

SEE  
COMMENTS

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**DEDICATION OF ACCESS EASEMENT**  
(4710 Leghorn Drive)

THIS DEDICATION OF ACCESS EASEMENT ("Agreement") is made and entered into as of the 24th day of October, 2003, by THIENEMAN MULTIFAMILY PROPERTIES, LLC, a Kentucky limited liability company, of 4901 Fern Valley Road, Louisville, Kentucky 40219 ("Grantor").

**RECITALS:**

A. Grantor, by Deed dated August 23, 2002 of record in Deed Book 7948, Page 175, in the Office of the Clerk of Jefferson County, Kentucky, is the owner in fee simple of certain real property identified as "Tract 1" and "Tract 2" on the minor subdivision plat approved by the Louisville Metro Planning Commission (the "Planning Commission") on October 14, 2003, as Docket No. 215-03 (the "Minor Plat"), a copy of which Minor Plat is attached hereto and made a part hereof as Exhibit A.

B. As a condition to the creation of Tract 2, the Planning Commission has required that Grantor create and reserve a non-exclusive private access easement as depicted on the Minor Plat over a portion of Tract 1 for the purpose of vehicular and pedestrian ingress and egress to Tract 2, to be binding upon Grantor and all other persons and parties claiming through Grantor, for the benefit of all future owners of Tract 2, and for the limitation upon all future owners of Tract 1, as hereinafter provided.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing preambles, which are hereby incorporated herein, the Grantor hereby grants, establishes and reserves as follows:

1. **RESERVATION OF ACCESS EASEMENT.** Grantor hereby dedicates, establishes and reserves a non-exclusive private access easement on and over that portion of Tract 1 as is shown and depicted on the Minor Plat as the "60' PRIVATE ACCESS ESM'T (GRANTED)" (the "Easement Area"), for the purpose of construction and maintenance of a passageway for ingress and egress over Tract 1 and between Tract 2 and the public right-of-way known as Leghorn Drive.

**2. CONSTRUCTION IN EASEMENT AREA.**

(a) The owner of Tract 1 shall be responsible for the initial construction of a asphalt drive lane and related base and underground structural elements within that portion of the Easement Area located on Tract 1 and depicted on Exhibit B attached hereto and made a part hereof as the "Drive Lane" (the "Drive Lane"), contemporaneously with the construction of any improvements on Tract 1. The Drive Lane will be incorporated as a part of, and constructed to the same standards as, the parking and related drive lane areas to be constructed on Tract 1.

(b) In the event that the owner of Tract 2 shall desire to have access to Tract 2 over the Easement Area prior to construction of the Drive Lane by the Tract 1 owner, the Tract 2 owner shall

upon at least thirty (30) days prior written notice, and opportunity to complete construction of the Drive Lane, to the owner of Tract 1, have the right to construct the Drive Lane from Leghorn Drive to Tract 2 within the Easement Area.

(c) Passage over the Easement Area shall be unobstructed so as to permit vehicular and pedestrian access from Leghorn Drive over Tract 1 to Tract 2, but shall be subject to reasonable traffic control devices and restrictions maintained on Tract 1 from time to time. Parking areas, curbing, traffic control devices and vehicle maneuvering areas may encroach upon the Easement Area from time to time provided that the Drive Lane within the Easement Area remains unobstructed.

(d) The owner of Tract 1 shall maintain the Easement Area in a good and passable condition and shall not permit any permanent or temporary obstructions, except to the extent such temporary obstruction is, and then for only such period as is, reasonably necessary for the construction, reconstruction, repair, maintenance or relocation of drive lanes and other improvements as permitted by this Agreement.

(e) The owner of Tract 1 may, from time to time, relocate or re-route drive lanes located within the Easement Area; provided however, that the relocation shall not be overly burdensome to the Tract 2 owner and that the relocation has been approved by the Planning Commission and other applicable governmental authorities.

### 3. MAINTENANCE AND CONSTRUCTION REIMBURSEMENT.

(a) The owner of Tract 1 or Tract 2 which constructs the Drive Lane shall be entitled to reimbursement for one-half (1/2) of the construction costs for clearing, grading, shaping, filling, compacting, paving and curbing within the Easement Area incurred in connection therewith upon the commencement of any development or construction activities on Tract 2; provided, that if the owner of Tract 2 obtains alternate access to Tract 2 from Leghorn Drive which is not within the Easement Area, and so notifies the owner of Tract 1 in writing of its election not to utilize the Easement Area for access to Tract 2 (the "Access Termination Notice"), then (i) the owner of Tract 2 will be released from any obligation for reimbursement of costs to the owner of Tract 1 with respect to the construction of the Drive Lane, and (ii) this Agreement shall terminate upon the recordation of a declaration of termination of this Agreement in the aforesaid Clerk's Office by the owner of Tract 1, including therewith a copy of the Access Termination Notice from the owner of Tract 2.

(b) The owner of Tract 1 shall be responsible for the normal, customary and reasonable repair and maintenance, including, without limitation, snow removal, of the Drive Lane within the Easement Area to keep the same in good repair and condition, and shall bear the cost thereof until such time as Tract 2 is developed. Upon commencement of construction or any other improvements to Tract 2, and provided that the owner of Tract 2 has not given the Access Termination Notice to the Tract 1 owner under subsection 3(a) above, the owner of Tract 2 shall thereafter be responsible for one-half (1/2) of the cost of repair, maintenance and reconstruction, including, without limitation, snow removal, of the Drive Lane within the Easement Area to keep the same in good repair and condition. The cost of repair, maintenance and reconstruction of any other parking areas, and of

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other drive lane areas on Tract 1 and outside of the Easement Area, shall be borne solely by the owner of Tract 1.

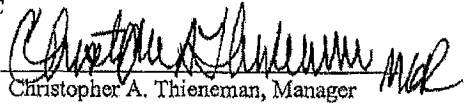
(c) In the event that the Tract 1 owner shall fail to repair and maintain the Easement Area as contemplated hereby despite written demand from the Tract 2 owner to do so, such repair, maintenance and/or reconstruction certified as necessary by an independent engineering company may be conducted by the Tract 2 owner upon at least thirty (30) days prior written notice and opportunity to cure to the Tract 1 owner, and the aggregate cost of such repairs, maintenance and/or reconstruction shall be charged to the Tract 1 owner, and shall be due and payable upon written demand by the party performing such repairs or services.

4. **EASEMENT RUNS WITH LAND.** The term of the Easement Area created hereby shall be perpetual. The Easement Area created hereby shall constitute a covenant to run with Tract 1 and shall be binding upon Grantor and all other persons and parties claiming through Grantor for the benefit of all future owners of Tract 2 or any portion thereof, and shall constitute a limitation upon all future owners of Tract 1 or any portion thereof.

IN WITNESS WHEREOF, Grantor has entered into this Agreement as of the date first written above.

THIENEMAN MULTIFAMILY PROPERTIES,  
LLC

By:

  
Christopher A. Thieneman, Manager

("Grantor")

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COMMONWEALTH OF KENTUCKY     )  
COUNTY OF JEFFERSON            ) SS:

The foregoing instrument was acknowledged before me this 23rd day of October, 2003, by Christopher A. Thieneman, as member of Thieneman Multifamily Properties, LLC, a Kentucky limited liability company, on behalf of such company.

Randy C. Patrick  
Notary Public

My commission expires: 10/24/2006

[SEAL]

THIS INSTRUMENT PREPARED BY:

Paul B. Whitty  
Paul B. Whitty, Esq.  
GREENEBAUM DOLL & MCDONALD PLLC  
3500 National City Tower  
101 South Fifth Street  
Louisville, Kentucky 40202  
(502) 589-4200

**Exhibit List:**

**Exhibit A – Minor Plat**  
**Exhibit B – Depiction of Drive Lane**

Thieneman\_ Access Easement (Leghorn Drive) GAC Rev 102303

CERTIFICATE OF APPROVAL

Approved this 14 day of Oct 20 03

Invalid if not recorded before this date: 10/14/04

BY: [Signature]  
LOUISVILLE METRO PLANNING COMMISSION

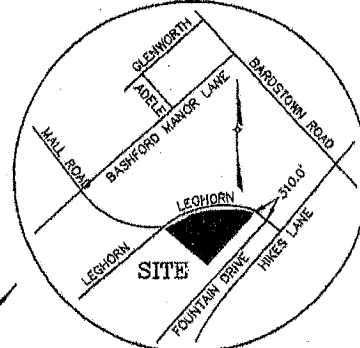
Approval subject to attached certificates.

Special requirement(s): \_\_\_\_\_

Docket Number: 215-03

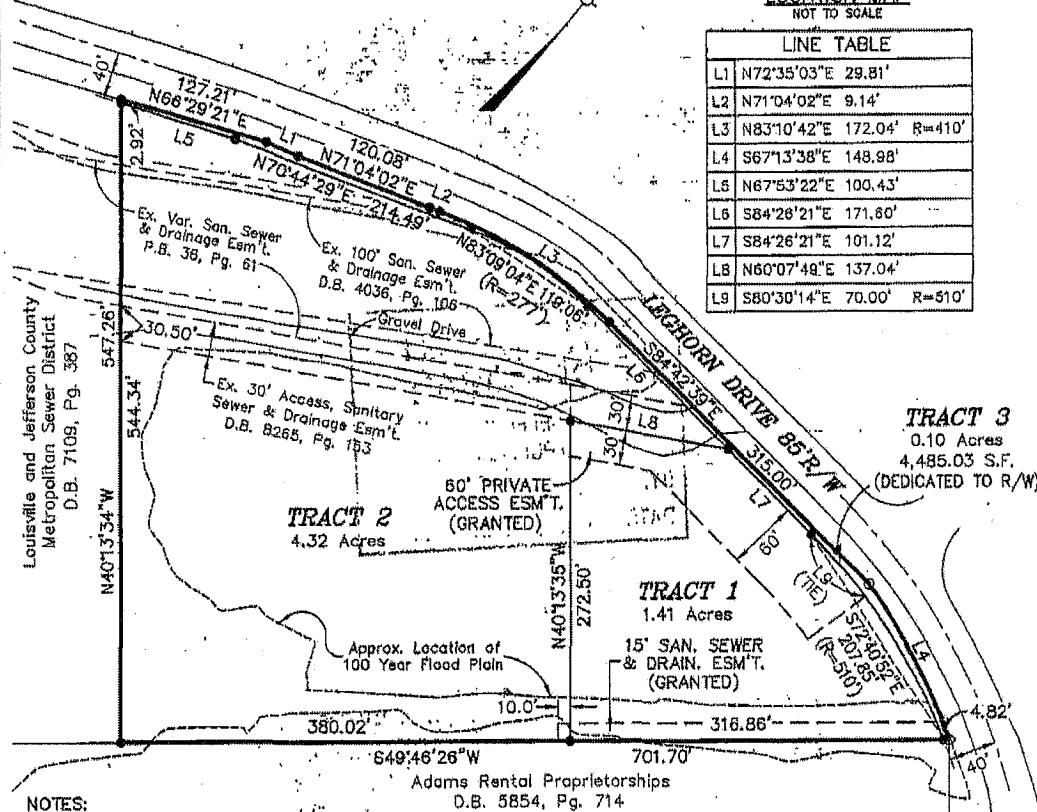
NOTE:

1. Sidewalk shall be required along Leghorn Dr. prior to full construction approval for Tract 2 in accordance with the Land Development Code and Metro Public Works standards and requirements. A construction plan, bond and encroachment permit will be required.



LOCATION MAP  
NOT TO SCALE

LINE TABLE	
L1	N72°35'03"E 29.81'
L2	N71°04'02"E 9.14'
L3	N83°10'42"E 172.04' R=410'
L4	S67°13'38"E 148.98'
L5	N67°53'22"E 100.43'
L6	S84°26'21"E 171.80'
L7	S84°26'21"E 101.12'
L8	N60°07'49"E 137.04'
L9	S80°30'14"E 70.00' R=510'

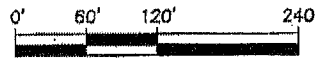


NOTES:

2. Site is subject to the notes and binding elements of Docket No. 9-101-02 as on file in the office of the Louisville Metro Planning Commission.
3. Access easement must conform to ordinance 17, Series 1991, Jefferson County Fiscal Court.
4. This plat is subject to all legal roadways, easements and right-of-ways, if any, whether shown hereon or not.
5. The Reference Meridian used on this plat to determine the directions of the survey lines was based on the southeasterly line of Tract 3 of Minor Subdivision Plat attached to Deed Book 7109, Pg. 387. Having a bearing of S49°46'26"W.
6. Unadjusted closure for this tract is 1 part in 10,000 plus 0.05 feet. This tract has been adjusted for closure. Survey was conducted by Random Traverse Method. This is a Class "A" Survey.

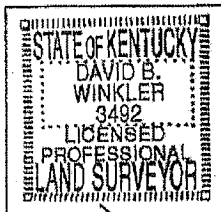
LEGEND

- = SET 1/2" BY 18" IRON PIN W/CAP STAMPED "WINK #3492"
- = EXISTING IRON PIN W/CAP #3139



SCALE: 1"=120'

S:\Current Projects\2003\215-03\215-03.dwg 10/17/2003



LAND SURVEYOR'S CERTIFICATE

I hereby certify that this plat and survey were made under my supervision and that the angular and linear measurements as witnessed by monuments shown hereon, are true and correct to the best of my knowledge and belief. This survey and plat meets or exceeds the minimum standards of governing authorities.

David Winkler #3492 10-9-03  
Surveyor's Signature PLS# DATE

**MINOR SUBDIVISION PLAT**  
"TO DIVIDE ONE TRACT INTO TWO TRACTS"  
AND DEDICATE RIGHT-OF-WAY

Owners:  
THIENEMAN MULTIFAMILY PROPERTIES, LLC  
4901 FERN VALLEY ROAD, LOU., KY 40219  
TAX BLOCK 610, LOT 131 - D.B. 7948, PG. 175  
ZONING: C-2 / FORM DISTRICT: NEIGHBORHOOD  
Site Address: 4710 LEGHORN DRIVE

**LAND DESIGN & DEVELOPMENT, INC.**  
Engineering Land Surveying Landscape Architecture  
8014 Vinecroft Avenue Louisville, Kentucky 40222  
phone (502) 426-8374 fax (502) 426-8375

PLAT DATE: JULY 30, 2003

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

This is to certify that the undersigned is the owner of the land shown on this plat and hereby acknowledges the same to be the plat of THIENEMAN MULTIFAMILY PROPERTIES, LLC. DEED BOOK 7948, PAGE 175 and does hereby dedicate to public use TRACT 3 shown thereon.

Chris Thieneman  
Owner(s) Signature MEMBER

4901 FERN VALLEY ROAD  
LOUISVILLE, KY. 40219  
Address

"MEMBER"  
Title

**ZONING CERTIFICATE**

I/We hereby certify all of the lots of this minor subdivision and any existing buildings and improvements thereon and/or any buildings and improvements included in a building permit either applied for or approved thereon are in compliance with all the provisions of the Zoning District Regulations. Any such buildings or improvements not in compliance with the Zoning District Regulations have been granted all necessary variances by the Board of Zoning Adjustment as described in Docket No. N/A or documentation of the existence of the buildings or improvements prior to the adoption of the Zoning District Regulations has been accepted by the Planning Commission staff as valid evidence of their non-conforming status.

Chris Thieneman  
Owner(s) Signature MEMBER

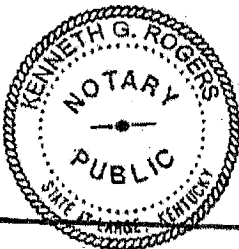
**CERTIFICATE OF ACKNOWLEDGEMENT**

State of Kentucky )  
                          )     SS  
County of Jefferson )

I, KENNETH G. ROGERS, a Notary Public in and for the County aforesaid do hereby certify that the foregoing plat of THIENEMAN MULTIFAMILY PROPERTIES, LLC. DEED BOOK 7948, PAGE 175 was this day presented to me by CHRIS THIENEMAN known to me, who executed Certificates in my presence and acknowledged it to be his free act and deed.

Witness my hand and seal this 24<sup>TH</sup> day of SEPTEMBER, 2003

My Commission expires: 28<sup>TH</sup> day of SEPTEMBER, 2005



Kenneth G. Rogers  
Notary Public

CERTIFICATE OF SANITARY SEWER AND DRAINAGE EASEMENT

For valuable consideration, the receipt of which is hereby acknowledged by THIENEMAN MULTIFAMILY PROPERTIES, LLC., GRANTORS hereby grants to LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), its successors and assigns, a perpetual easement on, over and under strips of land and spaces as defined and marked "Sanitary Sewer And Drainage Easement" on the plat attached hereto.

This grant is made on the following terms:

- 1. MSD has the right of ingress and egress over GRANTOR's property to and from the easement at all times for the purpose of constructing, operating, maintaining, repairing and reconstructing sanitary sewers, drains, and related equipment, structures or materials, hereinafter referred to as appurtenances, under MSD's jurisdiction, control, and supervision.
2. Nothing shall be placed in, on, over or under the sanitary sewer and drainage easement which will obstruct or interfere with the purpose of said easement.
3. MSD may authorize any public agency or others to carry out the purposes as set forth in paragraph 1.
4. The GRANTOR covenants that they are (he/she is) lawfully seized of the property through which the sanitary sewer and drainage easement is granted and that they have (he/she has) full right and power to convey the same and said property is free from all encumbrances, except current taxes and restrictions and/or mortgages of record.
5. The GRANTOR acknowledges that the consideration received for the conveyance made herein does not include any express or implied release or waiver by MSD of rights to subject GRANTOR and their (his/her) property to sewer rates, drainage fees, rentals and other charges, including special assessments, as may be authorized by law.
6. MSD covenants that it will assume full responsibility for claims resulting from damage to any land, improvement, or the environment within or outside the sanitary sewer and drainage easement granted herein, or to any land or improvements used for ingress and egress to such easement, caused by MSD during construction, operation, maintenance, repair or reconstruction of said sanitary sewers, drains, and appurtenances unless damage is caused by the placing of any structure within or outside the easement in violation of this certificate, in such case no liability will be assumed by MSD.
7. If shown, a temporary easement, as defined and marked "Temporary Construction Easement" on the plat attached hereto is hereby reserved for MSD's use as needed during original construction of said sanitary sewers, drains, and appurtenances. Such easement shall terminate and automatically revert to the property owners upon completion of the original construction.

IN TESTIMONY WHEREOF, witness the signature of the GRANTOR on this 24th day of SEPTEMBER, 2003.

[Handwritten signature] MEMBER GRANTOR

GRANTOR

LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT 700 WEST LIBERTY LOUISVILLE, KENTUCKY 40203-1913

Record No. Parcel No.

**DEDICATION OF PUBLIC UTILITY, SEWER AND DRAINAGE EASEMENTS AND PRIVATE ACCESS EASEMENTS (TWO LOTS ON MINOR PLAT ONLY)**

THIS INSTRUMENT made and entered into on this 24<sup>TH</sup> day of SEPTEMBER, 2003, by THIENEMAN MULTIFAMILY PROPERTIES, LLC, (hereinafter [collectively] referred to as "GRANTOR"), confers the rights and obligations regarding certain real property as follows:

WHEREAS, GRANTOR is the owner of the land shown on the minor subdivision plat attached hereto and made a part hereof by deed of record in Deed Book 7948, Page 175, in the Office of the Clerk of Jefferson County, Kentucky;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency is hereby acknowledged, GRANTOR hereby grants, covenants, and agrees as follows:

1. Public Utility, Sewer and Drainage Easement. GRANTOR hereby grants a perpetual easement for public utilities, including, but not necessarily limited to, water, electric, gas, telephone, cable, sewers and drains on, over, and under the strips of land and spaces designated on the attached plat as "Public Utility, Sewer, Drainage and Private Access Easements", together with the right of ingress and egress over GRANTOR'S property to and from easement(s) for construction, operation, maintenance, and reconstruction of the aforesaid public utilities, sewers and drains. No permanent structure of any kind, other than a paved roadway, shall be placed on, over or under the land within perpetual public utility, sewer, and drainage easement(s). The public utility, sewer and drainage easement(s) shall run with the land and shall be for the benefit and use of the GRANTOR'S property and all lands abutting the aforesaid easements. All costs or expenses incidental to the maintenance or repair shall be borne by the owners of the Tract 1 on the attached minor subdivision plat. [Any owner who fails to pay his share of said expense promptly upon demand by the person who has initially borne it shall be subject to a lien upon filing of an appropriate notice in the County Clerk's Office. Said lien may be enforced against the property in the same manner as mortgages are foreclosed upon real property.]

2. Private Access Easement. GRANTOR hereby grants to the owners and occupants of Tract 2 on the attached minor subdivision plat a private access easement for vehicular and pedestrian ingress and egress on, over, and across the property designated as "Public Utility, Sewer, Drainage, and Private Access Easement" on the attached minor subdivision plat. Said easement shall be for the benefit of the owners and occupants of Tract 2, their guests and invitees. The rights conveyed by said private access easement shall be limited to such as is customarily incidental to commercial usage of the lot.

only Tract # 2

All costs or expenses incidental to the maintenance, repair, or rebuilding of said road so as to keep it in a good and passable condition as a PRIVATE road shall be borne by the owners of Tract 1. [Any owner who fails to pay his share of said expense promptly upon demand by the person who has initially borne it shall be subject to a lien upon filing of an appropriate notice in the County Clerk's Office. Said lien may be enforced against the property in the same manner as mortgages are foreclosed upon real property.]

The private access easement shall not be dedicated to or maintained by the public except by agreement of the owners of all the Tracts and only with the approval of the Louisville and Jefferson County Planning Commission after finding that it meets all standards required for a newly created public road.

3. Amendment. The provisions of this document may not be modified except by agreement of the owners of all the Lots/Tracts and the approval of the Louisville and Jefferson County Planning Commission.



4. Binding Effect. The provisions of this instrument shall be considered a covenant running with the land, shall be binding on the parties hereto and their respective successors, heirs, and assigns, and may be enforced by any one or more owners of said Lots/Tracts subject to the attached minor subdivision plat in a civil action at law or in equity.

5. Severability. The provisions hereof are severable, and if one or more of said provisions are held invalid, the remaining provisions shall remain in full force and effect.

IN TESTIMONY WHEREOF, witness the signature of the GRANTOR(s) as of the day and year set out above.

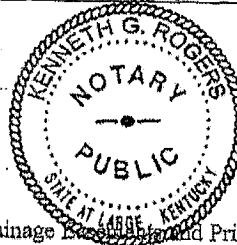
Chris Thiemann member  
GRANTOR

GRANTOR

COMMONWEALTH OF KENTUCKY )

) SS

COUNTY OF JEFFERSON )



The foregoing Dedication of Public Utility, Sewer and Drainage Easements and Private Access Easements was signed, sworn to, and acknowledged before me by CHRIS THIEMANN GRANTOR, this 24th day of SEPTEMBER, 2003.

My commission expires: SEPTEMBER 28th, 2005

Kenneth G. Rogers  
Notary Public, Kentucky State-At-Large

COMMONWEALTH OF KENTUCKY )

) SS

COUNTY OF JEFFERSON )

The foregoing Dedication of Public Utility, Sewer and Drainage Easements and Private Access Easements was signed, sworn to, and acknowledged before me by \_\_\_\_\_

GRANTOR, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My commission expires: \_\_\_\_\_

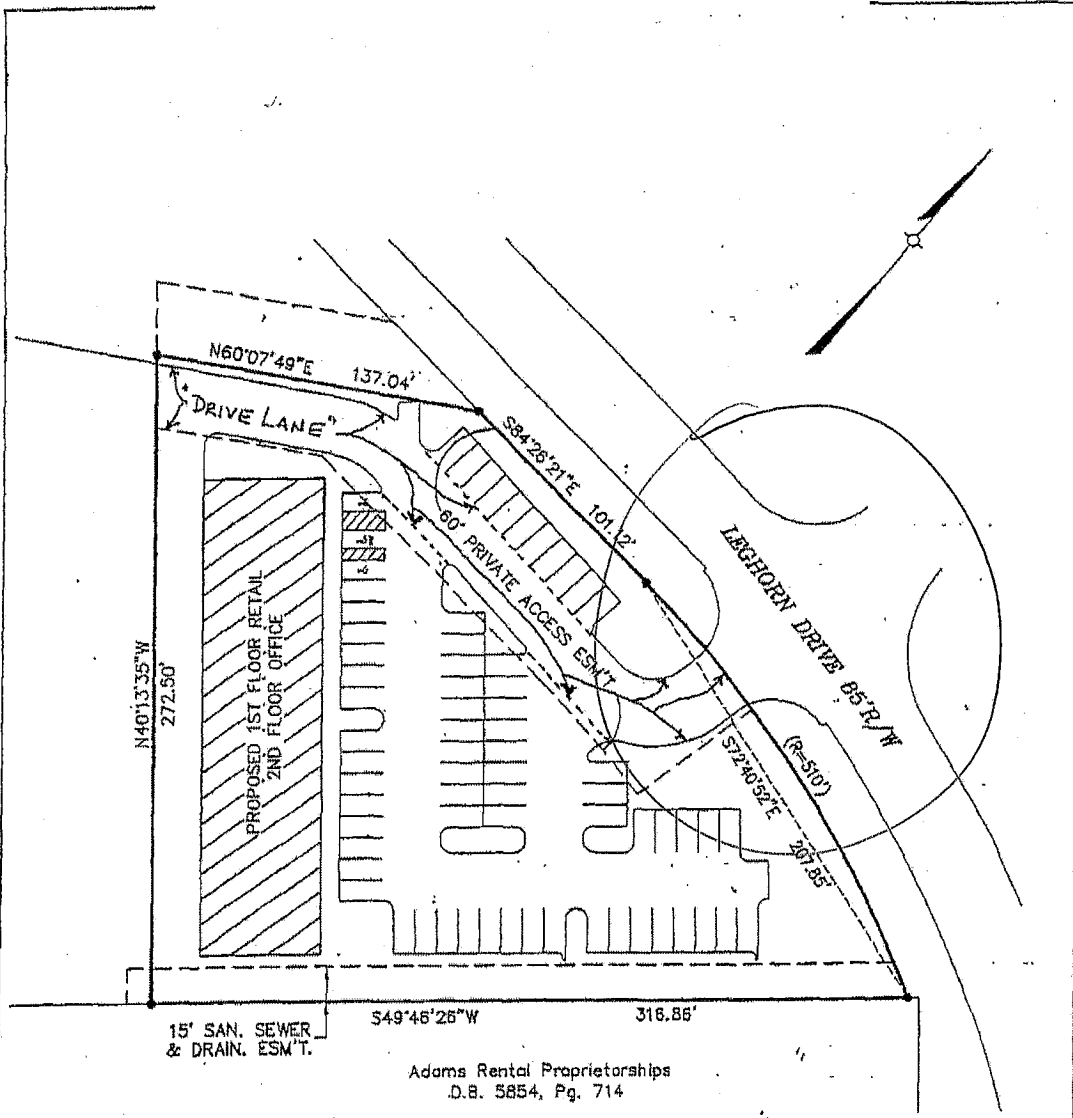
\_\_\_\_\_  
Notary Public, Kentucky State-At-Large

This Instrument prepared by:

Chris Thiemann member (Signature)

NAME

ADDRESS



15' SAN. SEWER & DRAIN. ESM'T.

$S49^{\circ}46'26''W$

$316.86'$

Adams Rental Proprietorships  
D.B. 5854, Pg. 714

### EXHIBIT PLAT

Document No.: DN2003247675  
 Lodged By: GOLDBERG & SIMPSON  
 Recorded On: 10/24/2003 01:20:52  
 Total Fees: 26.00  
 Transfer Tax: .00  
 County Clerk: BOBBIE HOLSCAW-JEFF CO KY  
 Deputy Clerk: EVMAY



SCALE: 1"=60'

END OF DOCUMENT

S:\Currents Projects\2003\247675\247675.plt.dwg 10/20/2003