

FILED & RECORDED
DEKALB CO.

MAY 21 10 32 AM '92

CLERK OF SUPERIOR COURT
DEKALB COUNTY, GA.

CONSERVATION EASEMENT AGREEMENT
(PERPETUAL)

THIS CONSERVATION EASEMENT AGREEMENT (the "Agreement"), made as of the 18 day of May, 1992, by and between BRIAN REALTY CORPORATION, a Delaware corporation, ("Grantor") and DEKALB COUNTY, GEORGIA ("Grantee").

W I T N E S S E T H:

WHEREAS, Grantor owns certain real property located in Land Lots 329 and 330, 18th District, DeKalb County, Georgia, as described in Exhibit "A" attached hereto and by this reference incorporated herein and made a part hereof (the "Easement Property");

WHEREAS, pursuant to O.C.G.A. §44-10-1 et seq., Grantor desires to grant to Grantee an easement over the Easement Property to restrict development activities on Easement Property for a perpetual term.

NOW, THEREFORE, incorporating the foregoing recital of facts and in consideration of the mutual promises contained herein, Ten and No/100 Dollars (\$10.00) in hand paid by Grantee to Grantor, and other good and valuable consideration, the receipt, adequacy and sufficiency whereof are hereby acknowledged by the parties hereto, the parties have covenanted and agreed and do hereby covenant and agree with each other as follows:

1. Grant of Easement. Grantor hereby grants, bargains, sells, and conveys unto Grantee, its successors and assigns, for a perpetual term, a conservation easement on, over, and upon the Easement Property to preserve, pursuant to O.C.G.A. §44-10-2(1), the Easement Property in its natural scenic landscape and to restrict the development of the Easement Property, including without limitation, not permitting the construction of any improvements on the Easement Property, except as provided in Paragraphs 2 and 3 herein. The conservation easement created hereby shall be for the benefit of Grantee and burdening the Easement Property.

2. Reservation by Grantor. Grantor hereby reserves the right to use the Easement Property for all purposes consistent with the easement granted in paragraph 1 hereof, including, without limitation, the right to engage in fencing, berming, landscaping, forestry management, and construction and grading necessary for the improvement of storm water drainage and the installation of road signage, road lighting, sewer and utilities. Grantor shall design required on-site stormwater detention

facilities such that they are not located in the Easement Property.

3. **Maintenance.** Grantor shall replant and maintain the Easement Property in its natural state and, as Grantor shall reasonably determine, increase the natural visual screening of Grantor's proposed development on Grantor's adjoining property from the residential property to the south and southwest and to fill in those areas from which houses or roads have been removed. Such planting shall begin at the start of development of Grantor's project, and the Easement Property shall thereafter be maintained by Grantor or its successors in its natural state, subject to Paragraph 2 hereof.

4. **Term.** The term of this Agreement shall be perpetual; provided, however, that this Agreement shall terminate immediately in the event the residential property in the immediate vicinity of the south and southwestern boundary of the Easement Property ceases to be zoned for single-family residential purposes. Although the termination of this Agreement set forth in the proviso of the immediately preceding sentence is intended to be effective automatically upon the occurrence of the event described therein, Grantee agrees to execute a written termination of this Agreement following such occurrence if and when Grantee is requested so to do by the then fee owner of the Easement Property. Any amendment, modification or termination of this Agreement shall be in writing and signed by Grantee and the then fee owner of the Easement Property. This Agreement and the easement created hereby, to the fullest extent permitted by law, shall not terminate by non-use or abandonment, but only by termination of this Agreement in the manner aforesaid.

5. **Miscellaneous**

(a) **Notices.** All notices and communications required, necessary or desired to be given pursuant to this Agreement, including a change of address for purposes of such notices and communication, shall be in writing and shall be deemed given and received upon personal delivery of three (3) days after deposit in the United States Mail, certified, return receipt requested, postage prepaid and addressed as follows:

GRANTOR: Brian Realty Corporation
3003 Summer Street
Stamford Square
Stamford, Connecticut 06905
Attn: Vice-President, Real Estate Investments

with a copy to:

Troutman, Sanders, Lockerman & Ashmore
127 Peachtree Street, NE
1400 Candler Building
Atlanta, Georgia 30303-1810
Attn: Norman L. Underwood, Esq.

GRANTEE: DeKalb County, Georgia
Malcof Center
1300 Commerce Drive
Decatur, Georgia 30030
Attn: Director, Planning Department

(b) Georgia Law. This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of Georgia.

(c) Binding Effect. This Agreement and the easement created hereby are deemed to be covenants running with and binding the Easement Property and shall burden and encumber the Easement Property. This Agreement shall be binding upon and shall inure to the benefit of Grantor and Grantee and their respective successors, successors-in-title, and assigns.

(d) Authority. All persons executing this Agreement are duly authorized and empowered in the capacities shown to bind legally the respective parties.

(e) Severability. If any clause or provision hereby contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

(f) Entire Agreement. This Agreement constitutes the sole and entire agreement between or among the parties with respect to the subject matter hereof. No representation, warranty, covenant, inducement or obligation not expressly stated in this Agreement shall be binding upon the parties.

(Signatures to Follow on Next Page)

Signed, sealed and delivered
in the presence of:

James R. Williams
Official Witness

David C. McPherson
Notary Public



Commission Expiration Date:
August 24, 1993
Notary Public, Fulton County, Georgia
My Commission Expires August 24, 1993
[NOTARIAL SEAL]

GRANTOR:

BRIAN REALTY CORPORATION,
a Delaware corporation

By: Phil A. Zierden
Name: Phil A. Zierden
Title: Vice-President

Signed, sealed and delivered
in the presence of:

Stella J. Smith
Official Witness

Stella J. Smith
Notary Public

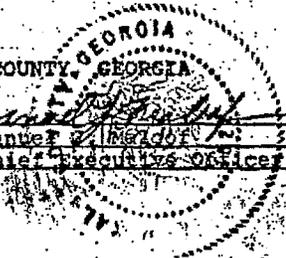


Commission Expiration Date:
August 24, 1993
Notary Public, DeKalb County, Georgia
My Commission Expires August 24, 1993
[NOTARIAL SEAL]

GRANTEE:

DEKALB COUNTY, GEORGIA

By: Manuel W. Melendez
Name: Manuel W. Melendez
Title: Chief Executive Officer



APPROVED AS TO FORM:

Albert Sidney Johnson
County Attorney

ATTEST:

David W. Joyner
David W. Joyner, Ex-Officio
Clerk, of the Chief Executive
Officer and the Board of
Commissioners, DeKalb County,
Georgia

Exhibit A

PERPETUAL CONSERVATION AREA

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 329, 18th District, DeKalb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found on the land lot corner common to Land Lots 327, 328, 329, and 330, aforesaid District and County; thence leaving said common land lot corner and running along the land lot line common to Land Lots 328 and 329, aforesaid District and County, the following courses and distances: North 87 degrees 41 minutes 35 seconds West a distance of 1008.96 feet to an iron pin found; South 89 degrees 34 minutes 15 seconds West a distance of 898.10 feet to an iron pin placed (said point being hereinafter referred to as the "Traverse Commencement Point"); South 89 degrees 34 minutes 15 seconds West a distance of 37.90 feet, more or less, to a point in the centerline of a creek; thence leaving said common land lot line and running in a generally northwesterly direction, along the centerline of said creek, and following the meanderings thereof, a distance of 1190 feet, more or less, to the point of intersection of the centerline of said creek with the southerly right-of-way line of a proposed right-of-way containing 6.321 acres; running thence North 88 degrees 21 minutes 32 seconds East a distance of 27 feet, more or less, to a point (said point being hereinafter referred to as the "Traverse Termination Point"); [the Traverse line connecting the Traverse Commencement Point and the Traverse Termination Point begins at the Traverse Commencement Point and runs in a generally northwesterly direction as follows: North 63 degrees 54 minutes 42 seconds West a distance of 301.45 feet to a point; North 64 degrees 21 minutes 44 seconds West a distance of 275.96 feet to a point; North 54 degrees 51 minutes 45 seconds West a distance of 283.25 feet to a point; North 60 degrees 45 minutes 35 seconds West a distance of 198.72 feet to a point; North 17 degrees 44 minutes 45 seconds West a distance of 105.07 feet to a point on the southerly right-of-way line of a proposed right-of-way containing 6.321 acres, which point is the Traverse Termination Point]; thence leaving the Traverse Termination Point and running along said southerly right-of-way line of the proposed right-of-way containing 6.321 acres the following courses and distances: North 88 degrees 21 minutes 32 seconds East a distance of 200.88 feet to a point; along an arc of a curve to the right an arc distance of 306.57 feet to a point, said arc having a radius of 370.04 feet and being subtended by a chord bearing South 67 degrees 54 minutes 25 seconds East a chord distance of 297.88 feet; South 44 degrees 10 minutes 22 seconds East a distance of 208.22 feet to a point; along an arc of a curve to the left an arc distance of 805.93 feet to a point, said arc having a radius of 596.06 feet and being subtended by a chord bearing South 82 degrees 54 minutes 25 seconds East a chord distance of 745.93 feet; North 58 degrees 21 minutes 32 seconds East a distance of 190.60 feet to a point; along an arc of a curve to the right an arc distance of 258.34 feet to a point, said arc having a radius of 370.04 feet and being subtended by a chord bearing North 78 degrees 21 minutes 32

seconds East a chord distance of 253.12 feet; South 81 degrees 38 minutes 28 seconds East a distance of 141.30 feet to a point; along an arc of a curve to the left an arc distance of 410.20 feet to a point, said arc having a radius of 470.05 feet and being subtended by a chord bearing North 73 degrees 21 minutes 32 seconds East a chord distance of 397.30 feet; North 48 degrees 21 minutes 32 seconds East a distance of 271.56 feet to a point; along an arc of a curve to the right an arc distance of 267.74 feet to a point which is located on the land lot line common to Land Lots 329 and 330, aforesaid District and County, said arc having a radius of 370.04 feet and being subtended by a chord bearing North 69 degrees 09 minutes 13 seconds East a chord distance of 261.94 feet; thence leaving said proposed southerly right-of-way line and running along said common land lot line the following courses and distances: South 07 degrees 31 minutes 52 seconds East a distance of 141.78 feet to an iron pin found; South 08 degrees 32 minutes 00 seconds East a distance of 684.26 feet to an iron pin found on the land lot corner common to Land Lots 327, 328, 329, and 330; aforesaid District and County, and marks the POINT OF BEGINNING; said tract being shown on that certain Survey of Property prepared by Watts & Browning Engineers, Inc., certified by G. M. Gillespie, Georgia Registered Land Surveyor No. 2121, dated June 3, 1991, last revised November 1, 1991.

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**LEGAL DESCRIPTION
PERPETUAL CONSERVATION AREA**

All that tract or parcel of land lying and being in Land Lot 329 of the 18th Land District, DeKalb County, Georgia, said tract or parcel of land being more particularly described as follows:

BEGINNING at a 5/8" open top pipe found at the corner common to Land Lots 327, 328, 329 and 330, of the 18th Land District, DeKalb County;

THENCE leaving said land lot corner and along the southerly line of Land Lot 329 the following courses and distances,
North 87 degrees 41 minutes 35 seconds West for a distance of 1008.96 feet to a 1" crimp top pipe found;

THENCE South 89 degrees 34 minutes 15 seconds West for a distance of 936 feet +/- to the center of Nancy Creek;

THENCE the following courses and distances along the centerline of Nancy Creek;

North 43 degrees 59 minutes 40 seconds West for a distance of 77.52 feet to a point;

THENCE North 68 degrees 20 minutes 16 seconds West for a distance of 19.14 feet to a point;

THENCE North 82 degrees 00 minutes 32 seconds West for a distance of 27.01 feet to a point;

THENCE North 76 degrees 53 minutes 15 seconds West for a distance of 142.58 feet to a point;

THENCE North 85 degrees 48 minutes 59 seconds West for a distance of 35.30 feet to a point;

THENCE North 59 degrees 58 minutes 33 seconds West for a distance of 335.22 feet to a point;

THENCE North 41 degrees 05 minutes 18 seconds West for a distance of 145.73 feet to a point;

THENCE North 74 degrees 09 minutes 17 seconds West for a distance of 153.74 feet to a point;

THENCE North 52 degrees 17 minutes 31 seconds West for a distance of 124.23 feet to a point;

THENCE North 38 degrees 13 minutes 01 seconds West for a distance of 61.32 feet to a point;

THENCE North 06 degrees 42 minutes 25 seconds West for a distance of 36.94 feet to a point;

THENCE North 06 degrees 20 minutes 21 seconds East for a distance of 30.64 feet to a 1/2" iron pin set on the southerly right-of-way line of Lake Hearn Drive Parkway (100 ft r/w) according to final right-of-way plat for Lake Hearn Drive Widening, Perimeter Summit Parkway and Parkside Place, as recorded in Plat Book 101 Pages 79, 80 and 87, DeKalb County Records.

THENCE leaving the centerline of Nancy Creek and along the southerly right-of-way line of Lake Hearn Drive the following courses and distances;

North 88 degrees 21 minutes 32 seconds East for a distance of 228.01 feet to a 1/2" iron pin set;

THENCE along a curve to the right having a radius of 370.05 feet and an arc length of 306.57 feet, being subtended by a chord of South 67 degrees 54 minutes 25 seconds East for a distance of 297.88 feet to a 1/2" iron pin set at the intersection of the southwesterly right-of-way line of Perimeter Summit Parkway;

THENCE the following courses and distances along the southwesterly right-of-way line of Perimeter Summit Parkway.

South 44 degrees 10 minutes 22 seconds East for a distance of 208.22 feet to a 1/2" iron pin set;

THENCE along a curve to the left having a radius of 596.06 feet and an arc length of 805.93 feet, being subtended by a chord of South 82 degrees 54 minutes 25 seconds East for a distance of 745.93 feet to a 1/2" iron pin set;

THENCE North 58 degrees 21 minutes 32 seconds East for a distance of 190.60 feet to a 1/2" iron pin set;

THENCE along a curve to the right having a radius of 370.05 feet and an arc length of 258.33 feet, being subtended by a chord of North 78 degrees 21 minutes 32 seconds East for a distance of 253.12 feet to a 1/2" iron pin set;

THENCE South 81 degrees 38 minutes 28 seconds East for a distance of 141.30 feet to a 1/2" iron pin set;

THENCE along a curve to the left having a radius of 470.05 feet and an arc length of 410.19 feet, being subtended by a chord of North 73 degrees 21 minutes 32 seconds East for a distance of 397.30 feet to a 1/2" iron pin set;

THENCE North 48 degrees 21 minutes 32 seconds East for a distance of 271.56 feet to a 1/2" iron pin set;

THENCE along a curve to the right having a radius of 370.05 feet and an arc length of 303.55 feet, being subtended by a chord of North 71 degrees 51 minutes 32 seconds East for a distance of 295.11 feet to a 1/2" iron pin set;

THENCE South 84 degrees 38 minutes 28 seconds East for a distance of 229.37 feet to a 1/2" iron pin set;

THENCE along a curve to the left having a radius of 470.05 feet and an arc length of 318.57 feet, being subtended by a chord of North 75 degrees 56 minutes 34 seconds East for a distance of 312.51 feet to a 1/2" iron pin set;

THENCE North 56 degrees 31 minutes 36 seconds East for a distance of 299.00 feet to a 1/2" iron pin set on the southwesterly right-of-way line of Ashford Dunwoody Road (80 ft r/w at this point);

THENCE along the southwesterly right-of-way line of Ashford Dunwoody Road,

South 29 degrees 02 minutes 22 seconds East for a distance of 11.69 feet to a 1/2" iron pin set;

THENCE leaving the southwesterly right-of-way line of Ashford Dunwoody Road,

South 56 degrees 31 minutes 36 seconds West for a distance of 48.95 feet to a 1/2" iron pin set;

THENCE South 00 degrees 36 minutes 38 seconds West for a distance of 325.83 feet to a 1" open top pipe found.

THENCE North 89 degrees 38 minutes 45 seconds West for a distance of 759.48 feet to a 1 1/2" iron bar found on the easterly line of Land Lot 329;

THENCE along the easterly line of Land Lot 329,
South 08 degrees 32 minutes 00 seconds East for a distance of 684.26 feet to a 5/8" open top pipe found at the corner common to Land Lots 327, 328, 329 and 330, said 5/8" open top pipe found being the POINT OF BEGINNING.

Said tract or parcel of land contains 26.688 acres or 1,162,522 square feet.