the neighbors and also to prevent access to the Seminary from Roberta Drive so that students would not park along Roberta Drive and go to the Seminary because the street was too narrow for that purpose. The Seminary totally ignored that condition for a number of years and then, upon my urging, subsequently put up a partial fence which, to this day, still does not completely enclose the parking lot and comply with the requirements. A copy of the Notice of Disposition dated June 2, 1987 imposing these requirements is attached as Exhibit A.

There are numerous other instances in which the Seminary has promised things to the neighbors which they have not done. For example, the Seminary property looks more like the Mall of Memphis parking lot than a historic residential neighborhood because of the extreme lighting in the back yards. I have been told repeatedly that landscape type lighting would be installed but to this day this has not occurred.

In short, because of the Seminary's apparent attitude that it is easier to ask for forgiveness than to ask for permission, I felt that it was imperative that anything they say they will do must be committed in writing. Therefore, when the current Application was initially filed, I commenced the negotiation of a Restrictive Covenant Agreement which addressed not only the plans in the Planned Development currently under consideration, but also the plans for all other properties which have been and are planned to be acquired by the Seminary. After a lengthy process of getting the neighbors on board, we got to the point where on June 26, 2007, Jay Earheart-Brown, the President of the Seminary and I agreed upon a document that would be presented to the Board of the Seminary. My communication of the document to be submitted to the Seminary's Board is attached as Exhibit B. The Seminary rejected the Agreement stating that the term of the Agreement (ninety-nine years) was too long. Attached as Exhibit C is a letter from Brenda Solomito, the Seminary's Land Planner which initially served as the outline for the Restrictive Covenant Agreement. You will note that at the bottom of page two, the last term provides for a term of ninety-nine years. In other words, the Seminary's Board rejected a proposal that the Seminary initially made.

3. **Student Housing.** The Seminary is currently utilizing duplexes on Roberta Drive and St. Agnes as student housing not only on a semester basis but even on a nightly basis. Attached as Exhibit D is a copy of some pages from their website advertising the student housing

and also an application that provides for nightly housing rates. Enclosed as Exhibit E is a letter from me dated November 8, 2007 demanding that the Seminary cease operating as a hotel/dormitory in the duplexes. Of course, this letter has been totally ignored and the attached website and housing application is still maintained to this very date.

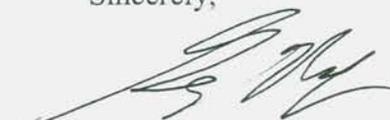
4. **Notice of Hearing.** Subsequent to my letter, I received a call from Nathan Bicks and Jeff Feibelman as attorneys for the Seminary and we discussed ways to resolve the issues. I proposed that the property on East Parkway would be bound for ninety-nine years under the terms of the Restrictive Covenant Agreement and that the properties behind East Parkway would be bound for a term of fifty years with automatic ten year renewals unless a majority of the neighbors voted not to renew. Initially, the attorneys indicated they would recommend this to their client. Subsequently, this past Wednesday, I was advised that the Seminary intends to go forward with the hearing and would not negotiate further because I would not agree to a further change of the previously agreed terms that would allow them to vary the terms of the Master Plan and have the variance subject to review by an arbiter. Obviously, the whole point of having a Restrictive Covenant Agreement is for the neighbors to know exactly what is planned. We have an arbiter right now and that is the Land Use Control Board. However, we are tired of arguing every five years with the Seminary and the intention of the Agreement was to solidify their commitment and allow the neighbors and the Seminary to have a peaceful co-existence.

5. **Conclusion.** The area is a residential area and should be maintained as a residential area. Most of the homes on East Parkway were built seventy-five to one hundred years ago, and the area is among the most beautiful and historic areas in the City. In 2003 when Hurricane Elvis hit Memphis, this area was devastated. It is interesting to note that every single house in the area affected was totally repaired and improved even though many could have been total losses. This speaks highly of the viability of the continued use of this area as a very nice mid-town residential area. In a period when many citizens are re-locating to other counties, we must protect our residential neighborhoods and the homeowners who take pride in their homes and their city.

For the reasons stated above, it is hoped that the Land Use Control Board will reject the Planned Development Application and send a clear signal to the Seminary that they cannot whimsically destroy our beautiful and historic residential neighborhood piecemeal and ignore their responsibility to be good neighbors and take into account the needs of those neighbors, in order to ensure the neighborhood's stability.

I am sorry this letter is somewhat lengthy, but appreciate very much your time and attention.

Sincerely,



George Nassar, Jr.

GJN/clc
Enclosures



MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT

ROOM 1B-13 CITY HALL • 125 NORTH MID AMERICA MALL
MEMPHIS, TENNESSEE 38103

NOTICE OF DISPOSITION

DATE: June 2, 1987

TO: Memphis Theological Seminary
c/o H. L. Feibelman, Attorney
Suite 1935 100 North Main Building
Memphis, TN 38103

RE: DOCKET 87-85 City

LOCATION: 139-141 Roberta Drive, (420' north
of Avery Ave.) and 170 East Parkway
South, (160' south of Union Avenue)

On May 27, 1987, the MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT approved your application requesting a variation from the Zoning Regulations to allow the rear yards of the subject lots to be used for parking to serve the Seminary which is adjoining to the north; subject to the amendment made at the hearing to include the following conditions:

1. The lot known as 139-141 Roberta Drive is deleted from, and no longer a part of the request of this application.
2. Install and maintain a six (6) foot high, sight-proof, wood fence along the south property line of the lot known as 170 East Parkway South, beginning at a point aligning with the east (rear) of the house on that lot and extending eastwardly to the east property line; and extending northwardly along the east property line to the north line of the northernmost parking space herein requested (shown as space #18 on the site plan). Said fence is to be constructed and maintained without any gates.
3. The applicant is to submit a revised site plan to the Board's Secretary incorporating said amendments, with the revised site plan to be the approved plan and to be so marked and made a part of the records of this case. Any change or deviation from this plan is to be resubmitted to the Board for its review and reaffirmation of the approval hereby granted.

ALL APPEALS AND APPLICATIONS GRANTED ARE EXPRESSLY CONDITIONED UPON THE APPLICANT OBTAINING THE PERMIT REQUESTED OR OTHER ORDER WITHIN ONE (1) YEAR FROM THE DATE OF THE DECISION OF THE BOARD OF ADJUSTMENT.

The resolution of the Board is subject to your inspection at the office of the Board of Adjustment.

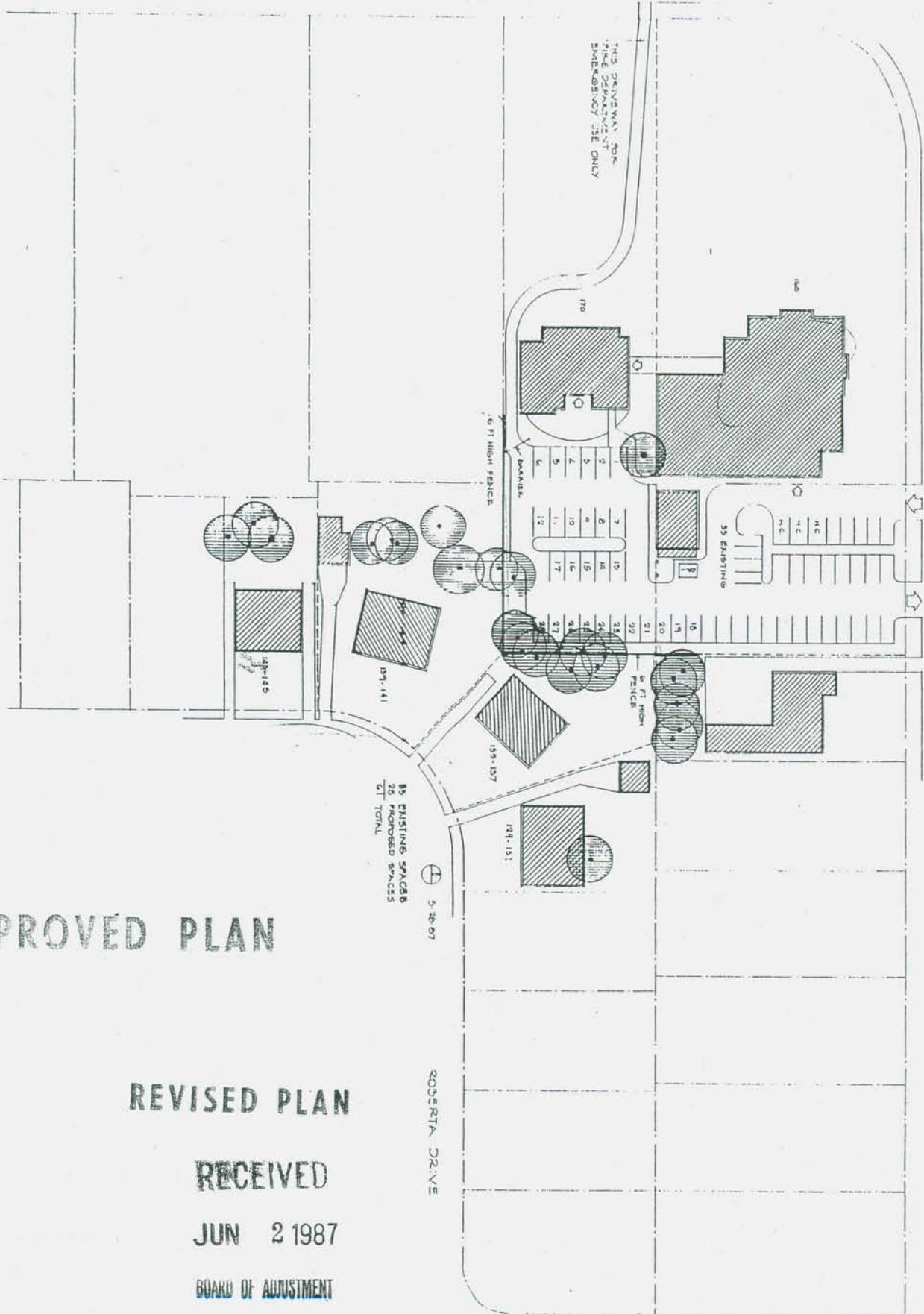
Respectfully,

Anita Forrester, Secretary
Board of Adjustment

EXHIBIT A

EAST PARKWAY SOUTH

UNION AVENUE



APPROVED PLAN

REVISED PLAN

RECEIVED

JUN 2 1987

BOARD OF ADJUSTMENT

George Nassar, Jr.

From: George Nassar, Jr.
Sent: Tuesday, June 26, 2007 11:30 AM
To: Jay Earheart-Brown
Cc: Brenda Solomito; John Vaughn
Subject: Seminary Agreement

Attachments: Memphis Theological Seminary Master Plan 4-17-2007.pdf; Clean Dec of Covenants.pdf; Declaration of Restrictive Covenants_Redline 6-26-07.doc

Glad we were able to resolve our differences yesterday. Attached is a redlined version of the Declaration showing the changes agreed to and a clean copy for execution purposes. In addition, enclosed is a copy of the Master Plan which will be attached to the executed Declaration. Please get the clean copy signed and let me know this is done ASAP. As you can imagine, I have my work cut out for me to try to obtain as many neighbors' signatures as possible with notaries prior to the July 12th hearing, so I would like to start as soon as possible.

Thanks
George



Memphis



Clean Dec of



Declaration of

Memphis Theological Seminary Master Plan 4-17-2007.pdf (73...
Clean Dec of Covenants.pdf (73...
Declaration of Restrictive Covenants_Redline 6-26-07.doc

George Nassar, Jr.
Glankler Brown, PLLC
1700 One Commerce Square
Memphis, TN 38103
Phone: (901) 576-1773
Fax: (901) 525-2389
E-Mail: gnassar@glankler.com
Web Site: www.glankler.com

IRS Required Statement: This document and any attachments were not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties that may be imposed on any taxpayer.

This is a privileged and confidential transmission. If you are not an addressee and received this message in error, please contact the sender and delete the message. Thanks in advance for your assistance.

THIS INSTRUMENT PREPARED BY
AND RETURN TO:

George Nassar, Jr.
Glankler Brown, PLLC
One Commerce Square
Suite 1700
Memphis, Tennessee 38103

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration"), made ~~effective as of the 25th day of June, 2007~~, by MEMPHIS THEOLOGICAL SEMINARY, a Tennessee corporation with its principal business located at 168 East Parkway South, Memphis, Tennessee 38104, and MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH, a Tennessee corporation and TRUSTEES OF THE MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH, a Tennessee corporation (collectively called the "Declarant");

Deleted: this ____ day of

Formatted: Superscript

WITNESSETH:

WHEREAS, Declarant is the owner of various properties as designated on Exhibit A, annexed hereto and incorporated herein by this reference (the Land and the improvements owned by the Declarant are hereinafter collectively referred to as the "Burdened Property"); and

WHEREAS, those persons other than Declarant listed on Exhibit "A" and designated as owning property on East Parkway South, Roberta Drive or St. Agnes Drive, together with their successors-in-interest are hereinafter collectively referred to as the "Adjoining Landowners" and each of them owns land and residences thereon located adjacent to the Burdened Property (said parcels of land and the residences thereon are hereinafter called the "Benefited Properties" and all of same are shown on Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant has filed an Application for Planned Development Approval designated as PD 06-368 and the Adjoining Landowners who have executed this Declaration intended to oppose the Application for Planned Development Approval; and

WHEREAS, the Adjoining Landowners who have executed this Declaration have agreed to consent to the Application for Planned Development Approval provided that Declarant imposes certain covenants, conditions and restrictions on the Burdened Property and any other property to be acquired by it within the bounds of the Master Plan (in which case such additional property shall also be included as "Burdened Property" and, to the extent such additional property is deemed a Burdened Property, such property shall no longer be considered as a "Benefited Property"); and

WHEREAS, Declarant has agreed to the conditions imposed by Adjoining Landowners and now desires to subject the Burdened Property to the covenants, conditions and restrictions set forth hereinafter, which covenants, conditions and restrictions are for the purpose of protecting the value and desirability of the land owned by the Adjoining Landowners;

Deleted: ND: 4848-2868-3521, v. 1

NOW, THEREFORE, Declarant hereby proclaims, publishes and declares as follows:

Section 1. Covenants, Conditions and Restrictions. The Burdened Property shall be held, conveyed, encumbered, rented, used, occupied and improved subject to the following covenants, conditions and restrictions (collectively, the "Restrictions"):

a. The owners of the Burdened Property shall, at all times, provide a landscape buffer a minimum of fifty-eight (58) feet in width along the north property line of the Nassar Property at 196 East Parkway South. This buffer area will contain an eight foot wrought iron fence integrated into the landscaping. This fence shall begin at the Southwest corner of the property line of the Fulton Home and continue eastward to the Northeast corner of the Nassar Property. When additional properties are acquired within the shaded area at the corner of Avery Avenue and St. Agnes Drive (herein called "Phase III") on the drawing attached hereto as **Exhibit "B"** (herein called "Master Plan"), a fence of the same materials and dimensions will then be constructed along the entire western boundary of Phase III and terminate at Avery Avenue.

b. The Fulton Home, will only be used as administrative offices and educational space for the Memphis Theological Seminary. It shall maintain the residential character and no exterior alterations shall be made other than to comply with code requirements in the rear of the building. In the event Memphis Theological Seminary ceases to own or otherwise occupy the Burdened Property for the purposes stated, the Fulton Home shall be restored to its residential status, both structurally inside and out and zoning wise, as it existed prior to the modifications described herein.

c. A 75' wide landscape buffer area that transitions to a 140' wide and then to a 158' wide buffer area will be provided along the entire western boundary of Phase III as illustrated on the Master Plan. The landscape buffer areas are generally non-buildable except for fencing, walkways, meditation gardens, gazebos and other landscape features integrated into Prayer or Meditation Gardens.

d. Parking lot lighting will be a maximum of 25' in height. Photometric Studies of the development shall be prepared at the expense of the owner of the Burdened Property to illustrate 0.0 - 0.5 foot-candles at the property lines of the Memphis Theological Seminary where it is adjacent or in close proximity to any portions of the Benefited Property used as duplexes or single family residences. Copies of such studies shall be made available upon request by the owner of the Burdened Property to any owner of the Benefited Property.

e. A detail planting plan will be provided to George Nassar, Jr. or his successor-in-title for his review and approval for landscape plans adjacent to 196 East Parkway South.

f. As a part of all Phases illustrated on the Master Plan, the development team will work with the City of Memphis and Brian Davis with SSR Ellers, or another engineer approved by the Architectural Committee, for the necessary drainage

improvements and/or on site detention/retention. In no instance shall drainage from the Burdened Property flow onto adjacent properties.

g. Security will be provided through the Seminary property and guards posted at entrances.

h. Signage shall be similar in nature to the existing signage along East Parkway. No further signage on East Parkway South shall be permitted.

i. There will be a maximum building height of two stories for all new construction. All new construction shall be compatible with the existing historic structures and shall be subject to approval of the Architectural Committee.

j. Trash receptacles on the Burdened Property shall not be located any closer than 80' to any common boundary line of the Burdened Property and any portion of the Benefited Property which is used for residential purposes.

k. Proposed building elevations for all new or renovated buildings on the Burdened Property shall be provided on the final plats for all phases of this planned development and such building elevations shall be subject to and conditioned upon prior written approval of the Architectural and Landscape Committees.

l. This Declaration shall burden the Burdened Property, benefit the Benefited Property and run with the land for a period of 99 years from the date this Declaration is recorded in the Register's Office of Shelby County, Tennessee.

m. The Master Plan annexed hereto is a drawing showing the proposed planned development by Memphis Theological Seminary dated April 17, 2007. Declarant hereby declares and agrees that the Master Plan shall be modified as follows:

(1) The driveway and parking pad located in front of the Fulton House shall be removed in its entirety. The Master Plan shall be revised so that the entrance on East Parkway shall be moved northwardly to the current curb cut and entrance for the Baxter Home and the circular drive shall be the minimum size required in order to comply with applicable emergency vehicle requirements and no parking shall be allowed in said drive or on said circle at any time and the parking spaces shown on the draft plan shall be eliminated.

(2) With respect to the portion of the Planned Development facing St. Agnes Drive and Roberta Drive, in the southeast corner of the Planned Development where the parking lot appears, sufficient landscaping shall be added so as to screen the view of the parking lot and vehicles from Roberta Drive and St. Agnes Drive. Further, Declarant will not permit parking of its Seminary students on Roberta Drive or St. Agnes Drive (except for persons residing on said streets) for purposes of attending classes or conducting Seminary business and will instigate a program, reasonably satisfactory to the owners of Benefited Properties located on said streets, in order to assure compliance therewith.

(3) The Fulton House may be altered so as to utilize that building for Seminary administrative office and support uses, but the exterior shall not be altered in any manner except as may be necessary in order to comply with applicable code requirements, but then subject to the approval of the Architectural Committee, as established herein.

n. In the event that the use described herein as part of the Memphis Theological Seminary is ever abandoned or otherwise discontinued, the interior and exterior of the Fulton Home shall be restored to its condition immediately preceding the conversion to other permitted uses described herein.

o. If any portion of the Burdened Property was originally part of the Park-Moor Subdivision as described in Plat Book 12, Page 40 in the Shelby County Register's Office, that portion of the Burdened Property that is not part of the Application for Planned Development Approval, or any Burdened Property transferred by the Declarant, whether part of such Application for Planned Development Approval or not, shall thereafter be subject to all of the restrictions (the "Park-Moor Restrictions") contained therein for the full period of this Declaration except that any such covenants which are unenforceable or against public policy shall be deemed severed from this Declaration to the extent of such unenforceability or invalidity.

p. All Benefited Property not owned by the Declarant or its successor-in-title shall continue to be subject to the Park-Moor Restrictions to the same extent as they are currently so restricted.

q. The Fulton Home, the Baxter Home and the Newberger Mansion shall continue during the terms of this Declaration to be maintained having a residence appearance and setbacks as currently exist and shall be maintained so long as reasonably possible and, in the event a replacement is required, shall be replaced with buildings similar in size, quality and architectural design all as approved by the Architectural Committee as established herein.

r. Any buildings to be constructed on any of the Burdened Property shown in the Master Plan shall be substantially similar in architectural design to the Newberger Mansion and the plans for such buildings shall be subject to prior written approval by the Architectural Committee. Further, no alterations may be made to any Phases of the Master Plan as shown on **Exhibit "B"** without the prior written consent of a majority of the Adjoining Landowners, which consent may be withheld with or without cause. Provided, minor modifications may be approved by the Architectural and/or Landscape Committee, as appropriate.

s. Phase III may not be commenced until the owner of the Burdened Property owns all property located in Phase III.

Section 2. Architectural and Landscape Committees. An Architectural Committee and a Landscape Committee shall be formed which shall have four members, two of whom are appointed by the Declarant and two of whom are appointed by the Adjoining Landowners. The Architectural Committee shall approve all architectural renderings before any

construction on the Burdened Property is performed and the Landscape Committee shall approve and have authority to require landscaping on the Burdened Property so as to comply with the terms and provisions of this Declaration. One-half of the members of each Committee shall be appointed by the Owner of the Burdened Property and one-half by majority vote of the Owners of the Benefited Property who have executed this Declaration or their successors-in-title (one vote per Benefited Property). The will of the majority of the respective Committees shall be required for any action except that no member of either Committee may act unreasonably in preventing or requiring any action as described herein.

Section 3. Contingency. In the event the Planned Development Approval designated as PD 06-368 is not approved, this Declaration shall be null and void.

Section 4. Binding Effect/Term. The Restrictions shall be deemed a covenant running with the land and shall be binding upon and inure to the benefit of Declarant, its heirs, personal representatives and assigns, and upon all parties having or acquiring any right, title or interest in or to any part of the Burdened Property (who shall, for all purposes, be deemed a "Declarant" hereunder), and shall be binding upon and inure to the benefit of the Adjoining Landowners, and any party now or at any time hereafter acquiring fee simple title to any of the Benefited Properties (excluding, however, any party acquiring fee simple title in connection with a deed of trust or mortgage), for a term of ninety-nine (99) years from the date on which this Declaration is initially recorded in the Register's Office of Shelby County, Tennessee.

Section 5 Enforcement. In the event of a violation or breach of any of the Restrictions by Declarant its assigns or successors-in-title, then any Adjoining Landowner who has executed this Declaration, their heirs, personal representatives and assigns, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of the Restrictions, to sue for and recover damages, to obtain a judgment for specific enforcement of these covenants or to take all such courses of action at the same time, or such other legal remedy they may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver by that party or an estoppel of that party or of any other party to assert any right available to such party upon the recurrent or continuation of the violation or the occurrence of a difference violation. Should any party incur legal fees or other expenses in enforcing the terms of this Declaration, the non-prevailing party shall pay the prevailing party's costs of enforcement.

Section 6. Severability. If any provision of this Declaration is held to be illegal, invalid, or unenforceable under present or future laws effective while this Declaration is in effect, the legality, validity and enforceability of the remaining provisions of this Declaration shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Declaration a provision that is legal, valid and enforceable and as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 7. Applicable Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to principles of conflict of laws.

Section 8. Amendment. The Restrictions may be extended, amended or terminated only by the execution of an instrument signed by Declarant and the Adjoining Landowners (or all parties at the time owning fee simple title to the Burdened Property and the Benefited Properties (excluding, however, any party acquiring fee simple title in connection with a deed of trust or mortgage)), which instrument shall be filed for recording in the Register's Office of Shelby County, Tennessee or in such other place of recording as may be required at the time of the execution of such instrument.

Section 9. Captions. The captions preceding the various sections of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the ____ day of _____, 2007.

MEMPHIS THEOLOGICAL SEMINARY

By: _____

Title: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, a Notary Public, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of **MEMPHIS THEOLOGICAL SEMINARY**, Memphis, Tennessee the within named bargainor, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office on this ____ day of _____, 2007.

Notary Public

My Commission Expires:

**MEMPHIS THEOLOGICAL SEMINARY OF
THE CUMBERLAND PRESBYTERIAN
CHURCH, a Tennessee Corporation**

By: _____

Title: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, a Notary Public, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of **MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH**, a Tennessee Corporation, the within named bargainor, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office on this ____ day of _____, 2007.

Notary Public

My Commission Expires:

**TRUSTEES OF THE MEMPHIS
THEOLOGICAL SEMINARY OF THE
CUMBERLAND PRESBYTERIAN CHURCH,
a Tennessee Corporation**

By: _____

Title: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, a Notary Public, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of **TRUSTEES OF THE MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH**, a Tennessee Corporation, the within named bargainer, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office on this ____ day of _____, 2007.

Notary Public

My Commission Expires:

JOINDER OF ADJOINING LANDOWNERS

The following Adjoining Landowners join in the execution of this Declaration to acknowledge their consent and agreement to the terms and provisions of the Declaration which operate to bind them and their successors-in-title to the Benefited Properties.

Printed Name: _____
Street Address: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared _____, to me known to be the person described in (or proved on the basis of satisfactory evidence), and who executed the foregoing instrument, and acknowledged that he executed the same for the purposed therein contained.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires:

Printed Name: _____
Street Address: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared _____, to me known to be the person described in (or proved on the basis of satisfactory evidence), and who executed the foregoing instrument, and acknowledged that she executed the same for the purposed therein contained.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires:

Deleted: ND: 4848-2868-3521, v. 1

EXHIBIT "A"

<u>OWNER</u>	<u>PARCEL ID NO.</u>	<u>ADDRESS</u>	<u>REFERRED TO HEREIN AS</u>
Declarant	028039 00001	168 East Parkway South	Burdened Property or Newberger Mansion
Declarant	028039 00025	170 East Parkway South	Burdened Property or Baxter Home
Declarant	028039 00024	184 East Parkway South	Burdened Property or Fulton Home
Declarant	028039 00002	2385 Union Avenue	Burdened Property
Declarant	028039 00004	2397 Union Avenue	Burdened Property
Declarant	028039 00005	2405 Union Avenue	Burdened Property
Declarant	028039 00006	2415 Union Avenue	Burdened Property
Declarant	028039 00008	111 Roberta Drive	Burdened Property
Declarant	028038 00002	122 Roberta Drive	Burdened Property
Declarant	028039 00012	129 Roberta Drive	Burdened Property
Declarant	028039 00013	135 Roberta Drive	Burdened Property
Declarant	028039 00014	139 Roberta Drive	Burdened Property
Declarant	028039 00015	143 Roberta Drive	Burdened Property
Declarant	028039 00016	147 Roberta Drive	Burdened Property
Declarant	028039 00019	165 Roberta Drive	Burdened Property
Declarant	028038 00010	166 Roberta Drive	Burdened Property
Declarant	028038 00009	170 Roberta Drive	Burdened Property
Declarant	028038 00003	137 St. Agnes Drive	Burdened Property
Declarant	028038 00005	153 St. Agnes Drive	Burdened

Deleted: ND: 4848-2868-3521, v. 1

<u>OWNER</u>	<u>PARCEL ID NO.</u>	<u>ADDRESS</u>	<u>REFERRED TO HEREIN AS</u>
			Property
Robertson, Jon H. & Carol Ann	028034 00007	191 East Parkway South	Benefited Property
Nassar, George J., Jr. & Nayla A.	028039 00023	196 East Parkway South	Benefited Property or Nassar Property
Cunningham, Roger J. & Sheila J.	028034 00008	203 East Parkway South	Benefited Property
Holt, Bertha M. & Paul A. Adams, Jr.	028039 00022	212 East Parkway South	Benefited Property
Smith, Graham R. & Jennifer T.	028034 00009	517 East Parkway South	Benefited Property
Moskop Robert J., Jr. & Susan T.	028039 00021	526 East Parkway South	Benefited Property
Gupta, Ramesh & Manju	028034 00010	527 East Parkway South	Benefited Property
Foote, Gwyn R.	028037 00001	542 East Parkway South	Benefited Property
Sorenson, Jeffrey M. & Katharine R.	028037 00010	0 East Parkway South	Benefited Property
Sorenson, Jeffrey M. & Katharine R.	028037 00011	0 East Parkway South	Benefited Property
Sorenson, Jeffrey M. & Katharine R.	028037 00012	550 East Parkway South	Benefited Property
Lockard, James O. & Martha S.	028034 00035	567 East Parkway South	Benefited Property
Mulrooney, Eugene H. & Mary L.	028039 00003	2391 Union Avenue	Benefited Property
Pirtle, Cordell I.	028039 00007	2419 Union Avenue	Benefited Property
Barton, Elizabeth, successor Trustee f/b/o Margery Howard	028039 00009	115 Roberta Drive	Benefited Property
Gray, Gertrude V.	028039 00010	121 Roberta Drive	Benefited Property
Lewis, Fletcher D., III & Patricia D.	028039 00011	125 Roberta Drive	Benefited Property
Anderson, John F. & Shan	028038 00001	140 Roberta Drive	Benefited Property
Carter, Ann C.	028038 00013	148 Roberta Drive	Benefited Property
Barton, Elizabeth, successor Trustee f/b/o Margery Howard	028039 00017	151 Roberta Drive	Benefited Property
Johnson, Kathy D.	028038 00012	154 Roberta Drive	Benefited

Deleted: ND: 4848-2868-3521, v. 1

<u>OWNER</u>	<u>PARCEL ID NO.</u>	<u>ADDRESS</u>	<u>REFERRED TO HEREIN AS</u>
			Property
Johnson, Kathy D.	028039 00018	157 Roberta Drive	Benefited Property
Nabors, Stanley W.	028038 00011	160 Roberta Drive	Benefited Property
Koleini Hassan K. & Sina Rohani	028039 00020	169 Roberta Drive	Benefited Property
Lewis, Robert T.	028038 00004	145 St. Agnes Drive	Benefited Property
Thomas, Erica D.	028038 00006	159 St. Agnes Drive	Benefited Property
Winbigler, Frank H. & Gretchen A. S.	028038 00007	165 St. Agnes Drive	Benefited Property
Morrow, Robert J. & Linda A.	028038 00008	171 St. Agnes Drive	Benefited Property
Pace, William A. & Sally F.	028034 E00007	2312 Edgewood Park Cove	Benefited Property
Schwartz, Stephen J. & Susan K.	028034 E00006	2318 Edgewood Park Cove	Benefited Property

THIS INSTRUMENT PREPARED BY
AND RETURN TO:

George Nassar, Jr.
Glankler Brown, PLLC
One Commerce Square
Suite 1700
Memphis, Tennessee 38103

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration"), made effective as of the 25th day of June, 2007, by **MEMPHIS THEOLOGICAL SEMINARY**, a Tennessee corporation with its principal business located at 168 East Parkway South, Memphis, Tennessee 38104, and **MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH**, a Tennessee corporation and **TRUSTEES OF THE MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH**, a Tennessee corporation (collectively called the "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of various properties as designated on **Exhibit A**, annexed hereto and incorporated herein by this reference (the Land and the improvements owned by the Declarant are hereinafter collectively referred to as the "Burdened Property"); and

WHEREAS, those persons other than Declarant listed on **Exhibit "A"** and designated as owning property on East Parkway South, Roberta Drive or St. Agnes Drive, together with their successors-in-interest are hereinafter collectively referred to as the "Adjoining Landowners" and each of them owns land and residences thereon located adjacent to the Burdened Property (said parcels of land and the residences thereon are hereinafter called the "Benefited Properties" and all of same are shown on **Exhibit "A"**, attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant has filed an Application for Planned Development Approval designated as PD 06-368 and the Adjoining Landowners who have executed this Declaration intended to oppose the Application for Planned Development Approval; and

WHEREAS, the Adjoining Landowners who have executed this Declaration have agreed to consent to the Application for Planned Development Approval provided that Declarant imposes certain covenants, conditions and restrictions on the Burdened Property and any other property to be acquired by it within the bounds of the Master Plan (in which case such additional property shall also be included as "Burdened Property" and, to the extent such additional property is deemed a Burdened Property, such property shall no longer be considered as a "Benefited Property"); and

WHEREAS, Declarant has agreed to the conditions imposed by Adjoining Landowners and now desires to subject the Burdened Property to the covenants, conditions and restrictions set forth hereinafter, which covenants, conditions and restrictions are for the purpose of protecting the value and desirability of the land owned by the Adjoining Landowners;

NOW, THEREFORE, Declarant hereby proclaims, publishes and declares as follows:

Section 1. Covenants, Conditions and Restrictions. The Burdened Property shall be held, conveyed, encumbered, rented, used, occupied and improved subject to the following covenants, conditions and restrictions (collectively, the "Restrictions"):

a. The owners of the Burdened Property shall, at all times, provide a landscape buffer a minimum of fifty-eight (58) feet in width along the north property line of the Nassar Property at 196 East Parkway South. This buffer area will contain an eight foot wrought iron fence integrated into the landscaping. This fence shall begin at the Southwest corner of the property line of the Fulton Home and continue eastward to the Northeast corner of the Nassar Property. When additional properties are acquired within the shaded area at the corner of Avery Avenue and St. Agnes Drive (herein called "Phase III") on the drawing attached hereto as **Exhibit "B"** (herein called "Master Plan"), a fence of the same materials and dimensions will then be constructed along the entire western boundary of Phase III and terminate at Avery Avenue.

b. The Fulton Home, will only be used as administrative offices and educational space for the Memphis Theological Seminary. It shall maintain the residential character and no exterior alterations shall be made other than to comply with code requirements in the rear of the building. In the event Memphis Theological Seminary ceases to own or otherwise occupy the Burdened Property for the purposes stated, the Fulton Home shall be restored to its residential status, both structurally inside and out and zoning wise, as it existed prior to the modifications described herein.

c. A 75' wide landscape buffer area that transitions to a 140' wide and then to a 158' wide buffer area will be provided along the entire western boundary of Phase III as illustrated on the Master Plan. The landscape buffer areas are generally non-buildable except for fencing, walkways, meditation gardens, gazebos and other landscape features integrated into Prayer or Meditation Gardens.

d. Parking lot lighting will be a maximum of 25' in height. Photometric Studies of the development shall be prepared at the expense of the owner of the Burdened Property to illustrate 0.0 - 0.5 foot-candles at the property lines of the Memphis Theological Seminary where it is adjacent or in close proximity to any portions of the Benefited Property used as duplexes or single family residences. Copies of such studies shall be made available upon request by the owner of the Burdened Property to any owner of the Benefited Property.

e. A detail planting plan will be provided to George Nassar, Jr. or his successor-in-title for his review and approval for landscape plans adjacent to 196 East Parkway South.

f. As a part of all Phases illustrated on the Master Plan, the development team will work with the City of Memphis and Brian Davis with SSR Ellers, or another engineer approved by the Architectural Committee, for the necessary drainage

improvements and/or on site detention/retention. In no instance shall drainage from the Burdened Property flow onto adjacent properties.

g. Security will be provided through the Seminary property and guards posted at entrances.

h. Signage shall be similar in nature to the existing signage along East Parkway. No further signage on East Parkway South shall be permitted.

i. There will be a maximum building height of two stories for all new construction. All new construction shall be compatible with the existing historic structures and shall be subject to approval of the Architectural Committee.

j. Trash receptacles on the Burdened Property shall not be located any closer than 80' to any common boundary line of the Burdened Property and any portion of the Benefited Property which is used for residential purposes.

k. Proposed building elevations for all new or renovated buildings on the Burdened Property shall be provided on the final plats for all phases of this planned development and such building elevations shall be subject to and conditioned upon prior written approval of the Architectural and Landscape Committees.

l. This Declaration shall burden the Burdened Property, benefit the Benefited Property and run with the land for a period of 99 years from the date this Declaration is recorded in the Register's Office of Shelby County, Tennessee.

m. The Master Plan annexed hereto is a drawing showing the proposed planned development by Memphis Theological Seminary dated April 17, 2007. Declarant hereby declares and agrees that the Master Plan shall be modified as follows:

(1) The driveway and parking pad located in front of the Fulton House shall be removed in its entirety. The Master Plan shall be revised so that the entrance on East Parkway shall be moved northwardly to the current curb cut and entrance for the Baxter Home and the circular drive shall be the minimum size required in order to comply with applicable emergency vehicle requirements and no parking shall be allowed in said drive or on said circle at any time and the parking spaces shown on the draft plan shall be eliminated.

(2) With respect to the portion of the Planned Development facing St. Agnes Drive and Roberta Drive, in the southeast corner of the Planned Development where the parking lot appears, sufficient landscaping shall be added so as to screen the view of the parking lot and vehicles from Roberta Drive and St. Agnes Drive. Further, Declarant will not permit parking of its Seminary students on Roberta Drive or St. Agnes Drive (except for persons residing on said streets) for purposes of attending classes or conducting Seminary business and will instigate a program, reasonably satisfactory to the owners of Benefited Properties located on said streets, in order to assure compliance therewith.

Application for Commuter Housing

MEMPHIS THEOLOGICAL SEMINARY

The Seminary owns a group of duplexes and homes located one block from campus. Commuting students are able to rent a room for the same night(s) in each week for the whole term. Each apartment (or half of a duplex) has two bedrooms, kitchen, bath, and living/dining room, and is equipped with a stove, refrigerator, microwave, heating, and air conditioning.

MTS Commuter Housing Policies:

- The nightly charge is \$30. Based on the number of nights per semester you will need, a one-time charge will be placed on your account. (ex. 14 nights x \$30 = \$420 charged to your student account) You may choose pay the Bursar on a weekly or monthly basis. Monthly payments are due by the 10th of each month.
- Your key is obtained through the Facilities & Safety Department. Failure to return the key will result in a \$15 replacement cost.
- Housekeeping, utilities, phones, cable t.v., and internet connection are furnished by the seminary.
- You will need to provide your own linens, food, and any other personal item needed during your stay.
- Students using commuter housing can expect to share a bedroom with another student of the same gender.
- There will be no smoking inside of commuter housing. You are able to smoke outside on campus.
- No pets are allowed.
- If, at the time of application, a room is not available, your name will be placed on a waiting list.
Please be aware that the policy is first come - first serve.
- No co-ed housing will occur. Special arrangements might be possible for married couples.
- Check-in time is between 5:00 p.m. and 11:00 p.m. Checkout time is by 1:00 p.m.
- A resident manager will be in residence in the apartment to which you are assigned.
- There is no parking allowed on the grass. Parking on grass will result in a citation and/or fine.
- When students cannot be present for class due to inclement weather or a family emergency, a credit will be applied to their account. For those two reasons we are able to extend the credit. Otherwise, we will be unable to credit your account because your room has been reserved just for you. In order to receive a credit, you will need to submit your request in writing. Request may be submitted to the student housing department. Contact information is listed below.

Signing this application indicates agreement with the following:

- In my use of the accommodations, I will respect those sharing the room and apartment, commuters who use the room after me, the resident manager, and the seminary.
- I have read and will follow the policies set forth by the Facilities & Safety Department.

NAME: _____ DATE: _____

ADDRESS: _____

HOME PHONE: (____) _____ WORK PHONE: (____) _____

TERM FOR WHICH YOU ARE APPLYING FOR COMMUTER HOUSING _____

Indicate the night(s) you will need commuter housing each week during the semester:

(Fall & Spring terms are 13-15 weeks each)

Monday Tuesday Wednesday Thursday Friday

Due to the demand of commuter housing, reservations **MUST** be cancelled 24 hours prior to date of "New Student Orientation" or student will be charged for two week's rent.

(Signature)

You may return this form to Heather Norman, Facilities & Safety Department by either

Email: hnorman@memphisseminary.edu or Fax: 901.452.4051 or
Mailing Address: 168 E. Parkway S. Memphis, TN 38104

Internal Use Only: House Assigned _____ Key Number Assigned _____

For more detailed information, please contact the Facilities department at facilities@MemphisSeminary.edu.

Student Housing Office
Memphis Theological Seminary
168 E. Parkway South
Memphis, TN 38104-4395

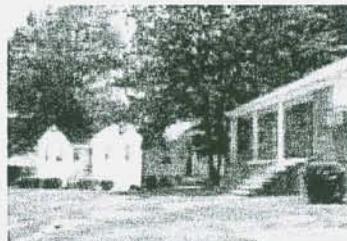
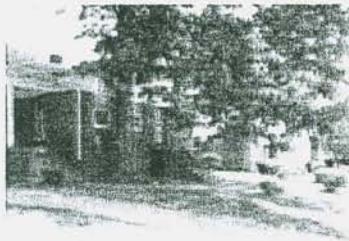
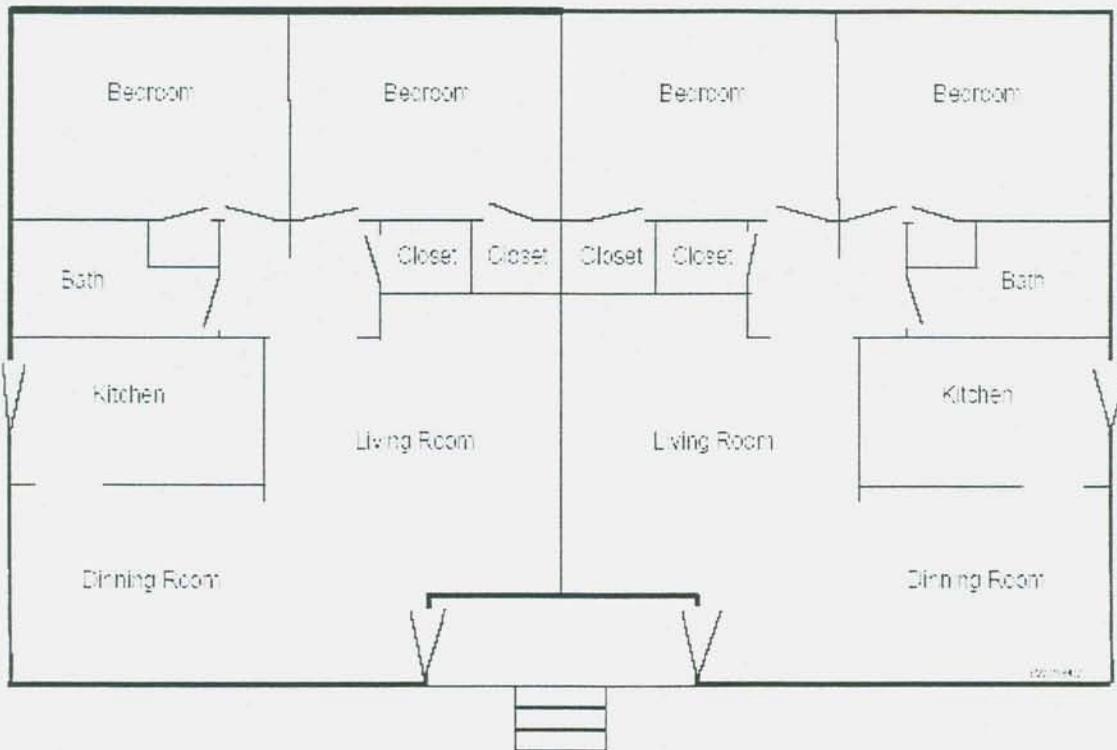
Site Map

168 East Parkway South • Memphis, Tennessee 38104 • (901) 458-8232

Please e-mail comments or suggestions regarding this website to

webadmin@MemphisSeminary.edu

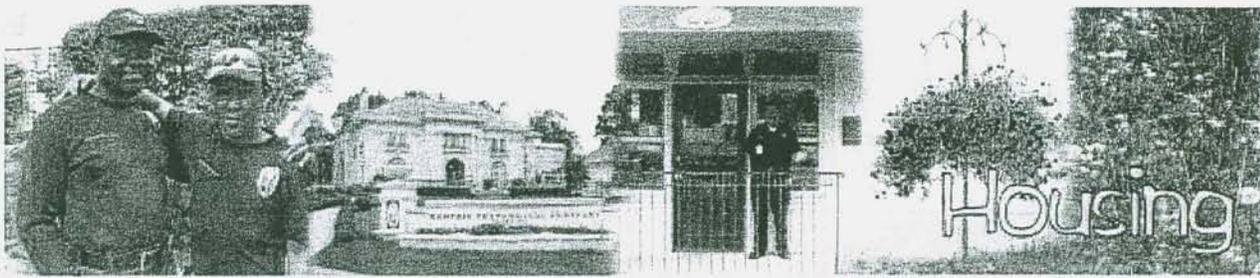
Copyright © 2008 Memphis Theological Seminary



Eligibility

Full - time students enrolled in a degree program must take at least 2 courses (6 credit hours) towards their degree per semester. Student accounts must be in good standing with MTS business office before housing assignments can be made.

Applications for commuter housing are available online (in Adobe Acrobat format) or from Admissions/Student Services, and are to be returned to Student Services. The policies for Commuter Housing are listed on the application.



Student Housing

The decision to pursue a seminary education is an important one, and the Housing Office is available and committed to assist you with your housing needs and what for many of you will be a transition to a new climate.



Duplexes/Floor Plans

The Seminary owns a group of duplexes and homes located one block from campus. Commuting students are able to rent a room for the same night(s) in each week for the whole term. Each apartment (or half of a duplex) has two bedrooms, kitchen, bath, and living/dining room, and is equipped with a stove, refrigerator, microwave, heating, and air conditioning. Students using commuter housing on a nightly basis can expect to share a bedroom with another student of the same gender. The seminary also has a limited number of private apartments (half of a duplex) for rent on a monthly basis, please contact housing administrator Heather Norman hnorman@MemphisSeminary.edu or 901.334.5836 for availability.

EXHIBIT D

the residential character and no exterior alterations shall be made other than for code requirements in the rear of the building.

- A 75' landscape buffer area that transitions to a 140' and then to a 158' buffer area will be provided along the entire western boundary of Phase III as illustrated on the master plan. The landscape buffer areas are generally non-buildable except for fencing, walkways, meditation gardens, gazebos and other landscape features integrated into Prayer or Meditation Gardens.
- Parking lot lighting will be a maximum of 25' in height. Photometric Studies of the development shall be prepared to illustrate 0.0 – 0.5 foot-candles at the property lines of the Memphis Theological Seminary where it is adjacent to single family residential.
- A detailed planting plan will be provided to Mr. George Nassar for his approval for landscape plans adjacent to 196 East Parkway.
- As a part of Phase I, The development team will work with the City of Memphis and Brian Davis with SSR Ellers for the necessary drainage improvements and/or on site detention/retention. In no instance shall drainage from the Seminary site flow onto adjacent properties.
- Security will be provided through the Seminary property and guards posted at entrances.
- Signage shall be similar in nature to the existing signage along East Parkway.
- There will be a maximum building height of two stories for all new construction. All new construction shall be compatible with the existing historic structures.
- Trash receptacles shall not be located any closer than 80' to any single-family property line.
- Proposed building elevations shall be provided on the final plats for all phases of this planned development.
- If the Planned Development Application PD 06-368 and the attached Master Plan is approved by the Memphis City Council, this agreement shall run with the property for a period of 99 years.

Brenda P. Solomito
Land Planner

Zoning
Subdivisions
Master Planning
Due Diligence
Project Management

Project Memorandum

Date: May 1, 2007
To: Mr. George Nassar
From: Brenda Solomito
RE: Memphis Theological Seminary Planned Development
Private Conditions

The Attached Long Range Master Plan for the Memphis Theological Seminary is divided into three proposed Phases. Phases I and II are currently part of the Planned Development Application that has been filed with the Office of Planning and Development.

Proposed Phase III is outside the boundary of the Planned Development. Phase III is considered "Future Development". The Memphis Theological Seminary owns and/or controls property within the Future Development Area. However, the Future Development Area is master planned for illustrative purposes and for the purposes of this document. As the Memphis Theological Seminary acquires additional property with Phase II, these properties will be bound by this document.

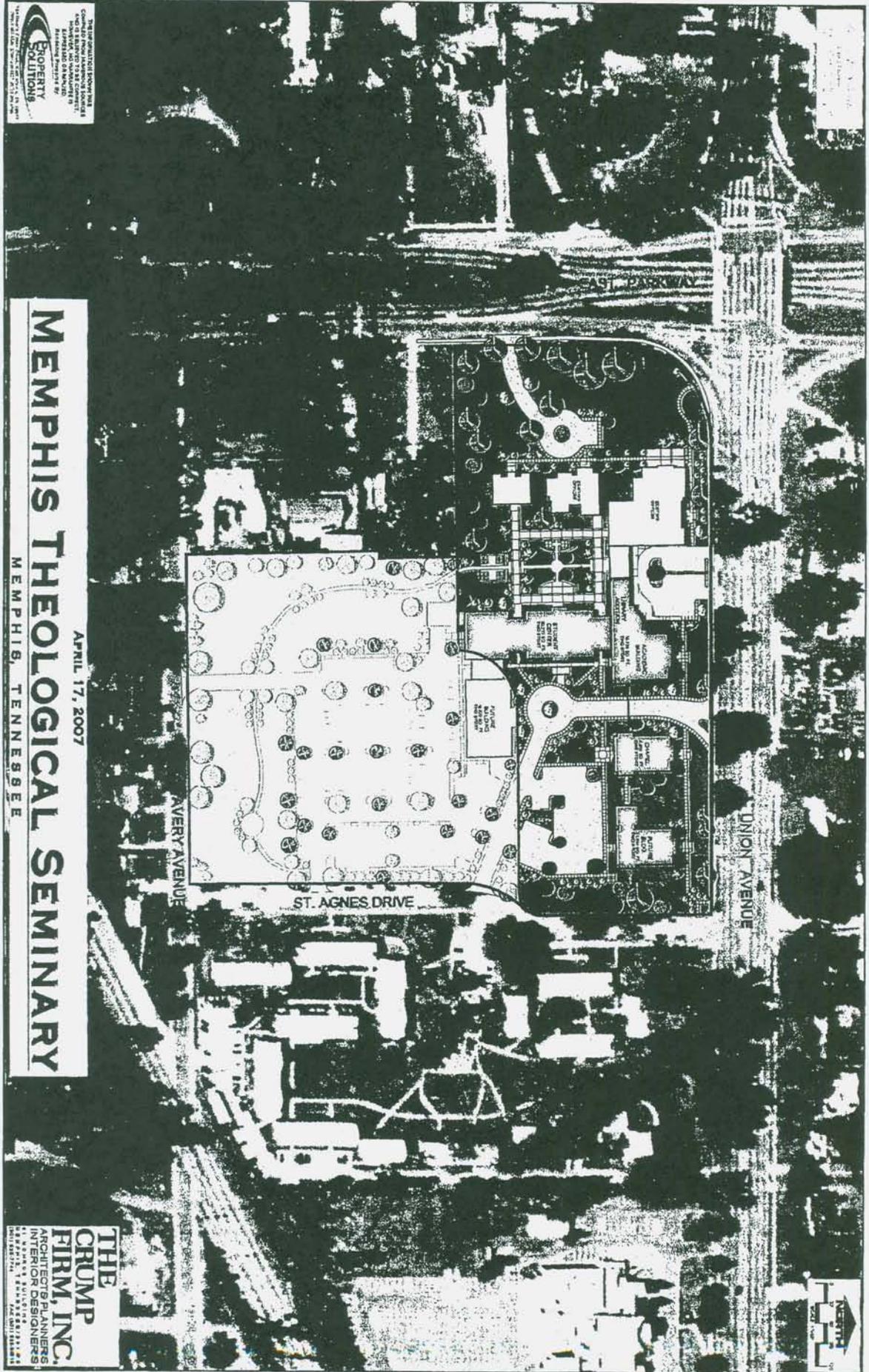
The Memphis Theological Seminary currently owns the majority of the property within that Planned Development boundary. Other properties that are not currently owned by the Memphis Theological Seminary are included because we have obtained the property owner's signatures to include them as a part of the application for Planned Development.

If the Planned Development Application PD 06-368 is approved by the Memphis City Council, the Memphis Theological Seminary agrees to the following.

- Provide a 58' +/- landscape buffer along the north property line of the Nassar property at 196 East Parkway. This buffer area will contain a wrought iron or equivalent fence integrated into the landscaping. This fence shall begin at the front building line of the Montgomery Home and continue eastward to the property corner. When additional properties are acquired within Phase III the fence will then be constructed along the entire western boundary and to terminate at Avery Avenue.
- If the Planned Development Application PD 06-368 is approved by the Memphis City Council, The Montgomery Home – 184 East Parkway, will only be used as administrative offices for the Memphis Theological Seminary. It shall maintain

10145 Mackwood Drive • Lakeland, TN 38002
Tel. (901) 867-7855 • Fax (901) 867-9419 • brendasolomito@bellsouth.net

EXHIBIT B



THE MEMPHIS THEOLOGICAL SEMINARY
HAS COMPLETED THE PRELIMINARY
DESIGN AND IS NOW OPEN TO THE
PUBLIC FOR VISITATION.
PROPERTY SOLUTIONS
MEMPHIS, TENNESSEE

MEMPHIS THEOLOGICAL SEMINARY
APRIL 17, 2007
MEMPHIS, TENNESSEE

THE CRUMP
FIRM, INC.
ARCHITECTS/PLANNERS
INTERIOR DESIGNERS
MEMPHIS, TENNESSEE

<u>OWNER</u>	<u>PARCEL ID NO.</u>	<u>ADDRESS</u>	<u>REFERRED TO HEREIN AS</u>
			Property
Johnson, Kathy D.	028039 00018	157 Roberta Drive	Benefited Property
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Pace, William A. & Sally F.	028034 E00007	2312 Edgewood Park Cove	Benefited Property
Schwartz, Stephen J. & Susan K.	028034 E00006	2318 Edgewood Park Cove	Benefited Property

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Holt, Bertha M. & Paul A. Adams, Jr.	028039 00022	212 East Parkway South	Benefited Property
Smith, Graham R. & Jennifer T.	028034 00009	517 East Parkway South	Benefited Property
Moskop Robert J., Jr. & Susan T.	028039 00021	526 East Parkway South	Benefited Property
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Anderson, John F. & Shan	028038 00001	140 Roberta Drive	Benefited Property
Carter, Ann C.	028038 00013	148 Roberta Drive	Benefited Property
Barton, Elizabeth, successor Trustee f/b/o Margery Howard	028039 00017	151 Roberta Drive	Benefited Property
Johnson, Kathy D.	028038 00012	154 Roberta Drive	Benefited

EXHIBIT "A"

<u>OWNER</u>	<u>PARCEL ID NO.</u>	<u>ADDRESS</u>	<u>REFERRED TO HEREIN AS</u>
Declarant	028039 00001	168 East Parkway South	Burdened Property or Newberger Mansion
Declarant	028039 00025	170 East Parkway South	Burdened Property or Baxter Home
Declarant	028039 00024	184 East Parkway South	Burdened Property or Fulton Home
Declarant	028039 00002	2385 Union Avenue	Burdened Property
Declarant	028039 00004	2397 Union Avenue	Burdened Property
Declarant	028039 00005	2405 Union Avenue	Burdened Property
Declarant	028039 00006	2415 Union Avenue	Burdened Property
Declarant	028039 00008	111 Roberta Drive	Burdened Property
Declarant	028038 00002	122 Roberta Drive	Burdened Property
Declarant	028039 00012	129 Roberta Drive	Burdened Property
Declarant	028039 00013	135 Roberta Drive	Burdened Property
Declarant	028039 00014	139 Roberta Drive	Burdened Property
Declarant	028039 00015	143 Roberta Drive	Burdened Property
Declarant	028039 00016	147 Roberta Drive	Burdened Property
Declarant	028039 00019	165 Roberta Drive	Burdened Property
Declarant	028038 00010	166 Roberta Drive	Burdened Property
Declarant	028038 00009	170 Roberta Drive	Burdened Property
Declarant	028038 00003	137 St. Agnes Drive	Burdened Property
Declarant	028038 00005	153 St. Agnes Drive	Burdened

JOINDER OF ADJOINING LANDOWNERS

The following Adjoining Landowners join in the execution of this Declaration to acknowledge their consent and agreement to the terms and provisions of the Declaration which operate to bind them and their successors-in-title to the Benefited Properties.

Printed Name: _____
Street Address: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared _____, to me known to be the person described in (or proved on the basis of satisfactory evidence), and who executed the foregoing instrument, and acknowledged that he executed the same for the purposed therein contained.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires:

Printed Name: _____
Street Address: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared _____, to me known to be the person described in (or proved on the basis of satisfactory evidence), and who executed the foregoing instrument, and acknowledged that she executed the same for the purposed therein contained.

WITNESS my hand and Notarial Seal at office this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires:

**TRUSTEES OF THE MEMPHIS
THEOLOGICAL SEMINARY OF THE
CUMBERLAND PRESBYTERIAN CHURCH,
a Tennessee Corporation**

By: _____

Title: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, a Notary Public, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of **TRUSTEES OF THE MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH**, a Tennessee Corporation, the within named bargainer, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office on this ____ day of _____, 2007.

Notary Public

My Commission Expires:

**MEMPHIS THEOLOGICAL SEMINARY OF
THE CUMBERLAND PRESBYTERIAN
CHURCH, a Tennessee Corporation**

By: _____

Title: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, a Notary Public, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of **MEMPHIS THEOLOGICAL SEMINARY OF THE CUMBERLAND PRESBYTERIAN CHURCH**, a Tennessee Corporation, the within named bargainer, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office on this ____ day of _____, 2007.

Notary Public

My Commission Expires:



IN WITNESS WHEREOF, Declarant has executed this Declaration as of the ___ day of _____, 2007.

MEMPHIS THEOLOGICAL SEMINARY

By: _____

Title: _____

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, a Notary Public, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be _____ of **MEMPHIS THEOLOGICAL SEMINARY**, Memphis, Tennessee the within named bargainor, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office on this ___ day of _____, 2007.

Notary Public

My Commission Expires:

Section 8. **Amendment.** The Restrictions may be extended, amended or terminated only by the execution of an instrument signed by Declarant and the Adjoining Landowners (or all parties at the time owning fee simple title to the Burdened Property and the Benefited Properties (excluding, however, any party acquiring fee simple title in connection with a deed of trust or mortgage)), which instrument shall be filed for recording in the Register's Office of Shelby County, Tennessee or in such other place of recording as may be required at the time of the execution of such instrument.

Section 9. **Captions.** The captions preceding the various sections of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

construction on the Burdened Property is performed and the Landscape Committee shall approve and have authority to require landscaping on the Burdened Property so as to comply with the terms and provisions of this Declaration. One-half of the members of each Committee shall be appointed by the Owner of the Burdened Property and one-half by majority vote of the Owners of the Benefited Property who have executed this Declaration or their successors-in-title (one vote per Benefited Property). The will of the majority of the respective Committees shall be required for any action except that no member of either Committee may act unreasonably in preventing or requiring any action as described herein.

Section 3. Contingency. In the event the Planned Development Approval designated as PD 06-368 is not approved, this Declaration shall be null and void.

Section 4. Binding Effect/Term. The Restrictions shall be deemed a covenant running with the land and shall be binding upon and inure to the benefit of Declarant, its heirs, personal representatives and assigns, and upon all parties having or acquiring any right, title or interest in or to any part of the Burdened Property (who shall, for all purposes, be deemed a "Declarant" hereunder), and shall be binding upon and inure to the benefit of the Adjoining Landowners, and any party now or at any time hereafter acquiring fee simple title to any of the Benefited Properties (excluding, however, any party acquiring fee simple title in connection with a deed of trust or mortgage), for a term of ninety-nine (99) years from the date on which this Declaration is initially recorded in the Register's Office of Shelby County, Tennessee.

Section 5 Enforcement. In the event of a violation or breach of any of the Restrictions by Declarant its assigns or successors-in-title, then any Adjoining Landowner who has executed this Declaration, their heirs, personal representatives and assigns, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of the Restrictions, to sue for and recover damages, to obtain a judgment for specific enforcement of these covenants or to take all such courses of action at the same time, or such other legal remedy they may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver by that party or an estoppel of that party or of any other party to assert any right available to such party upon the recurrent or continuation of the violation or the occurrence of a difference violation. Should any party incur legal fees or other expenses in enforcing the terms of this Declaration, the non-prevailing party shall pay the prevailing party's costs of enforcement.

Section 6. Severability. If any provision of this Declaration is held to be illegal, invalid, or unenforceable under present or future laws effective while this Declaration is in effect, the legality, validity and enforceability of the remaining provisions of this Declaration shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Declaration a provision that is legal, valid and enforceable and as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 7. Applicable Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to principles of conflict of laws.

(3) The Fulton House may be altered so as to utilize that building for Seminary administrative office and support uses, but the exterior shall not be altered in any manner except as may be necessary in order to comply with applicable code requirements, but then subject to the approval of the Architectural Committee, as established herein.

n. In the event that the use described herein as part of the Memphis Theological Seminary is ever abandoned or otherwise discontinued, the interior and exterior of the Fulton Home shall be restored to its condition immediately preceding the conversion to other permitted uses described herein.

o. If any portion of the Burdened Property was originally part of the Park-Moor Subdivision as described in Plat Book 12, Page 40 in the Shelby County Register's Office, that portion of the Burdened Property that is not part of the Application for Planned Development Approval, or any Burdened Property transferred by the Declarant, whether part of such Application for Planned Development Approval or not, shall thereafter be subject to all of the restrictions (the "Park-Moor Restrictions") contained therein for the full period of this Declaration except that any such covenants which are unenforceable or against public policy shall be deemed severed from this Declaration to the extent of such unenforceability or invalidity.

p. All Benefited Property not owned by the Declarant or its successor-in-title shall continue to be subject to the Park-Moor Restrictions to the same extent as they are currently so restricted.

q. The Fulton Home, the Baxter Home and the Newberger Mansion shall continue during the terms of this Declaration to be maintained having a residence appearance and setbacks as currently exist and shall be maintained so long as reasonably possible and, in the event a replacement is required, shall be replaced with buildings similar in size, quality and architectural design all as approved by the Architectural Committee as established herein.

r. Any buildings to be constructed on any of the Burdened Property shown in the Master Plan shall be substantially similar in architectural design to the Newberger Mansion and the plans for such buildings shall be subject to prior written approval by the Architectural Committee. Further, no alterations may be made to any Phases of the Master Plan as shown on **Exhibit "B"** without the prior written consent of a majority of the Adjoining Landowners, which consent may be withheld with or without cause. Provided, minor modifications may be approved by the Architectural and/or Landscape Committee, as appropriate.

s. Phase III may not be commenced until the owner of the Burdened Property owns all property located in Phase III.

Section 2. Architectural and Landscape Committees. An Architectural Committee and a Landscape Committee shall be formed which shall have four members, two of whom are appointed by the Declarant and two of whom are appointed by the Adjoining Landowners. The Architectural Committee shall approve all architectural renderings before any

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November 8, 2007

Daniel J. Earheart-Brown, Ph.D.
President
Memphis Theological Seminary
168 East Parkway South
Memphis, TN 38104

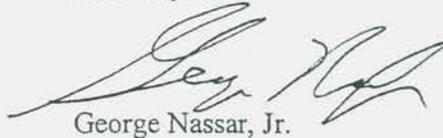
RE: Use of Duplexes on Union, Roberta and St. Agnes

Dear Jay:

Attached is an excerpt from your website which advertises the duplexes on Roberta, St. Agnes and Union owned by the Seminary for use as a dormitory. This use of the property is in violation of the Park-Moor Subdivision Restrictions and also the current zoning of the property. This letter will serve as a demand that this activity immediately cease. Please confirm in writing that this practice will cease within two weeks of the date of this letter or I will have no alternative but to seek judicial enforcement of the subdivision restrictions and zoning regulations.

Thank you in advance for your prompt response.

Sincerely,



George Nassar, Jr.

GJN/clc
Enclosure
cc: East Parkway Neighbors