

VOL 3866 PAGE 300

THIRD AMENDMENT

TO

DECLARATION OF RESTRICTIVE COVENANTS

96-R0039456

OF

ASHMORE ADDITION

STATE OF TEXAS

§

COUNTY OF SMITH

§

KNOW ALL MEN BY THESE PRESENTS:

That ASHMORE JOINT VENTURE, a Texas joint venture, hereby amends the Declaration of Protective Covenants of Ashmore Addition, as recorded in Volume 3587, Page 137, Land Records of Smith County, Texas, and as previously amended by the Amendment (First Amendment) dated September 26, 1995, as recorded in Volume 3712, Page 58, Land Records of Smith County, Texas, and Second Amendment filed June 20, 1996, as recorded in Volume 3814, Page 474, Land Records of Smith County, Texas ("Protective Covenants"), to read as follows:

Amendment No. 1 In Article IV, Section 4.12 the following section is hereby added:

Notwithstanding the above, small television satellite antennas may be mounted on the rear of a home or on the rear portion of a lot as long as the following conditions are met:

- (a) The request shall be submitted to the ACC which is empowered to consider and review all aspects of the request including, but not limited to, location, height, size, placement, visibility by neighbors and from streets, and appearance in general at their sole discretion, and
- (b) no more than one antenna shall be permitted on a lot at one time.

Filed for Record in
SMITH COUNTY, TEXAS
MARY MORRIS - COUNTY CLERK

On Oct 11 1996
At 9:04am

Deputy - Jannette Stevenson

5/5/11

WHEREAS, the Developer is still the Controlling Party and desires to amend these Protective Covenants as outlined herein.

EXECUTED this 8th day of October, 1996.

ASHMORE JOINT VENTURE

By: BAKER REALTY GROUP, INC.
a Texas corporation, Its Operating Venturer

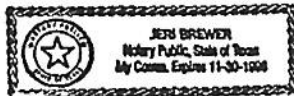
By:

Perry B. Hall
PERRY B. HALL
EXECUTIVE VICE-PRESIDENT

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on the 8th day of October, 1996, by PERRY B. HALL, Executive Vice-President of BAKER REALTY GROUP, INC., a Texas corporation, the Operating Venturer of ASHMORE JOINT VENTURE, a Texas joint venture on behalf of said joint venture.



Jeri Brewer
NOTARY PUBLIC
STATE OF TEXAS

AFTER RECORDING RETURN TO:

PERRY B. HALL
821 ESE LOOP 323, STE. 310
TYLER, TEXAS 75701

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed on
the date and time stamped hereon by me and
was duly recorded in the Official Public records
of Smith County, Texas.



OCT 11 1996

MARY MORRIS
COUNTY CLERK, Smith County, Texas

By Shady Rudy Deputy

97-R0018208

FOURTH AMENDMENT 4

TO

DECLARATION OF RESTRICTIVE COVENANTS

OF

ASHMORE ADDITION

STATE OF TEXAS §

COUNTY OF SMITH §

KNOW ALL MEN BY THESE PRESENT:

Filed for Record in
SMITH COUNTY, TEXAS
MARY MORRIS - COUNTY CLERK

On May 20 1997
At 12:14pm

Deputy - Janis Farrell

That ASHMORE JOINT VENTURE, a Texas joint venture, hereby amends the Declaration of Protective Covenants of Ashmore Addition, as recorded in Volume 3587, Page 137, Land Records of Smith County, Texas and as previously amended by the Amendment (First Amendment) dated September 26, 1995, as recorded in Volume 3712, Page 58, Land Records of Smith County, Texas, and Second Amendment dated June 20, 1995, as recorded in volume 3814, Page 474, Land Records of Smith County, Texas and Third Amendment dated October 8, 1995, as recorded in Volume 3866, Page 300, Land Records of Smith County, Texas. ("Protective Covenants"), to read as follows:

Amendment No. 1 In Article IV, Section 4.6 is deleted and substituted therefore is:

4.6 "Square footage: All residential dwellings shall contain not less than 2,000 square feet of living area, and shall have a garage with a capacity for not less than two (2) automobiles. No residential dwelling shall exceed two and one-half (2 1/2) stories in height."

Amendment No. 2 In Article X, the following is hereby added:

Developer hereby annex's additional adjacent property described on Exhibit "C", attached hereto and incorporated herein by reference, which such property shall become part of the Property and subject to and imposed with these Protective Covenants.

Amendment No. 3 In Article XI, Section 11.1 Covenant to Developer is deleted in it's entirety and substituted therefore is:

11.1 "Covenant to Developer: By acceptance of a deed for a lot, each owner covenants and agrees to initiate the continued operations for the construction on and/or development of such lot as a single family residence, in accordance with these Protective Covenants and all applicable governmental ordinances and requirements, within two (2) years from the date of such deed ("Construction Period"). The

developer reserves the right and privilege to repurchase the lot at eighty percent (80%) of the original purchase price, if construction of the improvements have not been initiated two (2) years after the conveyance of the lot to the owner. Such repurchase option shall be exercised by the Developer giving thirty (30) days prior written notice to Owner, at Owner's address as specified in Section 12.10 hereof, of the Developer's election to repurchase the lot. Such election notice shall specify the time, date and place of repurchase of the lot and shall have attached thereto the form of deed to be used to convey the lot to Developer. Such deed shall be substantially similar in form as the deed to Owner, containing the same warranties of title and shall be subject to any and all exceptions of record. The Developer shall not be considered an Owner for the purposes of this Section. The option of Developer to repurchase shall terminate if Developer has not exercised such right within seven (7) years from the expiration of the Construction Period."

Amendment No. 4: In Article III, Section 3.2 is deleted in its entirety and in place thereof is inserted:

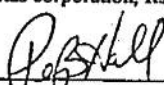
"3.2 Structures: Unless otherwise approved by the ACC, the design of all building, parking and other structures shall be in keeping with the Development Guidelines and the standards set forth in these Protective Covenants and consist of no less than eighty percent (80%) brick or acceptable stone veneer. The design character of structures shall be such that it is aesthetically pleasing and consistent on all sides, and it is consistent and harmonious with other structures on adjacent and surrounding lots. Design characteristics shall exhibit uncluttered forms of a nature devoid of inappropriate ornamentations. Building material and color selection shall achieve visual order through the consistent use of a limited mix of dominant materials of harmonious color range on any structure or group of structures. These materials shall preferably be brick, stucco, wood shingles, glass or glazing, and semi-transparent stained vertical grooved wood or lapped wood siding.

WHEREAS, the Developer is still the Controlling Party and desires to amend these Protective Covenants as outlined herein.

EXECUTED this 19th day of May, 1997.

ASHMORE JOINT VENTURE

By: BAKER REALTY GROUP, INC.
a Texas corporation, Its Operating Venturer

By: 
PERRY HALL,
EXECUTIVE VICE PRESIDENT

VOL 3956 PAGE 880

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on the 19th day of May, 1997, by PERRY B. HALL, Executive Vice-President of BAKER REALTY GROUP, INC, a Texas corporation, the Operating Venturer of ASHMORE JOINT VENTURE, a Texas joint venture on behalf of said joint venture.



Becky Harris
Notary Public - State of Texas

After recording return to:

Perry B. Hall
821 ESE Loop 323, Suite 310
Tyler, Texas 75701

All that certain lot, tract or parcel of land, part of the Marshall University Survey, Abstract No. 624, Smith County, Texas, being all of that certain called 9.032 acre tract described in a deed from A. E. Shull & Co. Defined Benefit Plan to Eppler, Guerrin & Turner, Inc., Custodian for the Benefit of A. E. Shull Account No. 080-280441-1-9, on February 9, 1989, recorded in Volume 2888, Page 539 of the Land Records of Smith County, Texas, and being more completely described as follows, to-wit:

BEGINNING at a 1/2" Iron Rod (found) for the Southwest corner of the above mentioned 9.032 acre tract, the Northwest corner of the Margaret Stanley 18 acre tract described in Volume 3302, Page 695, in the East Right-of-Way of the Old Jacksonville Highway;

THENCE North 29 deg. 11 min. 28 sec. East with the East Right-of-Way of said Old Jacksonville Highway, the West line of said 9.032 acre tract, a distance of 428.28 ft. to a 1/2" Iron Rod (found) for the Northwest corner of same, the Southwest corner of the Mt. Zion Primitive Baptist Church 2.427 acre tract;

THENCE South 54 deg. 33 min. 35 sec. East with the North line of said 9.032 acre tract, the South line of said 2.427 acre tract, the Easterly South line of a 6.3161 acre tract described in deed to the Y.M.C.A. on June 21, 1984, recorded in File No. 22782 of the Records of the County Clerk of Smith County, Texas, a distance of 979.75 ft. to a 1/2" Iron Rod (found) for the Southeast corner of same, the Northeast corner of said 9.032 acre tract, in the West line of the J. D. Hairston 11.229 acre tract described in Volume 3400, Page 817;

THENCE South 01 deg. 16 min. 44 sec. West with the West line of said 11.229 acre tract, the East line of said 9.032 acre tract, a distance of 364.49 ft. to a 1/2" Iron Rod (found) for the Southeast corner of same, the Northeast corner of said 18 acre tract;

THENCE North 60 deg. 47 min. 11 sec. West with the South line of said 9.032 acre tract, the North line of said 18 acre tract, a distance of 1144.55 ft. to the place of beginning, containing 9.0184 acres of land. Said tract being the same land described in General Warranty Deed dated 1-5-96 from Principal Financial Securities, Inc. (fka Eppler, Guerrin & Turner, Inc.) Custodian for the benefit of A. E. Shull IRA Account No. 080-280441-1-9 to Rauscher Pierce Refenes, Inc. recorded in Volume 3823, Page 730, Official Public Records of Smith County, Texas.

EXHIBIT "C"

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed
on the date and time stamped hereon by me and
was duly recorded in the Official Public records
of Smith County, Texas.



MAY 20 1997

MARY MORRIS
COUNTY CLERK, Smith County, Texas
By *Wendy L. Lundy*, Deputy

FIFTH AMENDMENT TO

DECLARATION OF RESERVATIONS, RESTRICTIONS AND COVENANTS

ASHMORE ADDITION

STATE OF TEXAS)

COUNTY OF SMITH)

That ASHMORE-TYLER HOMEOWNERS ASSOCIATION, INC., "Controlling Party" hereby amends the Declaration of Reservations, Restrictions and Covenants of ASHMORE ADDITION, as recorded in Volume 3587, Page 137, and as previously amended by the Amendment (First Amendment) dated September 26, 1995, as recorded in Volume 3712, Page 58, Land Records of Smith County, Texas; Second Amendment dated June 20, 1995, recorded in Volume 3814, Page 474, Land Records of Smith County, Texas; Third Amendment dated October 8, 1995, recorded in Volume 3866, Page 300, Land Records of Smith County, Texas, and; Fourth Amendment dated May 19, 1997, recorded under Clerk's File No. 97-R0018208, Land Records of Smith County, Texas ("Restrictive Covenants"), to read as follows:

Amendment No. 1 In Article IV, Section 5.6, Fourth Amendment to Declaration of Restrictive Covenants of Ashmore Addition is amended to read as follows:

4.6 "Square Footage": All residential dwellings shall contain not less than twenty-five hundred (2,500) square feet of living area, and shall have a garage with a capacity for not less than two (2) automobiles. No residential dwelling shall exceed two and one-half (2 1/2) stories in height."

This Amendment has been duly approved and agreed to by vote of the members and Board of Directors pursuant to the terms and provisions of the Restrictive Covenants and Bylaws of the Controlling Party.

EXECUTED this 22 day of September, 2003.

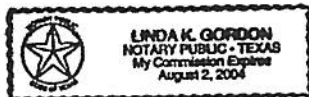
CONTROLLING PARTY:
ASHMORE-TYLER HOMEOWNERS
ASSOCIATION, INC.

William B. Sanders
WILLIAM B. SANDERS, President

STATE OF TEXAS)

COUNTY OF SMITH)

This instrument was acknowledged before me on the 22nd day of September, 2003 by William B. Sanders, President, Ashmore-Tyler Homeowners Association, Inc.



Linda K. Gordon
Notary Public - State of Texas

After Filing Return to:
Stephen M. Cooper
1321 WSW Loop 323
Tyler, Texas 75701

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was
filed on the date and time stamped hereon
by me and was duly recorded in the Official
Public records of Smith County, Texas.



SEP 23 2003

Judy Carnes
JUDY CARNES
COUNTY CLERK, Smith County, Texas

Filed for Record in:
SMITH COUNTY, TEXAS
JUDY CARNES, COUNTY CLERK
On Sep 23 2003
At 11:34am
Receipt #: 283935
Recording: 9.00
Doc/Hum : 2003-R0050009
Doc/Type : REC
Deputy -Rebeca Calderon

I, KYLE L. KILGORE, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4481, DO HEREBY CERTIFY THAT THIS FINAL PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE UNDER MY DIRECTION AND SUPERVISION ON THE GROUND DURING THE MONTH OF FEBRUARY, 2002.

GIVEN UNDER MY HAND AND SEAL THIS 1ST DAY OF MARCH, 2002.

KYLE L. KILGORE, R.P.L.S. NO. 4481



2002-R0015727

SUBSCRIBED AND SHOWN TO BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF TEXAS, THIS 1ST DAY OF MARCH, 2002.

Shirley L. Ford
AS MY PUBLIC

NOW, THEREFORE, KNOWN ALL MEN BY THESE PRESENTS:

That Ashmore Joint Venture, By: Rose Realty Group, Inc. Operating Venture, By: Rose Realty, Inc. (collectively, the "Joint Venture"), acting hereby by and through its duly authorized officers, does hereby adopt this plat authorizing the hereinafter described portions of Ashmore Addition, Unit IV, in addition to the City of Tyler, Texas, and does hereby dedicate, in fee simple, to the City of Tyler, Texas, the 0.833 acre street shown herein. The easements are dedicated for the public use forever, for the purposes indicated on this plat. In addition, utility easements may also be used for the public use and accommodation of all public utilities desiring to use or using same across the easement for the use to particular utilities, and use by public utilities being authorized to the Utility and City of Tyler's use thereof. The City of Tyler and public utility entities and all other have the full right of ingress and egress to and from their respective easements.

This plat approved subject to all planning, engineering, rules, regulations and resolutions of the City of Tyler, Texas. WITNESS my hand, this 21st day of March, 2002.

By: *Margaret S. Hall*
Margaret S. Hall, President-Rose Realty Group, Inc.

SUBSCRIBED AND SHOWN TO BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF TEXAS, THIS 21st day of March, 2002.

Shirley L. Ford
AS MY PUBLIC

APPROVED BY THE CITY PLANNING & ZONING COMMISSION OF TYLER, TEXAS ON THIS 2nd day of April, 2002.

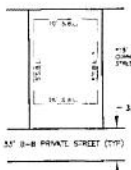
[Signature]
ATTEST:

20 2 42:02
SECRETARY DATE

RECORDED IN CASHIER D... FILED 1502 OF THE PLAT RECORDS OF SMITH COUNTY, TEXAS. DATE

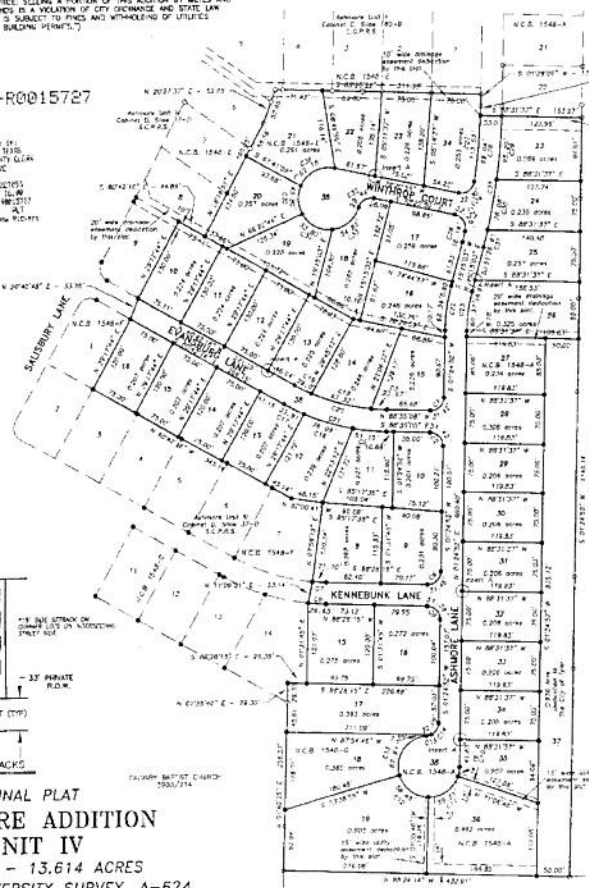
— DENOTES 1/2" IRON ROD FOUND.
— DENOTES 1/2" IRON ROD TO BE SET.

NOTE: ONCE ELECTRIC, WATER, GAS, SOUTHWESTERN BELL TELEPHONE CO., COK COMMUNICATIONS, AND THE CITY OF TYLER ARE HEREBY GRANTED EASEMENTS TO INSTALL THEIR UTILITIES WITHIN THE 33' PRIVATE DRAINAGE AND AN ADDITIONAL 10' ADJACENT TO THE PRIVATE RIGHT-OF-WAY EXCEPT ON CORNER LOTS (E LOTS THIS PLAT THERE SHALL BE ONLY A 5' ADDITIONAL EASEMENT).

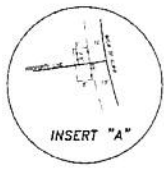


**FINAL PLAT
ASHMORE ADDITION
UNIT IV
43 LOTS - 13.614 ACRES
MARSHALL UNIVERSITY SURVEY, A-624
TYLER, SMITH COUNTY, TEXAS**

100 0 100 200 300 Feet
METERS 1:1250



LINE	ANGLE	DETA	ARC	ARC/2	BEARING	CHORD
1	20.00	87.0000	31.42	20.00	S 45.0000° E	29.98
2	20.00	87.0000	31.42	20.00	S 42.3500° E	28.77
3	202.00	0.0000	23.67	11.84	N 87.1300° W	23.86
4	225.00	0.0000	25.73	12.87	N 84.1100° W	25.10
5	22.00	87.0000	3.46	2.04	S 47.0000° E	20.21
6	22.00	87.0000	3.46	2.04	N 87.0000° W	27.46
7	22.00	87.0000	3.46	2.04	N 87.0000° W	28.81
8	22.00	87.0000	3.46	2.04	S 42.3500° E	24.78
9	22.00	87.0000	3.46	2.04	N 87.1300° W	14.71
10	40.00	172.0000	5.91	3.97	S 10.0000° E	55.13
11	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
12	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
13	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
14	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
15	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
16	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
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18	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
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20	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
21	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
22	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
23	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
24	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
25	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
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27	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
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29	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
30	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
31	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
32	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
33	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
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40	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
41	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
42	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70
43	40.00	172.0000	5.91	3.97	N 82.1400° W	34.70



VICINITY MAP

	DESIGNED BY: K.L.K.
	DRAWN BY: K.L.K.
	CHECKED BY: K.L.K.
	DATE: 3-1-2002
	SCALE: 1"=100'

**FINAL PLAT
SHOWING
ASHMORE UNIT IV
MARSHALL UNIVERSITY SURVEY A-624
TYLER, SMITH COUNTY, TEXAS**

K.L. KILGORE & CO., INC.

Surveying Planning Mapping

6712 Paluxy Drive
Tyler, Texas 75703

(903)581-7800
Fax (903)581-3756

Recorded On-2006-Nov-14 As-55819

Smith County
Judy Carnes
County Clerk
Tyler Tx 75702



70 2006 00055819

Instrument Number: 2006-R00055819

Recorded On: November 14, 2006
As
Recordings - Land

Parties: ASHMORE TYLER HOMEOWNERS ASSOC INC

To ASHMORE ADDITION

Billable Pages: 2

Number of Pages: 3

Comment: AMEND DECLARATIONS

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recordings - Land	20.00
Total Recording:	20.00

***** DO NOT REMOVE THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2006-R00055819

Receipt Number: 409603

Recorded Date/Time: November 14, 2006 12:00:25P

User / Station: J Farrell - Cash Station 3

Record and Return To:

MELINDA OQUINN

2110 DOVER LANE

TYLER TX 75703-5894



I hereby certify that this instrument was filed and duly recorded
in the Official Records of Smith County, Texas

Judy Carnes

County Clerk
Smith County, Texas

SIXTH AMENDMENT
TO
DECLARATION OF RESERVATIONS, RESTRICTIONS AND COVENANTS
OF
ASHMORE ADDITION

STATE OF TEXAS §
COUNTY OF SMITH § KNOW ALL MEN BY THESE PRESENT

That ASHMORE-TYLER HOMEOWNERS ASSOCIATION, INC., "Controlling Party" hereby amends the Declaration of Reservations, Restrictions and Covenants of ASHMORE ADDITION, as recorded in Volume 3587, Page 137, and as previously amended by the Amendment (First Amendment) dated September 26, 1995, as recorded in Volume 3712, Page 58, Land Records of Smith County, Texas; Second Amendment dated June 20, 1995, recorded in Volume 3814, Page 474, Land Records of Smith County, Texas; Third Amendment dated October 8, 1995, recorded in Volume 3866, Page 300, Land Records of Smith County, Texas, and; Fourth Amendment dated May 19, 1997, recorded under Clerk's File No. 97-R0018208, Land Records of Smith County, Texas ; Fifth Amendment dated September 22, 2003 recorded under Clerk's File No. 2003-R0050009, Vol 7331, Page 675, Land Records of Smith County, Texas

("Restrictive Covenants"), to read as follows:

Amendment No.1

In Article IX, Section 9.4 is deleted in its entirety.

This Amendment has been duly agreed to by vote of the members and approved by the Board of Directors pursuant to the terms and provisions of the Restrictive Covenants and Bylaws of the Controlling Party.

EXECUTED this 14 day of Nov, 2006.

CONTROLLING PARTY:
ASHMORE-TYLER HOMEOWNERS ASSOCIATION, INC.



DENNIS A. SANTO, President

STATE OF TEXAS)(

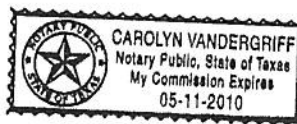
COUNTY OF SMITH)(

This instrument was acknowledged before me on the 14 day of Nov,
2006 by Dennis A. Santo, President, Ashmore-Tyler Homeowners Association,
Inc.



Notary Public, State of Texas

After Filing Return to:
Melinda O'Quinn
2110 Dover Lane
Tyler, Texas 75703-5894



DECLARATION OF PROTECTIVE COVENANTS

STATE OF TEXAS §
 §
COUNTY OF SMITH §

KNOW ALL MEN BY THESE PRESENTS

That ASHMORE JOINT VENTURE, a Texas joint venture, desiring, as the present owner of the Property (as hereinafter defined), to adopt a uniform plan for the orderly development of the Property, hereby imposes upon the Property the following covenants, restrictions, charges, easements and liens (hereinafter referred to together as the "Protective Covenants") which shall run with the land and be binding upon any Owner (as hereinafter defined), tenant or mortgagee of any Lot (as hereinafter defined) or structure on the Property and upon the respective heirs, legal representatives, successors and assigns of any such Owner, tenant or mortgagee.

ARTICLE I

DEFINITIONS

The following terms, when used in these Protective Covenants, shall have the following meanings:

"ACC" shall mean the Architectural Control Committee, as designated by the Controlling Party and as more fully described in Article V. The initial address of the ACC for notices purposes is as follows: 821 ESE Loop 323, Suite 450, Tyler, Texas 75701.

"Assessments" shall mean any Maintenance Assessments (as hereinafter defined) and/or Wall Assessments (as hereinafter defined).

"Association" shall mean Ashmore Homeowners Association, Inc., a non-profit corporation, as well as the successors, legal representatives or assigns of Ashmore Homeowners Association, Inc. The initial address of the Association for notice purposes is as follows: 821 ESE Loop 323, Suite 450, Tyler, Texas 75701.

"Board of Directors" shall mean the Board of Directors of the Association, as more fully described in Section 8.3. The initial address of the Board of Directors for notice purposes is as follows: 821 ESE Loop 323, Suite 450, Tyler, Texas 75701.

"Common Areas" shall mean all land, including, but not limited to the Landscaped Area, the Private Streets, amenities, easements and rights comprising a part thereof, located on, appurtenant to or near the Property, and which have been or will be conveyed to the Association by the Developer for the common use, enjoyment and benefit of the Owners (as hereinafter defined). It is expressly agreed that the term "Common Areas" may include right-of-ways in and to certain properties including, but not limited to, the Jacksonville Highway and FM 161 Landscaped Areas (as hereinafter defined).

"Controlling Party" shall mean the Developer until such time as the Developer has conveyed seventy-five percent (75%) or more of the Lots to other Owners. Upon such conveyance the term "Controlling Party" shall mean the Association.

"Developer" shall mean Ashmore Joint Venture, a Texas joint venture and its successors, legal representatives or assigns, other than Owners.

"Development Guidelines" shall mean those guidelines as contained in Article IV herein.

"Director" shall mean a member of the Board of Directors of the Association.

"Improvements" shall mean all improvements constructed upon any Lot, including, without limitation, all buildings, garages, driveways, sidewalks, swimming pools, recreational courts, and any other structure associated with the development of any Lot.

"Landscaped Area" shall mean those certain parcels or strips of land as may be designated by the Controlling Party and including, without limitation, the following areas: (i) adjacent to the Property in the right-of-ways of FM 2493 [commonly known as Old Jacksonville Highway] and FM 161 (the "Jacksonville Highway and FM 161 Landscaped Areas"); and (ii) the main entrance area to the Property. The Landscaped Area may be required by the Landscape Plan (as hereinafter defined) and/or the Controlling Party to be landscaped with acceptable plant and/or other landscape materials and maintained and irrigated with the intent of enhancing the Property and preserving the Landscaped Area.

"Landscape Plan" shall mean the plan, if any, for landscaping the Landscaped Area as established by Developer, as same may be modified from time to time by the Developer.

"Lot" shall mean any of the lots, designated as such on the Plat (as hereinafter defined), within the perimeter boundaries of the Property, which can be used, under applicable law and any applicable restrictions regarding the improvement or use thereof, for the construction of single family residences.

"Owner" shall mean the legal title holder of record, whether one or more persons, of any Lot, but excluding any person having such interest merely as security for the performance of any obligation, but including, without limitation, (a) any person or entity holding legal title as trustee, (b) an individual or entity holding legal title as an heir, legal representative, successor or assign of a previous Owner, and (c) all other persons, acquiring or succeeding to the title of the Owner by sale, grant, will, foreclosure, execution or by any legal process or by operation of law or in any other legal manner.

"Plat" shall mean the valid plat(s) or map(s) of the Property or any part thereof now or hereafter recorded in the Map Records of Smith County, Texas, a copy of which is reflected on Exhibit "A" attached hereto and incorporated herein by reference.

"Private Street" shall mean any lot, designated as such on the Plat, within the perimeter boundary of the Property, which can be used, under applicable law and any applicable restrictions regarding the improvement or use thereof, for the construction of private residential streets and is intended by Developer to be so used.

"Property" shall mean that certain tract of land located in Smith County, Texas as more particularly described on Exhibit "B" attached hereto and incorporated herein by reference.

"Setback Areas" shall mean the area described in Section 4.4 (including building setback areas and surface parking setback areas) upon which no Improvements shall be permitted.

"Wall" shall mean the wall to be constructed of brick or wood with brick columns by the Controlling Party along the perimeter boundary of the Property, except such entrance and exit areas which are located on Private Streets.

"Wall Lot" shall mean any of the Lots which abut the Wall.

ARTICLE II

USES

2.1 Permitted Uses: All Lots shall be used solely for single family residential purposes and, except as herein expressly provided, no structure other than a single family

dwelling with permanent accessory structures shall be constructed or permitted to remain on any Lot. As contemplated above, accessory structures, such as servants quarters, garages, porte cocheres, cabanas, and tool sheds, shall be permitted, however, said structures shall be subject to the prior written approval of the ACC, must be of the same material as the house on the same Lot and, in any case, may not be portable or constructed of metal or plastic.

2.2 Prohibited Uses and Activities: The following uses and activities are prohibited within the Property except, if applicable, for certain reasonable activities and uses which may exist during any reasonable period of construction of Improvements on any portion of the Property:

- (a) Any illegal, noxious or offensive activity of any kind;
- (b) Any use which is offensive by reason of odor, fumes, vibrations, dust, smoke, radiation, noise or pollution, or that it is hazardous by reason of excessive danger of fire or explosion;
- (c) Any use which may cause or produce a nuisance as to any other portion of the Property;
- (d) Any commercial or business use, including, without limitation, trailer park, slaughterhouse, tannery, cannery, barn, stables, cemetery, junkyard, scrapmetal yard or waste material collection, storage and distribution, dumping disposal, incineration or reduction of garbage or refuse, fire or bankruptcy sale or auction house operation, or establishment which sells alcoholic beverages;
- (e) The keeping of livestock, poultry or other animals or fowl of any kind; however, any Owner may keep bonafide household pets;
- (f) Warehousing of goods or materials for commercial purposes;
- (g) Exterior storage of any goods or materials;
- (h) Storage of oil, gasoline, or other flammable liquids;
- (i) Overnight parking or any storage of campers, mobile homes, boats or trailers, which are visible from the Common Areas or any Private Street or which are offensive to any party whose complaint is approved by the Association, in its sole discretion;
- (j) Overnight parking or storage of trucks one ton or larger in size;
- (k) Any oil exploration, any drilling or development operations, oil refining, quarrying, or mining operations of any kind; placement of any oilwells, tanks, tunnels, mineral excavations or shafts, or any operating derrick or other structure designated for use in boring for oil and natural gas; and
- (l) The keeping of automobiles or other vehicles which are not in roadworthy condition or which do not have a current inspection sticker or license plates.

Filed for Record in
SMITH COUNTY, TEXAS
HARRY MORRIS - COUNTY CLERK

On Oct 27 1994
At 4:01pm

Deputy - Janis Farrell

ARTICLE III

CONSTRUCTION AND ALTERATION

3.1 Construction Standards: The construction and alteration of any improvement shall meet the standards set forth in these Protective Covenants and the Development Guidelines as set forth in Article IV herein. When a construction material is specified herein, another material may be used in lieu thereof provided that such material is determined by the ACC to be equivalent to, or better than, the specified material.

3.2 Structures: Unless otherwise approved by the ACC, the design of all building, parking and other structures shall be in keeping with the Development Guidelines and the standards set forth in these Protective Covenants and consist of no less than seventy percent (80%) brick or acceptable stone veneer. The design character of structures shall be such that it is aesthetically pleasing and consistent on all sides, and it is consistent and harmonious with other structures on adjacent and surrounding Lots. Design characteristics shall exhibit uncluttered forms of a nature devoid of inappropriate ornamentations. Building material and color selection shall achieve visual order through the consistent use of a limited mix of dominant materials of a harmonious color range on any structure or groups of structures. These materials shall preferably be brick, stucco, wood shingles, glass or glazing, and semi-transparent stained vertical grooved wood or lapped wood siding.

3.3 Landscaping: All open, unpaved space within any Lot, including, but not limited to, front, side and rear Set Back Areas, shall be planted, landscaped, and maintained by the Owners thereof in accordance with the Development Guidelines. Landscaping in accordance with the plans and specifications for Improvements on a Lot must be installed by the Owner of any Lot within thirty (30) days following the occupancy of any Improvement on the Lot. This period may be extended by the ACC in the event of delays caused by adverse weather conditions including, without limitation, season conditions unfavorable for planting or other causes beyond the reasonable control of the Owner.

3.4 Signs: No signs shall be erected or maintained on any Lot except for a "For Sale" or "For Rent" sign, which shall not exceed five square feet in size or a sign owned by the ACC.

3.5 Initial and Subsequent Construction: Each Owner shall take care not to cause damage to any Private Street, public street, easement, utility, Landscaped Area, Common Areas or any other portion of or Improvements on the Property during construction or alteration of any Improvements on any Lot.

3.6 Indemnity: In the course of construction or alteration of any Improvement on any Owner's Lot, such Owner shall repair any damage caused to any Private Street, public street, sidewalk, easement, utility, the Landscaped Area, Common Areas, or any other portion of, or Improvements on, the Property. Each Owner shall be solely responsible for the compliance of its plans and specifications with all applicable laws, rules and regulations. Each Owner shall indemnify and hold harmless the Developer and the Association from any and all costs, losses, damages and attorneys' fees incurred by the Developer or the Association in connection with or arising out of the construction or alteration of any Improvements on such Owner's Lot including but not limited to possible soil erosion resulting in damages to downstream property owners..

3.7 Temporary Structures: No temporary building or structure other than sales offices, construction offices and structures for related purposes during the construction period shall be installed or maintained on any Lot. All temporary structures used for construction or sales purposes must receive approval by the Controlling Party with regard to location and appearance, and must be removed promptly upon completion of construction or when otherwise no longer needed and that portion of the Lot from which same are removed, must be restored

to its original condition or such condition as is otherwise required by these Protective Covenants.

3.8 Curb Cuts: The number and location of all curb cuts on Private Streets, public streets, roads and highways must be approved in advance by the Controlling Party, in its sole discretion.

3.9 Driveways: Driveways of design and in location approved by the Controlling Party and being no less than twelve feet (12') in width shall be constructed as a part of the development of each Lot.

3.10 Security System: Each home built on each Lot must be appropriately pre-wired for a full service security system.

3.11 Sprinkler System: Each Lot will be developed with sprinkler systems in the front, back and all side areas.

ARTICLE IV

DEVELOPMENT GUIDELINES

4.1 Further Subdivision: No Owner shall subdivide any platted Lot unless approved in writing by the Controlling Party.

4.2 Easements: Perpetual easements in, on and under the Lots of width and extent shown on the Plat shall be available for use by the Controlling Party and the Owners for purposes of installing and maintaining utility services, and such other purposes as are contemplated by the Plat. The easements will be governed pursuant to Article VII herein. No structure shall be constructed or permitted to remain on or over any easement as shown on the Plat, and no party shall be liable to the Owner of such Lot for damages to any structure by reason of its use of such easement as contemplated hereby.

4.3 Frontage: Residential structures shall face the street upon which the subject Lot fronts. As between the two streets to which a corner Lot fronts, such Lot shall be deemed to front the street with respect to which there is the shortest lineal abutment. In the event a Lot should have two (2) alternative frontage arrangements pursuant to this Section 4.3, the Controlling Party shall be entitled to designate the required frontage arrangement for that particular Lot.

4.4 Set Back Areas: Any and all building lines as shown on the Plat shall be observed. In addition:

(a) No fence or wall shall be constructed or permitted to remain on any Lot within any building setback line area unless approved in writing by the Controlling Party; and

(b) No structure shall be constructed or permitted to remain on any Lot nearer than twenty-five feet (25') from the front boundary line, five feet (5') from either side boundary line, and twenty feet (20') from the rear boundary line.

4.5 Sight Lines: No fence, wall, hedge or shrub which obstructs sight lines and elevations between two feet and six feet (2' and 6') above street elevations shall be constructed, planted or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and a line connecting them at points twenty-five feet (25') from the intersection of such street right-of-way lines, or, in the case of a rounded corner, from the intersection of the street right-of-way lines extended to intersect. The same sight line requirements shall apply to any triangular area formed by a street right-of-way line, a driveway

boundary line, and a line connecting them at points ten feet (10') feet from the intersection thereof. No trees shall be planted or permitted to remain within any of the above-described triangular areas unless the foliage line is maintained at sufficient height to prevent the obstruction of sight lines within the above parameters.

4.6 Square Footage: All residential dwellings shall contain not less than 1800 square feet of living area, and shall have a garage with a capacity for not less than two (2) automobiles. No residential dwelling shall exceed two and one-half (2-1/2) stories in height.

4.7 Landscaping: The landscaping of each Lot shall include a minimum of three (3) trees on the front portion of each Lot, which trees shall have trunks of no less than five inches (5") in diameter, and shall be Live Oaks, Pines or a similar type tree of premium quality (i.e. either Evergreens or Deciduous) which is compatible with the surrounding environment and satisfactory to the ACC in its sole discretion. In the event three (3) trees meeting the above-qualifications do not exist on a front portion of any Lot, the Owner thereof shall be obligated to plant, or cause to be planted such trees. In addition to the above-described three (3) trees, each corner Lot shall contain an additional tree for every fifty feet (50') of side yard, abutting the street, each of which such trees shall meet the above qualifications.

4.8 Temporary Structure as a Residence: No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used at any time as a residence, either temporarily or permanently, nor shall any structures, of a temporary character be permitted on any Lot.

4.9 Garages: All garages and porte cocheres shall have either a front, side or rear entry.

4.10 Roofing: Any building constructed on a Lot shall have high quality asbestos, wooden, shake tile or other heavy duty composition shingles, and the minimum roof pitch shall be 8/12. In the event this provision shall conflict with any applicable city ordinance, the terms of said city ordinance shall prevail.

4.11 Tanks and Wells: No septic tanks shall be installed or permitted to remain on or under any Lot, and no individual water wells shall be drilled, dug, maintained or operated by any Owner unless all appurtenant equipment is constructed so that same protrudes above ground level no more than eighteen inches (18") or, is camouflaged in a manner approved in writing by the ACC.

4.12 Antennas: No television, radio or other similar antennas, mast or receiving or sending apparatus or satellite dish structure shall be erected on any portion of any Lot whatsoever. No Lot or Improvement shall be used as a base for any type of radio, television, or similar broadcasting systems.

4.13 Utilities: Easements and access easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Except as to special street lighting or other aerial facilities which may be required by the City of Tyler or which may be required by any utility company or which may be installed by the Controlling Party pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed on the Property, whether upon individual Lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity, including but not limited to any person owning or acquiring any part of the Property, and all utilities, service facilities (including but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground. All utility meters, equipment, and air conditioning compressors and similar items must be visually screened and located in areas appropriately designated by the ACC. Within the set back area for each Lot, an easement and

right-of-way is reserved for the Association and/or the Developer to properly facilitate and carry out any reasonable maintenance.

4.14 Rooftop Solar Facilities: No solar heating or electricity systems of any kind shall be attached to or placed on any roof of any Improvement constructed or placed on any Lot.

4.15 Fences: Any fences, gates or similar structures located on a Lot must be built of wood or a material that is determined by the ACC to be equivalent to, or better than, wood such as wrought iron or brick. Fences, gates or other similar structures located on a Lot may not be constructed of chain link, barbed wire or other metal material.

4.16 Mailboxes: All mailboxes must be constructed with the same brick used for the residence on that Lot (other than the mailbox door) and of the size and design submitted by the ACC to Owner. Each mailbox will be located adjoining the street on which the Lot faces and will be in a location consistent with that of the other Lots.

4.17 Edging and Retaining Walls. All edging and/or retaining walls utilized on any Lot or dividing any two Lots must be of brick material consistent in nature with that utilized on the adjoining house or other material approved by the ACC. Under no circumstances shall wooden retaining walls or creosote logs be utilized in retaining walls or edging materials.

4.18 Drainage. It is intended that the Property be developed in an orderly manner such that the Owner of each Lot shall absorb its share of drainage responsibility with respect to the surface water running across, from or to the Property as a whole. Without limiting the remedies otherwise described herein, to the extent any Lot should be developed in a manner which disproportionately diverts surface water onto another Lot or is otherwise developed so as to not absorb its proportionate share of responsibility for the Property's surface water drainage, then, the Controlling Party shall be entitled to require the Owner of any such Lot to rectify such situation and, if not timely rectified, to itself effectuate such maintenance or repairs as may be desirable to more equitably resolve any drainage problems. Without limiting the foregoing, the Controlling Party shall be entitled to install drainage devices, culverts or other arrangements as the Controlling Party may, in its sole discretion, deem necessary or desirable. To the extent the Controlling Party deems the necessity for such maintenance to be the responsibility of only certain of the Lots, then, the Controlling Party may effectuate a special Maintenance Assessment against only those Lots. To the extent the Controlling Party deems any such drainage maintenance to not be attributable to only certain Lots, but, rather, the Property as a whole, then, any such maintenance may be effectuated by way of general Maintenance Assessments described in Section 9.1 hereof.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

5.1 Architectural Control Committee: The ACC, shall be composed of five (5) individuals or business entities, one of which must be the president of the Association, selected and appointed by Controlling Party, each generally familiar with residential and community development design matters and knowledgeable about the Controlling Party's concern for a high level of taste and design standards within the Property. In the event of the death or resignation of any member of the ACC, the remaining members shall have full authority to designate and appoint a successor. The ACC shall function as the representative of the Owners for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class community development. The ACC shall use its best efforts to promote and ensure a high level of taste, design, quality, harmony and conformity throughout the Property. No member of the ACC shall be liable for claims, causes of action or damages

(except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed pursuant to this covenant.

5.2 **Approval of Plans and Specifications:** No Improvements shall be erected, placed or altered on any Lot or any construction or on-site preparation work of any nature whatsoever begun until all plans and specifications, a plot plan and a general landscape plan have been submitted to and approved in writing by the ACC, or a majority of its members, as to:

- (a) quality of workmanship and materials; adequacy of site dimensions; adequacy of structural design; proper facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping; and
- (c) the other standards set forth within these Protective Covenants (and any amendments hereto).

The ACC is authorized and empowered to consider and review any and all aspects of the construction of any Improvements, which may, in the reasonable opinion of the ACC, adversely affect the living enjoyment of one or more Owners or the general value of the Property.

5.3 **Approval Procedure:** Final plans and specification shall be submitted in duplicate to the ACC for approval or disapproval. The ACC is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the ACC, one complete set of plans and specifications will be retained by the ACC and the other complete set of plans will be marked "Approved" and returned to the Owner or his designated representative. If found not to be in compliance with these Protective Covenants, one set of such plans and specifications shall be returned marked "Disapproved", accompanied by a reasonable statement of items found not to comply with these Protective Covenants. Any modification or change to the disapproved set of plans and specifications must again be submitted to the ACC for its inspection and approval. The ACC's approval or disapproval, as required herein, shall be in writing. If the ACC fails to approve or disapprove such plans and specifications within fifteen (15) days after the date of submission, then such plans shall be submitted to the Board of Directors. If the Board of Directors fails to approve or disapprove such plans and specifications within fifteen (15) days, then the approval of the ACC and Association shall be presumed.

ARTICLE VI

COMPLIANCE WITH THESE PROTECTIVE COVENANTS

6.1 **Duty:** The Owner of a Lot shall keep and maintain that Lot and the Improvements located thereon in a safe, clean and attractive condition and otherwise in compliance with these Protective Covenants; provided, however, it shall be the exclusive responsibility of the Association, as described in Section 9.1, to keep and maintain the Common Areas, specifically including, but not limited to, the Landscaped Area and the Private Streets..

6.2 **Failure to Comply:** If, in the opinion of the Developer or the Association, any Owner is failing in the duty set forth in these Protective Covenants, then either the Developer or the Association may give such Owner notice of such fact and such Owner shall, within ten (10) days of such notice, undertake the work required to restore said Owner's Lot to a safe, clean and attractive condition, and otherwise bring said Lot into compliance with these Protective Covenants (including, but not limited to, the installation of landscaping). Should any such Owner fail to fulfill this duty and responsibility after such notice, then the Developer

or the Association shall have the right and power (but not the obligation) to enter upon such Lot (without liability for trespass or other cause of action) and perform such work and bring such Lot into compliance with these Protective Covenants, and the Owner of the Lot on which such work is performed by Developer or the Association, shall be liable for the cost of any such work and shall on demand pay the party or parties who performed such work such amount, together with interest thereon at the maximum rate allowed by applicable law (or, if there is no maximum rate, at eighteen percent (18%) per annum) from the date incurred by such party or parties until paid. If such Owner shall fail to so pay the Developer or the Association, as the case may be, within thirty (30) days after demand therefor, then said cost and interest thereon shall be a debt of such Owner, payable to the Developer, or the Association, as the case may be, and shall be secured by a lien against such Owner's Lot, in accordance with the provisions of Section 9.8.

ARTICLE VII

EASEMENTS

7.1 Adoption: The Plat dedicates for use, subject to the limitations set forth therein, certain easements shown and provided for thereon, and the Plat further establishes dedications, limitations, reservations, and restrictions applicable to the Lots. Additionally, the Controlling Party may hereafter grant, create and dedicate, by recorded instruments, certain other easements and related rights affecting the Setback Areas of certain of the Lots. All dedications, limitations, restrictions and reservations shown on the Plat and all grants and dedications of easements and related rights heretofore or hereafter made by the Controlling Party affecting the Property are incorporated herein by reference and made a part of these Protective Covenants for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed of conveyance executed or to be executed by or on behalf of Controlling Party conveying or leasing any part of the Property.

7.2 Title to Easement Estates and Appurtenances Not Conveyed: Title to any Lot conveyed by Developer shall not be held or construed, in any event, to include the title to any easement estates or any Improvements within such easement estates constructed by Developer, or its agents, through, along or upon any portion of the Property, and the right to maintain, repair, sell, or lease such Improvements to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Developer.

7.3 Association Easement: An easement is hereby granted to the Developer and the Association, their respective officers, agents, employees, and management personnel to enter upon any Lot to render any service or perform any of their respective functions. In addition, an easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles, postal service vehicles and other service vehicles, and to the operators thereof, to enter upon the Property in the performance of their duties.

7.4 Restriction: Owner shall not grant any easement on, over, under or across any Lot without the prior written approval of the Controlling Party.

7.5 Surface Areas: The surface of easement areas for underground utility services may be used for planting and maintenance of shrubbery, trees, lawns, or flowers and for driveways providing ingress and egress across such areas subject to the requirements of the grantee(s) of such easement(s) and applicable governmental regulations. However, neither the Controlling Party nor any supplier of any utility or service using any easement area shall be liable to any Owner for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance or repair of any facility in any such easement area.

ARTICLE VIII

THE ASSOCIATION

8.1 **Non-Profit:** The Association will be formed and organized by the Developer prior to December 31, 1994, and once formed shall be operated, as a non-profit corporation under the laws of the State of Texas.

8.2 **Purposes:** The purposes of the Association shall be as set forth in its Articles of Incorporation and include the collection and use of the Assessments as described in Article IX.

8.3 **Board of Directors:** The Association shall act through a three (3) to five (5) member Board of Directors, which shall manage the affairs of the Association. The initial Directors shall be selected by Developer. Each initial Director shall serve on the Board of Directors until such time as the Developer has conveyed seventy-five (75%) or more of the Lots to Owners and until his successor is duly elected and qualified. After the expiration of the term of the initial Directors, the Members (as defined in Section 8.4) shall elect a Board of Directors as provided for in the Bylaws. Any vacancy, from whatever cause, occurring in the Board of Directors shall be filled by an election of the remaining Board Members pursuant to the Bylaws. The person elected to fill any such vacancy shall serve for the remainder of his predecessor's term and until his successor is duly elected and qualified.

8.4 **Membership:** The Association shall have one class of Members. Each Owner, whether one or more persons or entities, shall, upon and by virtue of becoming such Owner, automatically become a member of the Association (hereafter referred to as "Member" individually or "Members" collectively) and shall remain a Member thereof until its ownership ceases for any reason, at which time its membership in the Association shall automatically cease. Each Owner's membership in the Association shall be appurtenant to and shall automatically follow the Owner's legal ownership in any Lot and may not be separated from such interest. Whenever the fee ownership of any Lot passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer or membership in the Association, and no certificate of membership will be issued. The Developer shall also be a Member of the Association so long as Developer is the holder of legal title to a Lot.

ARTICLE IX

COVENANTS FOR ASSESSMENTS

9.1 **Maintenance Assessments:** Maintenance Assessments (so called herein) shall be levied by the Board of Directors against the Members, and may be used by the Association for the purposes of promoting the recreation, health, safety and welfare of the Owners, residents and tenants of the Property as the Association in its discretion may deem appropriate, including, but not limited to, the following:

(a) Maintaining, illuminating and repairing the Common Areas and any and all improvements constructed by the Controlling Party and located thereon;

(b) Planting, landscaping, sprinklering, mowing, tree surgery and general upkeep of the Landscaped Area which may, at the Controlling Party's option, include the construction, maintenance and repair of a fountain at the entrance to the Property;

(c) Provision of safety and security measures including, but not limited to, the erection, maintenance and repair of gates at the entrance and exit areas of the Property;

- (d) Construction, maintaining, illuminating and repairing the Private Streets;
- (e) Enforcement of parking restrictions;
- (f) Erection, maintenance and repair of parking restriction signs along any roadway or street used for public traffic, street signs and other Property identification;
- (g) Illumination, landscaping, maintenance, and repair of any dedicated and nondedicated boulevards, streets, and roads, in or adjacent to the Property (to the extent not performed to the satisfaction of the Association by governmental authority having jurisdiction over same);
- (h) Maintenance, repair and lighting along any roadway or street used for public traffic;
- (i) Capital items necessary to accomplish the foregoing purposes, as determined by the Association, in its sole discretion;
- (j) Reimbursement for reasonable out-of-pocket expenses incurred by Developer or the Association in connection with or arising out of these Protective Covenants; and
- (k) Non-capital items or expenses as may be deemed by the Association, in its discretion and good faith, to be necessary or desirable for the carrying out of these provisions and for the general benefit of the Members.

Irrespective of anything contained herein to the contrary, in no event shall the Developer or the Association be responsible for the cost of initial planting and landscaping of Lots owned by an Owner.

9.2 Wall Assessments: In addition to the Maintenance Assessments, Wall Assessments (so called herein) shall be levied by the Board of Directors against the Members which own Wall Lots, and may be used by the Association for the purpose of maintaining, repairing or reconstructing the Wall.

9.3 Personal Obligation of Assessments: The Developer with respect to the Lots owned by it, and each Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the Maintenance Assessments and, if applicable pursuant to Section 9.2 hereof, the Wall Assessments.

9.4 Basis of Maintenance Assessments: For the current fiscal year and each subsequent year, the annual Maintenance Assessment shall be established on a per square foot of land basis for all the land located within the Property. Each year or otherwise from time-to-time, the annual Maintenance Assessment may be increased as the Association deems appropriate. Furthermore, the Board of Directors may determine and certify that the then current annual Maintenance Assessment is not sufficient to meet the expenses of the Association and, at a meeting called for such purpose by majority vote of all Directors present, in person or by proxy, may vote to increase the annual Maintenance Assessment up to an amount which is consistent with other first-class residential developments then in existence in Smith County, Texas or like communities. It is expressly understood that although the Property will be developed in phases, the Maintenance Assessment shall be established on a per square foot of land basis for all the land located within the Property and not merely within any of the phases.

9.5 Basis of Wall Assessments: In the case of wholesale maintenance, renovation or reconstruction of the Wall, each Member that owns a Wall Lot shall pay its proportionate share for any repair, maintenance or reconstruction of the Wall, as deemed necessary by the Association in its sole discretion. Such Member's proportionate share shall be the product of (i) a fraction with the numerator being the length that such Lot's property line abuts the Wall in linear feet and the denominator being the total length of the Wall, which fraction shall be multiplied by (ii) the total cost of repair, maintenance or reconstruction. In the case of maintenance obligation with respect to a portion of the Wall, that Member that owns the Wall Lot immediately adjacent to such portion of the Wall requiring repair shall be responsible for the prompt repair, maintenance or reconstruction of such portion of the Wall in conformity with the Wall as it is initially erected. Should such responsible Member fail to timely perform such repair, maintenance or reconstruction obligations, then, and in such event, the Association may, at its sole discretion, itself undertake such repair, renovation or reconstruction obligations and assess the responsible Member for the full cost of any such repair.

9.6 Payment of Assessments -- Due Dates:

- (a) The Maintenance Assessments shall be due and payable in advance on a monthly, quarterly or annual basis as the Association may require. The Association is further empowered to change the timing of such required payments at its discretion.
- (b) The Wall Assessments shall be due and payable within thirty (30) days after receipt of an invoice therefor by the Members which own Wall Lots.

9.7 Effect of Non-Payment of Assessments -- The Personal Obligation of the Owner; The Lien; Remedies of Association: If any Assessments are not paid on the date when due and payable as specified in Section 9.6 hereof, then such Assessment shall be delinquent and shall, together with interest thereon, attorney's fees, court costs and other costs of collection thereof, become a continuing lien on the Lot as well as the personal obligation of the then Owner. If such Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest from the due date at the maximum rate permitted by applicable law or, if there is no maximum rate, at eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use or abandonment of its Lot.

9.8 Liens to Secure Assessments -- Subordination of Lien to Mortgages: The Assessments shall each constitute and be secured by a separate and valid and subsisting lien, hereby created and fixed, which shall exist upon and against each Lot and all Improvements thereon, for the benefit of the Association and all Owners, and shall be prior and superior to all other liens, except that the same shall be subordinate and inferior to (a) all liens for taxes levied by County and State governments or any political subdivision or special district thereof, and (b) all liens or deeds of trust in favor of any lender and granted by Developer, and all liens, including, but not limited to, vendor's liens, deeds of trust, mortgages and other security instruments which secure any loan for any part of the purchase price of any Lot and/or cost of Improvements placed thereon, to the extent such liens described in this item (b) should be filed for record prior to the date when such Assessments become due and payable. No foreclosure shall free any Lot from the liens securing Assessments thereafter becoming due and payable, nor shall the personal obligation of the foreclosed Owner be extinguished by any foreclosure.

9.9 Association's Power to Borrow Money: The Association shall have the right, but not the obligation, to borrow money on terms acceptable to the Association, in its sole discretion, for the purpose of paying expenses incurred by the Association pursuant to Section

2.1. Any such debt shall be repaid with monies collected from the Maintenance Assessments described in Section 9.1.

9.10 **Financial Statements:** The Association shall, not later than one hundred twenty (120) days after the end of each fiscal year of the Association, furnish to each Member financial statements which shall include a balance sheet as of the end of such year and a statement of operations for the year then ended. Such financial statements may, but shall not be required to be, audited. All Members shall have the right during regular business hours to inspect the books and records of the Association at the office of the Association.

9.11 **Limited Liability:** It is understood that the judgment of the Association, its successors, legal representatives and assigns, in the allocation and expenditure of the Assessments shall be final so long as such judgment is exercised in good faith. None of the Developer, Association, the Board of Directors, or any Director, shall have any liability to any person or entity under any theory or circumstance for any error or judgment, action or inaction of the Developer, Association, the Board of Directors, or any Director. The enumeration of the services for which the assessments may be expended carries no obligation to furnish any of such services except to the extent of funds actually received by the Association.

ARTICLE X

RESERVATION OF RIGHT TO RESUBDIVIDE, FURTHER RESTRICT AND ANNEX ADDITIONAL PROPERTY

Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Developer hereby reserves the right, so long as the Developer is the Controlling Party, to subdivide or resubdivide, as the case may be, plat or replat, as the case may be, and/or execute further covenants, restrictions, charges, easements and liens on all or any portion of the Property. It is acknowledged and understood that the Property is to be developed in three phases, which phases are as reflected on the Plat. Developer is specifically authorized and reserves the right to plat or replat and to undertake the development, if any, which occurs with respect to all three phases of the Property and specifically with respect to the initiation of the work as to Phase II and III. It is expressly understood and agreed that the term Property, as utilized herein, includes all of Phase I, Phase II and Phase III of the proposed development.

Developer hereby further reserves the right, so long as the Developer is the Controlling Party, to annex additional adjacent property in order to develop such property and to do all things and execute all documents in order to obtain title to such adjacent property and ready same for development. Any such annexation shall have the effect of imposing these Protective Covenants against such adjacent property.

ARTICLE XI

COVENANT TO DEVELOP

11.1 **Covenant to Develop:** By acceptance of a deed for a Lot, each Owner covenants and agrees to complete the construction on and/or development of such Lot as a single family residence, in accordance with these Protective Covenants and all applicable governmental ordinances and requirements, within two (2) years from the date of such deed ("Construction Period"). The Developer reserves the right, title and privilege to repurchase the Lot at eighty percent (80%) of the original purchase price, if construction of the Improvements have not been initiated one (1) year after the conveyance of the Lot to Owner. Such repurchase option shall be exercised by the Developer giving thirty (30) days prior written notice to Owner, at Owner's address as specified in Section 12.9 hereof, of the Developer's election to repurchase the Lot. Such election notice shall specify the time, date

and place of repurchase of the Lot and shall have attached thereto the form of deed to be used to convey the Lot to Developer. Such deed shall be substantially similar in form as the deed to Owner, containing the same warranties of title and shall be subject to any and all exceptions of record. The purchase price for the Lot shall be the same price paid by Owner to the Developer for the purchase of the Lot.

ARTICLE XII

MISCELLANEOUS

12.1 **Enforcement:** These Protective Covenants shall run with and bind the Property, and (except where expressly provided otherwise) shall inure to the benefit of and be enforceable by the Developer, the Association, or the Owner of any land subject to these Protective Covenants. The Association, the Developer, or any Owner shall have the right to enforce, by proceedings at law or in equity, (a) all restrictions, covenants, conditions, reservations, liens, charges, assessments and all other provisions set out in these Protective Covenants, and (b) unless specifically provided to the contrary therein, all restrictions, covenants, conditions, reservations, liens, charges, assessments and other provisions set out in any deed, ground lease or other instrument executed by Developer further restricting, as herein authorized, the use or development of the Property or any portion thereof; provided, however, that the failure of the Association, the Developer or any Owner to take any action upon a breach of these Protective Covenants shall not render such party liable in any manner for such failure. Failure of the Association, the Developer, or any Owner to take any action upon any breach or default of or in respect to any of the foregoing shall not be deemed a waiver of the right to take enforcement action upon any subsequent breach or default.

12.2 **Termination of Covenants:** These Protective Covenants shall be effective upon the date of recordation hereof, and as amended from time to time, shall continue in full force and effect to and including December 31, 2019. From and after said date, these Protective Covenants, as amended, shall be automatically extended for successive periods of ten (10) years, unless the Owners of eighty percent (80%) of the Lots within the Property, by written declaration signed, acknowledged and filed for record, elect to terminate these Protective Covenants. Notwithstanding the foregoing, the Developer may, so long as the Developer is the Controlling Party, alter, amend and terminate or extend these Protective Covenants. Thereafter the Owners may alter, amend, terminate or extend these Protective Covenants, and this right shall exist as long as the then Owners of eighty percent (80%) of the Lots within the Property desire; provided, however, that no amendment of the Permitted Uses in Section 2.1 shall have retroactive application to any Improvements theretofore constructed or for which construction has commenced.

12.3 **Assignability of Developer's Rights:** Developer reserves the right to assign or delegate all or any part of its rights or obligations hereunder to the Association. Upon any such written assignment or delegation Developer shall be relieved of the rights and obligations so assigned or delegated. In the event that Developer no longer owns nor has ground leased any portion of the Property, all rights and obligations of Developer hereunder shall automatically be transferred to and assumed by the Association, and Developer shall automatically be relieved of same, without need of any written assignment or delegation.

12.4 **Choice of Builder:** ACC, in its sole discretion, shall have and reserves the right to approve Owner's choice of builder.

12.5 **Protection of Name:** No Owner, or any tenant or mortgagee of any Owner shall use the phrase "Ashmore" or any phrase or phrases similar thereto in connection with any Lot or any business operated in connection with any Lot, without the prior written consent of Developer except that Owner may use such phrase to identify the location of such Lot and Owner's contemplated development thereof. This restriction is for the benefit of and may be enforced only by Developer. Nothing contained herein shall be construed to restrict

Developer's use of the word described in this Section 12.4 and further, Developer specifically reserves the right to use such word.

12.6 Utility District: Notwithstanding anything herein to the contrary, any land within the Property conveyed by the Developer to a municipal utility district or other public authority to provide utility service to the Property shall not be subject to these Protective Covenants (including, without limitation, the provisions hereof pertaining to the assessments so long as such land is owned by such utility district or other public authority for the provisions of utilities to the Property).

12.7 Corrections: The Developer shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party, to amend these Protective Covenants by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error or any ambiguity or inconsistency appearing herein.

12.8 Interpretation: If these Protective Covenants or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of contradicting interpretations, the interpretation which is most nearly in accordance with the general purposes and objectives of these Protective Covenants shall govern.

12.9 Omissions: If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in these Protective Covenants is omitted herefrom, such omission is unintentional and the omitted punctuation, word, clause, sentence or provisions shall be supplied by inference.

12.10 Notices: All notices or other communications required or permitted to be given pursuant hereto shall be in writing and shall be considered as properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee, or (iv) by prepaid telegram, telex, or telefacsimile to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the address of any Owner shall be the last known address of such Owner as shown on the records of the Controlling Party at the time of such mailing and the addresses of Developer, the Association and the ACC shall be as shown in Article I hereof; provided, however, that (i) any Owner shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the Controlling Party in the manner set forth herein; and (ii) any of the Developer, the Association and the ACC shall have the right to change their respective addresses for notice hereunder to any other location within Smith County, Texas by the giving of thirty (30) days' notice to the Owners in the manner set forth herein.

12.11 Rules of Construction: The singular, wherever used herein, shall be construed to include the plural, when applicable, and the necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships or individuals, males or females, shall in all cases be assumed as though in each case fully expressed. The word "or" is not exclusive. The words "herein", "hereinafter", "hereafter", "hereunder" and "hereof" refer to these Protective Covenants as a whole and not merely to the sections in which such words appear, unless the context otherwise requires.

12.12 **Severability:** The invalidation of any one or more of the covenants, restrictions, conditions, or provisions contained in these Protective Covenants, or any part thereof, shall not affect any of the other covenants, restrictions, conditions, or provisions hereof, which shall remain in full force and effect.

12.13 **Headings:** All headings contained herein are for convenience only, and shall not be deemed to modify any substantive provision hereof.

12.14 **Writing Required:** In the event the approval or consent of the Developer, Association, Controlling Party or Board of Directors is required under these Protective Covenants, such approval or consents must be obtained in writing to be effective unless expressly provided to the contrary herein.

Executed this 27th day of September 1994.


ASHMORE JOINT VENTURE

BY: BAKER REALTY GROUP, INC.,
a Texas corporation, its
Operating Venturer

By: Perry B. Hall
Perry B. Hall, Executive
Vice-President

STATE OF TEXAS §
COUNTY OF SMITH §

This instrument was acknowledged before me on the 27th day of September 1994, by PERRY B. HALL, the President of BAKER REALTY GROUP, INC., a Texas corporation, the Operating Venturer of Ashmore Joint Venture, a Texas joint venture on behalf of said joint venture.

 BECKY HARRIS
Notary Public, State of Texas
My Comm. Expires 11-20-1999
My Commissions Expires: _____

Becky Harris
Notary Public

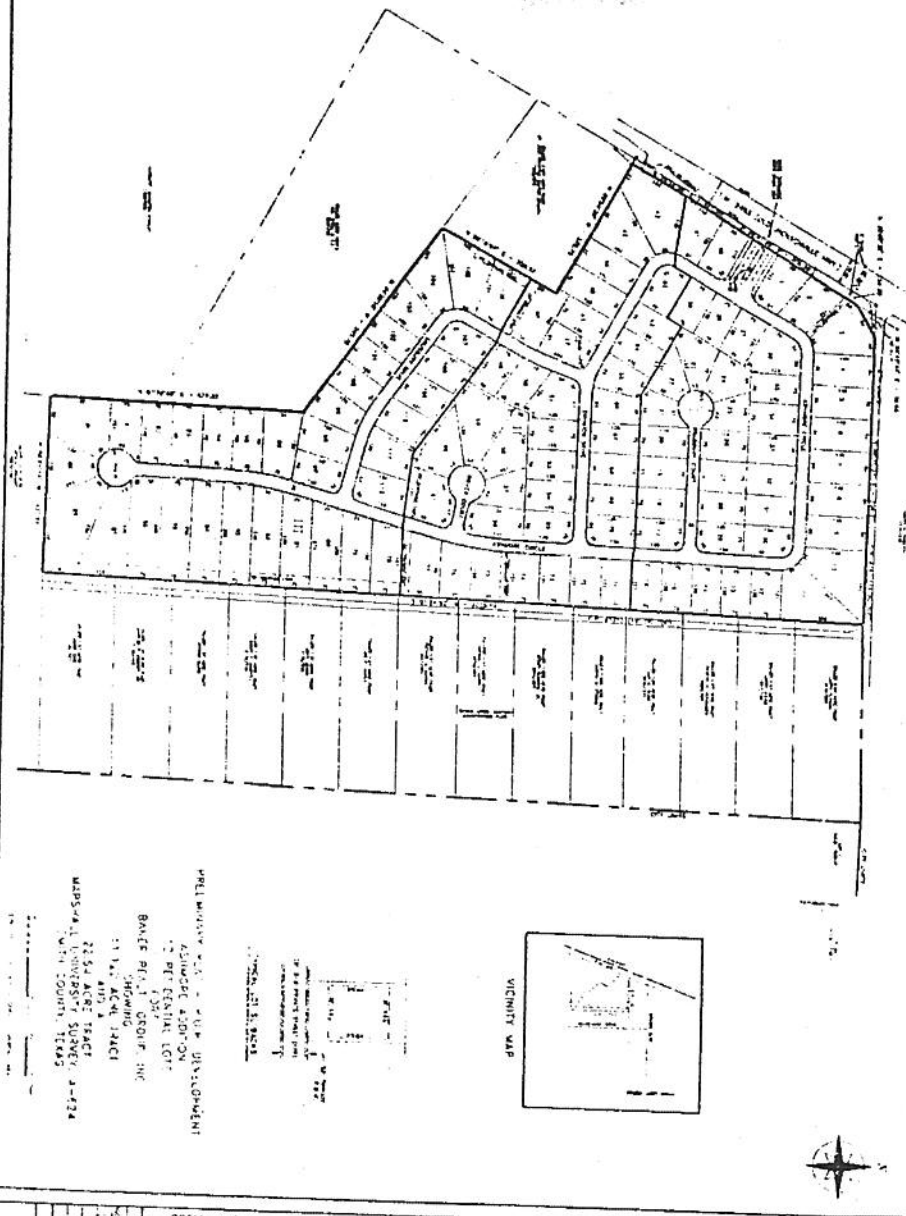
Exhibits

Exhibit A - Plat
Exhibit B - Legal Description of the Property

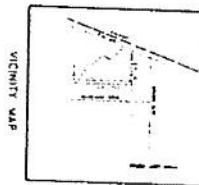
D4941100061
409:940920cap2
ASHM B0545-03900

After filing return to:
Ashmore Joint Venture
821 ESE Loop 323, Ste. 450
Tyler, TX 75701

Exhibit A - Plat



PRELIMINARY P.L. - P.U.D. SITE PLAN
 ASHMOUL ADDITION
 12 PFT. ESENTIAL LOT
 1257
 BAKER REALTY GROUP, INC.
 SHOWING
 11111 ACRES TRACT
 2254 ACRES TRACT
 VANSHALL UNIVERSITY SURVEY, A-624
 SMITH COUNTY, TEXAS



<p>PRELIMINARY P.L. - P.U.D. SITE PLAN ASHMOUL ADDITION 12 PFT. ESENTIAL LOT 1257 BAKER REALTY GROUP, INC. SHOWING 11111 ACRES TRACT 2254 ACRES TRACT VANSHALL UNIVERSITY SURVEY, A-624 SMITH COUNTY, TEXAS</p>	<p>PRELIMINARY PLAT - P.U.D. SITE PLAN ASHMOUL ADDITION FOR BAKER REALTY GROUP, INC. VANSHALL UNIVERSITY SURVEY, A-624 SMITH COUNTY, TEXAS</p>	<p>The Brannon Corporation ENGINEERS, SURVEYORS, & EARTHQUAKE ENGINEERS 524 SOUTH ORANGEWAY, DALLAS, TEXAS 75201 (214) 742-1111</p>	<p>RECEIVED BY DATE TIME BY DATE TIME</p>
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Exhibit B - Legal Description of the Property

FILE COPY

Field Notes For
Baker Realty Group, Inc.
22.54 Acres
Hairston Tract

BEING a 22.54 Acre Tract in the Marshall University Survey, A-624, Smith County, Texas, and being part of a called 22.678 acre tract described in a Decree in Partition in the 114th Judicial District Court, Cause No. 16, 846-A, styled Fannie Shelton, et al, vs. Ella Mae Knight, et al:

BEGINNING at a 1/2-inch iron rod found under pavement of C.R.#161 at the Northeast corner of said 22.678 acre tract and also being the Northwest corner of a called 0.94 acre tract described in a Deed to Larry Turman in Volume 1234, Page 288, of said Smith County Land Records;

THENCE South 1 degree 24 minutes 52 seconds West - 2,025.14 feet with the East boundary line of said 22.678 acre tract, same being the West boundary line of Spring Creek Addition (unrecorded plat) to a 1/2-inch iron rod found at the Southeast corner of said 22.678 acre tract and being on the North boundary line of a called 10.00 acre tract described in a Deed to Floyd G. Wallace in Volume 1903, Page 196, of said Smith County Land Records;

THENCE North 88 degrees 24 minutes 14 seconds West - 432.91 feet with the South boundary line of said 22.678 acre tract, same being the North boundary line of said 10.00 acre tract to a 5/8-inch iron rod found at the Southwest corner of said 22.678 acre tract and being the Northerly Northwest corner of said 10.00 acre tract;

THENCE North 1 degree 31 minutes 45 seconds East - 621.22 feet with the West boundary line of said 22.678 acre tract to a 1/2-inch iron rod found at the Southeast corner of a called 11.3092 acre tract described in a Deed of Trust from Young Men's Christian Association of Tyler, Texas, Inc. to James D. VanDeventer, Trustee, recorded in Volume 3263, Page 762, of said Smith County Land Records;

THENCE North 1 degree 19 minutes 19 seconds East - 604.30 feet continuing with said West boundary line of 22.678 acre tract and with the East boundary line of said 11.3092 acre tract to a 3/4-inch bolt found at an angle point in same;

THENCE North 1 degree 24 minutes 19 seconds East - 414.77 feet continuing with said West boundary line of 22.678 acre tract and East boundary line of said 11.3092 acre tract to a 1/2-inch iron rod set at the Northeast corner of said 11.3092 acre tract and being an ell corner of said 22.678 acre tract;

THENCE North 60 degrees 43 minutes 53 seconds West - 476.24 feet continuing with said West boundary line of 22.678 acre tract and with the North boundary line of said 11.3092 acre tract to a 1/2-inch iron rod set at the Southeast corner of a called 0.110 acre tract described in a Deed from J. D. Hairston to The State of Texas in Volume 2817, Page 34, of said Smith County Land Records, and being on the East right-of-way of F.M. 2493;

THENCE North 30 degrees 47 minutes 36 seconds East - 134.00 feet with said East right-of-way of F.M. 2493 and the East boundary line of said 0.110 acre tract to a 1/2-inch iron rod set at an angle point in same;

THENCE North 61 degrees 42 minutes 44 seconds East - 90.66 feet continuing with said East right-of-way of F.M. 2493 and East boundary line of said 0.110 acre tract to a 1/2-inch iron rod set on the North boundary line of said 22.678 acre tract and being on the South edge of the pavement of C.R.#161;

THENCE South 88 degrees 31 minutes 37 seconds East - 709.27 feet with the North boundary line of said 22.678 acre tract and generally with the South edge of C.R.#161 to the Point of Beginning containing 22.54 Acres of Land.

I, Kevin L. Kilgore, Registered Professional Land Surveyor #4687, do hereby certify the above legal description was prepared from an on-the-ground survey made under my direction and supervision during the month of February, 1994.

Kevin L. Kilgore, R.P.L.S. #4687
KMK:ds(ccr:94005)sl.(a)

Hairston Tract; 22.54 Acres

2 of 2

The Braum Corporation

Field Notes For
Baker Realty Group, Inc.
11.122 Acres
"YMCA Tract"

FILE COPY

BEING a 11.122 Acre Tract in the Marshall University Survey, A-624, Smith County, Texas, and being part of a called 11.3092 acre tract described in a Deed of Trust from Young Men's Christian Association of Tyler, Texas, Inc. to James D. VanDeventer, Trustee, recorded in Volume 3263, Page 762, of the Smith County Land Records:

BEGINNING at a 1/2-inch iron rod found at the Southeast corner of said 11.3092 acre tract and being on the West boundary line of a called 22.678 acre tract, said 1/2-inch iron rod also being the Northeast corner of a called 9.032 acre tract described in a Deed to A. E. Shull in Volume 2594, Page 25, of said Smith County Land Records;

THENCE North 54 degrees 30 minutes 16 seconds West - 580.70 feet with the South boundary line of said 11.3092 acre tract and the North boundary line of said 9.032 acre tract to a 1/2-inch iron rod found at an ell corner of said 11.3092 acre tract and being the Northeast corner of a called 2.427 acre tract described in a Deed to Mt. Zion Primitive Baptist Church in Volume 1962, Page 616, of said Smith County Land Records;

THENCE North 28 degrees 16 minutes 07 seconds East - 320.53 feet continuing with said South boundary line of 11.3092 acre tract and the East boundary line of said 2.427 acre tract and being an ell corner of said 11.3092 acre tract;

THENCE North 60 degrees 54 minutes 28 seconds West - 375.79 feet continuing with said South boundary line of called 11.3092 acre tract and the North boundary line of said 2.427 acre tract to a brass disk found at the Southeast corner of a called 0.193 acre tract described in a Deed to The State of Texas in Volume 3005, Page 718, said brass disk being on the East right-of-way of F.M. 2493;

THENCE North 29 degrees 14 minutes 39 seconds East - 311.98 feet with the East boundary line of said 0.193 acre tract, same being the East right-of-way of F.M. 2493 to a brass disk found at an angle point in same;

THENCE North 30 degrees 47 minutes 36 seconds East - 206.30 feet continuing with said East boundary line of 0.193 acre tract and East right-of-way of F.M. 2493 to a 1/2-inch iron rod set on the North boundary line of said 11.3092 acre tract;

THENCE South 60 degrees 43 minutes 53 seconds East - 476.24 feet with said North boundary line of 11.3092 acre tract to a 1/2-inch iron rod set at the Northeast corner of same and being an ell corner of said 22.678 acre tract;

THENCE South 1 degree 24 minutes 19 seconds West - 414.77 feet with the East boundary line of said 11.3092 acre tract, same being the West boundary line of said 22.678 acre tract to a 3/4-inch bolt found at an angle point in same;

THENCE South 1 degree 19 minutes 19 seconds West - 604.30 feet continuing with said East boundary line of 11.3092 acre tract and West boundary line of 22.678 acre tract to the Point of Beginning containing 11.122 Acres of Land.

I, Kevin L. Kilgore, Registered Professional Land Surveyor #4687, do hereby certify the above legal description was prepared from an on-the-ground survey made under my direction and supervision during the month of February, 1994.

Kevin L. Kilgore, R.P.L.S. #4687
KLK:ds (cor: 94005yac, fa)

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed on the
date and time stamped hereon by me and was duly
recorded in the Land Records of Smith County, Texas.



OCT 31 1994

MARY MORRIS
COUNTY CLERK, Smith County, Texas
By *Jennette Steverson* Deputy

"YNCA" Tract; 11.122 Acres

AMENDMENT

Filed for Record in
SMITH COUNTY, TEXAS
MARY MORRIS - COUNTY CLERKOn Oct 02 1995
At 9:13am

Deputy - Janis Farrell

TO

DECLARATION OF RESTRICTIVE COVENANTS
OF
ASHMORE ADDITION

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF SMITH §

That ASHMORE JOINT VENTURE, a Texas joint venture, hereby amends the Declaration of Protective Covenants of Ashmore Addition as recorded in Volume 3587, Page 137, Land Records of Smith County, Texas, to read as follows:

Amendment No. 1. In Article I, the address for notices purposes of the ACC, the Association and the Board of Directors is amended to be 821 East Southeast Loop 323, Tyler, Texas 75701.

Amendment No. 2. In Article I, the definition of "Association" is amended to read:

"Association" shall mean ASHMORE-TYLER HOMEOWNERS ASSOCIATION, INC., a non-profit corporation, as well as the successors, legal representatives or assigns of ASHMORE-TYLER HOMEOWNERS ASSOCIATION, INC.

Amendment No. 3. In Article IV, Section 4.4(b) is amended to read as follows:

4.4(b) No structure shall be constructed or permitted to remain on any lot nearer than twenty-five feet (25') from the front boundary line, five feet (5') from either side boundary line, and ten feet (10') from the rear boundary line.

Amendment No. 4. In Article IV, Section 4.7 is amended to read as follows:

4.7 Landscaping. The landscaping of each Lot shall include a minimum of two (2) trees on the front portion of each Lot, which trees shall have trunks of no less than two and one-half inches (2-1/2") in diameter, and shall be Live Oaks, Pines or a similar type tree of premium quality (i.e. either Evergreens or Deciduous) which is compatible with the surrounding environment and satisfactory to the ACC in its sole discretion. In the event two (2) trees meeting the above-qualifications do not exist on a front portion of any Lot, the Owner thereof shall be obligated to plant, or cause to be planted such trees. In addition to the above-described two (2) trees, each corner Lot shall contain an additional tree for every fifty feet (50') of side yard, abutting the street, each of which such trees shall meet the above qualifications.

Amendment No. 5. In Article IV, the following section is hereby added:

4.19 Further Entrances and Exits Prohibited. The construction of further entrances or exits to and from the Property is prohibited. The only permitted entry or exit to and from the Property is the gated entrance on FM 2493 (the "Old Jacksonville Highway").

Amendment No. 6. In Article V, the following section is hereby added:

"5.4 Variances, Waivers. The ACC shall have the sole and exclusive authority to approve variances in and waivers of the Construction Standards set forth in Article III, the Development Guidelines set forth in Article IV, and the set-back requirements as shown on the Plat. Requests for variances or waivers shall be subject to the same submission and approval standards as plans and specifications. The approval of a variance or waiver by the ACC shall be limited to the lot or lots for which it is requested and shall not constitute a waiver or implied variance approval for any other lot."

Amendment No. 7. In Article VIII, Section 8.1 is amended to read:

"8.1 Non-Profit. The Association will be formed and organized by the Developer prior to July 31, 1995, and once formed, shall be operated, as a non-profit corporation under the laws of the State of Texas."

EXECUTED this 26th day of September, 1995.

ASHMORE JOINT VENTURE

BY: BAKER REALTY GROUP, INC.,
a Texas corporation, Its
Operating Venturer

By: [Signature]
PERRY B. HALL,
EXECUTIVE VICE-PRESIDENT

STATE OF TEXAS

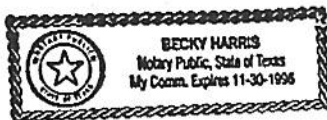
§

COUNTY OF SMITH

§

§

This instrument was acknowledged before me on the 26th day of September, 1995, by PERRY B. HALL, Executive Vice-President of BAKER REALTY GROUP, INC., a Texas corporation, the Operating Venturer of ASHMORE JOINT VENTURE, a Texas joint venture on behalf of said joint venture.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

AFTER RECORDING, RETURN TO:

ROBERT E. HENRY, JR., P.C.
3304 SOUTH BROADWAY, SUITE 100
TYLER, TEXAS 75701

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed on the
date and time stamped herein by me and was duly
recorded in the Land Records of Smith County, Texas.



OCT 2 1995

MARY MORRIS
COUNTY CLERK, Smith County, Texas
By [Signature] Deputy

SECOND AMENDMENT²

TO

DECLARATION OF RESTRICTIVE COVENANTS

OF

ASHMORE ADDITION

STATE OF TEXAS

§

COUNTY OF SMITH

§

KNOW ALL MEN BY THESE PRESENTS:

That ASHMORE JOINT VENTURE, a Texas joint venture, hereby amends the Declaration of Protective Covenants of Ashmore Addition, as recorded in Volume 3587, Page 137, Land Records of Smith County, Texas, and as previously amended by the Amendment (First Amendment) dated September 26, 1995, as recorded in Volume 3712, Page 58, Land Records of Smith County, Texas, ("Protective Covenants"), to read as follows:

Amendment No. 1 In Article IV, Section 4.10 is amended to read as follows:

4.10 **Roofing:** Any building constructed on a Lot shall have high quality asbestos, wooden, shake, tile or other heavy composition shingles, and the minimum roof pitch shall be 9/12. In the event this provision shall conflict with any applicable city ordinance, the terms of said ordinance shall prevail.

Amendment No. 2 In Article IV, Section 4.15, the following section is hereby added:

No fence, wall, gate or other similar structure shall be located on a Lot any closer to the street than the residential structure without the express permission of the ACC.

Amendment No. 3 In Article II, Section 2.2, the following sections are hereby added:

- (m) The placement of any permanent basketball goal or other permanent sports equipment in the front yard or side yard on any Lot.
- (n) The repair or construction on any Lot of any automobile, motorcycle or other motor vehicle so as to be visible from neighboring property or the street.
- (o) The parking of automobiles, motorcycles or other vehicles on Ashmore streets in excess of 72 hours in any month. Vehicles are to be kept in garages or driveways of the owners. All such vehicles require a permit from the Association to park on Ashmore streets in excess of 72 hours in any month, to be granted at the Association's sole discretion.

Amendment No. 4 In Article IV, Section 4.4 (b), the following section is hereby added:

On corner Lots, no structure shall be constructed or permitted to remain on any Lot nearer than fifteen feet (15') from the side boundary line and no garage door shall be constructed or permitted to remain on any Lot nearer than twenty feet (20') from the side boundary line.

WHEREAS, the Developer is still the Controlling Party and desires to amend these Protective Covenants as outlined herein.

EXECUTED this 20th day of June, 1995.

ASHMORE JOINT VENTURE

By: BAKER REALTY GROUP, INC.
a Texas corporation, Its Operating Venturer

By: Perry B. Hall
PERRY B. HALL,
EXECUTIVE VICE-PRESIDENT

STATE OF TEXAS §
§
COUNTY OF SMITH §

This instrument was acknowledged before me on the 20th day of June, 1996, by PERRY B. HALL, Executive Vice-President of BAKER REALTY GROUP, INC., a Texas corporation, the Operating Venturer of ASHMORE JOINT VENTURE, a Texas joint venture on behalf of said joint venture.



Shawna R. Young
NOTARY PUBLIC
STATE OF TEXAS

AFTER RECORDING RETURN TO:

PERRY B. HALL
821 ESE LOOP 323, STE. 310
TYLER, TEXAS 75701

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed
on the date and time stamped hereon by me and
was duly recorded in the Official Public records
of Smith County, Texas.



JUN 20 1996

MARY MORRIS
COUNTY CLERK, Smith County, Texas
By: Shady's B. B. B. Deputy

Filed for Record in
SMITH COUNTY, TEXAS
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Deputy - Dana Parker