

Deed Book 39417 Pg 66
Filed and Recorded Feb-17-2005 02:12pm
2005-0085477
Juanita Hicks
Clerk of Superior Court
Fulton County, Georgia
I HEREBY CERTIFY THAT THIS DEED WAS RECORDED IN ACCORDANCE WITH THE RECORDS OF THE CLERK OF SUPERIOR COURT, FULTON COUNTY, GEORGIA.

After Recording, Return To:
Paul J. McGruder, Esq.
Billing, Rice, McGruder, Barron & Boudin
P.O. Box 244
Cumming, GA. 30028

After recording return to:

Michael R. Davis
Alston & Bird, LLP
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this 8th day of February, 2005, by **RABUN PARTNERS III, L.P.**, a Georgia limited partnership (hereinafter referred to as "Rabun") and **THOMAS K. GLENN, II** (hereinafter referred to as "Glenn"), with the consent and agreement of **MOUNT VERNON PRESBYTERIAN SCHOOL, INC.**, a Georgia non-profit corporation (the "School").

STATEMENT OF BACKGROUND

Rabun is the owner of the real property ("Rabun Parcel") described in Exhibit A attached hereto and incorporated herein by reference. Glenn is the owner of the real property ("Glenn Parcel") described on Exhibit B attached hereto and made a part hereof by this reference. The Rabun Parcel and the Glenn Parcel are referred to collectively in this Declaration as the "Property". Rabun is today, selling and conveying the Rabun Parcel to the School, and Glenn is today conveying the Glenn Parcel to the School as a charitable contribution. Rabun sold the Rabun Parcel to the School and Glenn donated the Glenn Parcel to the School with the expectation that the School would develop the Property as a school. Accordingly, Rabun and Glenn are executing and recording this Declaration concurrently with conveyance of the Rabun Parcel and Glenn Parcel, respectively, to the School and the conveyance of the Rabun Parcel and the conveyance of the Glenn Parcel will each be made expressly subject to this Declaration. Rabun and Glenn intend by this Declaration to impose upon the Property certain restrictions and covenants, as part of a general plan of development for the Property, for the mutual benefit of the owners from time to time of the Property (or any portion thereof) and for

the benefit of Glenn, Louise Rand Glenn and any Glenn Descendant (as hereinafter defined) so long as any one or more of such persons or a Glenn Entity (as defined in Section 7.01) owns all or any portion of the Adjoining Property (as hereinafter defined). Rabun and Glenn desire to provide a flexible and reasonable procedure for the development of the Property as a school and to establish a method for the enforcement of the terms of this Declaration.

NOW, THEREFORE, Rabun and Glenn hereby declare that all of the Property shall be held, sold and conveyed subject to the restrictions, covenants, and conditions hereinafter set forth, and that all such restrictions, covenants and conditions, are for the purpose of protecting the value and desirability of, and shall run with the title to, the Property.

Article I Definitions

The following words, when used in this Declaration or in any amendment to this Declaration, shall have the following meanings:

“Adjoining Property” shall mean the real property described on Exhibit C attached hereto and made a part hereof by this reference.

“Architectural Standard” shall have the meaning given such term in Section 4.02 of this Declaration.

“Building” shall mean the main portion of any building or other structure and shall also mean all garages, porches, balconies, accessory structures and all appurtenant structures, together with all overhangs, foundations, extensions and projections thereof.

“Business Days” shall mean each day that is not a Saturday, a Sunday, or a legal holiday in the State of Georgia.

“Conceptual Building Plan” shall mean the conceptual drawing of the proposed School campus attached hereto as Exhibit D.

“County” shall mean Fulton County, Georgia.

“Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions, as such document may be amended from time to time in accordance with its terms.

“Designated Glenn Descendant” shall have the meaning given such term in Section 7.01.

“Glenn Descendants” shall mean the living, direct lineal descendants by blood of Thomas K. Glenn, II, and Louise Rand Glenn who own, directly or through any entity, a

fee simple interest in all or a portion of the Adjoining Property. The term "Glenn Descendant" shall mean any one of the Glenn Descendants.

"Governmental Authority" shall mean each municipal, county, state and federal government agency, authority, department, division, court, official and any instrumentality thereof having jurisdiction over the subject matter.

"Improvements" shall mean, with respect to the Property, all Buildings, roads, driveways, sidewalks, parking areas, pavement, fences, walls, lighting, signage, ditches, retention ponds (and any other thing or device that alters flow of any water in any artificial drainage channel from or upon any land other than the Property) and all other above-ground structures and improvements of every kind or type.

"Master Plan" shall have the meaning given such term in Section 4.01.

"Owner" shall mean the record owner, whether one (1) or more Persons, of the fee simple title to all or any portion of the Property, but excluding (i) any Person holding such interest merely as security for the performance or satisfaction of any obligation, (ii) contract purchasers and (iii) any governmental authority which holds title as a result of a dedication by an Owner, including, without limitation, the School.

"Person" shall mean any natural person, corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

"Site Plan" shall mean the site plan, prepared by Collins Cooper Carusi Architects, Inc. and approved in writing by Glenn and the School prior to execution and recording of this Declaration. A reduced copy of the Site Plan is attached to this Declaration as Exhibit E and incorporated herein by this reference.

Article II Property Subject To This Declaration

Section 2.01. Property Subject to Declaration. All of the Property and any right, title or interest therein shall be owned, held, leased, sold and conveyed by the School, and any subsequent Owner of all or any part of the Property, subject to this Declaration and the covenants, conditions and restrictions set forth in this Declaration.

ARTICLE III Permitted Use

Section 3.01. Use Restriction. The Property shall be principally used only for the development and operation of a school for the education of children from pre-school age through high school (or any portion or combination of such levels of schooling), together with such other uses as are reasonably incidental or ancillary thereto. No other principal

use of the Property (and no other use not incidental or ancillary to such principal use) is permitted.

Article IV Development and Architectural Standards

Section 4.01. Development Standard. The Property shall be developed in accordance with the Site Plan and the Architectural Standard, unless a modification thereof is approved by Glenn, which approval will not be unreasonably withheld, delayed or conditioned; provided that Glenn will have no obligation to consider any such modification which would involve a use of the property that is not permitted by Section 3.01. Glenn hereby acknowledges and agrees that the Conceptual Building Plan complies with the Architectural Standard and hereby approves the Site Plan. The approval by Glenn of the Conceptual Building Plan includes approval of the brick exterior and color of the roofing materials of the Buildings shown thereon. Any approval of Glenn required or permitted by this Declaration shall be requested and either given or withheld in accordance with Section 4.05. Glenn shall not have the right under this Declaration to review or approve the architectural design or construction of individual Improvements on the Property contemplated by the Conceptual Building Plan and the Master Plan (collectively, the "Master Plan"), provided that such Improvements do not deviate in any material way from the Master Plan; provided, however, that, not less than ten (10) calendar days prior to commencement of construction of each Building contemplated by the Master Plan, the School will give written notice to Glenn describing in reasonable detail the nature of the Building to be constructed and certify that the Building will conform to the Master Plan. The approval by Glenn of the Master Plan is not intended to and does not constitute an amendment of any provision of this Declaration and does not relieve the School of its obligation to comply with all covenants which otherwise govern the construction of Buildings and the placement of Improvements on the Property. Any change in the Buildings which would materially change the brick exterior or roofing color of the Buildings shown on the Conceptual Building Plan will conclusively be a material deviation from the Master Plan and will require the approval of Glenn in accordance with this Section 4.01. The parties hereto agree that changes in the footprints of the proposed Buildings and other Improvements that are in compliance with applicable zoning requirement and with the terms of Article V hereof shall not be deemed to be material deviations from the Master Plan so long as the plan consists of three principal buildings configured in the shape of a "U" and so long as the architectural style and exterior materials of the buildings are the same in all material respects as the style and materials depicted in the Master Plan. Changes in the phasing of the Buildings depicted in the Site Plan shall also not be deemed to be a material deviation.

Section 4.02. Architectural Standard. The term "Architectural Standard", as used in this Declaration, shall mean an architectural character for all Buildings and Improvements which conform to either of the following:

- (a) An architectural character which does not differ materially from the architectural character of the existing lower school, as it exists on the date

of this Declaration, operated by the School at 471 Mt. Vernon Highway, Atlanta, Georgia; and

- (b) An architectural standard which is reasonably comparable in quality and architectural character to the “traditional” (as distinguished from “contemporary” or “modern”) buildings and structures at the following private, secondary schools in Atlanta, Georgia: Wesleyan, Pace Academy, Westminster and Lovett.

To the extent that Glenn has the right under this Declaration to grant or withhold approval with respect to the architectural character of proposed Improvements, such approval may not be withheld so long as the proposed architectural character meets the Architectural Standard. Glenn acknowledges and agrees that, subject to all the provisions of Section 4.01, the Buildings and Improvements depicted in the Master Plan comply with the Architectural Standard.

Section 4.04. Inspections. Glenn shall have the right during reasonable business hours and after first giving reasonable prior written notice to Owner, to enter upon and inspect any Improvements then under construction to determine whether or not such Improvements are being constructed in accordance with this Declaration.

Section 4.05. Approvals. Whenever the School desires to obtain from Glenn any approval or consent from Glenn required or permitted by this Declaration, the School shall submit to Glenn a written request for such approval or consent in the manner specified in Section 7.06 of this Declaration. Glenn shall, within thirty (30) calendar days following receipt of such request, give written notice to Owner of its approval or disapproval. If a notice of disapproval is given, the notice will specify in reasonable detail the reasons for disapproval and the changes or modification in the relevant request which would cause it to be acceptable to Glenn. If Glenn fails for any reason to give a notice of either approval or disapproval within such thirty (30) day period, such failure shall constitute consent or approval of the matter specified in the notice from Owner.

Section 4.06. Certificate of Compliance. Upon request by the Owner (which shall not be made more than three times in any calendar year), Glenn shall deliver to the Owner a written certificate in recordable form, stating whether or not the Improvements then located on the Property are in compliance with this Declaration.

Article V Protective Covenants

Section 5.01. General. The Property shall be used only for uses permitted by Section 3.01 hereof. In addition, no use shall be permitted which is not allowed under applicable laws and public codes and ordinances either already adopted or as may be adopted by the County or other governmental authority having jurisdiction. Each Owner of the Property at all times shall comply in all material respects with any and all zoning and use restrictions and conditions, density limitations and setback requirements placed

upon the Property by the County as they exist from time to time. In the event a conflict exists between any such public requirement(s) and any requirement(s) of this Declaration, the most restrictive requirement shall control.

Section 5.02. Height of Improvements. No Building or other Improvement may exceed fifty-five (55) feet in height; provided that, with respect to the Buildings facing the proposed courtyard, as identified on the Site Plan, the measurement of height will be made from the side of the Building facing the courtyard, with the result that a daylight basement may be utilized on the other side of the Building and a height on that side in excess of fifty-five (55) feet from ground level.

Section 5.03. Exterior Lighting. The School agrees that any outdoor lighting on the Property shall be designed to minimize the impact on the surrounding property owners and lights will be shielded and aimed so that direct illumination is confined to the Property. No lighting will be installed within 50' of the northern property line except as may be required to comply with applicable requirements of Governmental Authorities. All exterior lighting within 125' feet of the northerly property line of the Property shall use environmental fixtures which shall be no higher than 25' feet. No high-pressure sodium lights (or equivalent) shall be used for exterior lights; exterior lighting shall be limited to incandescent, low-pressure sodium, metal halide, mercury-type, and equivalent bulbs. The School agrees not to install lighting on the athletic fields which would allow the use of such fields after dark. Exterior lighting for the Property, which must conform to the requirements of this Section 5.03, will be installed in accordance with a lighting plan to be developed by the School. The lighting plan will be submitted to Glenn for review and approval, which may not be unreasonably withheld, delayed or conditioned, prior to installation of any lighting on the Property. Glenn must give written notice of approval or disapproval within ten (10) business days after receipt of the proposed lighting plan. If a notice of disapproval is given, the notice must specify in reasonable detail the changes in the lighting plan which would cause it to be acceptable to Glenn.

Section 5.04. Building Setbacks and Buffers. The School agrees that it shall maintain an undisturbed buffer of not less than thirty-five (35) feet from the northern property line of the Property; provided, however, that the School may plant trees and shrubs in such thirty-five (35) foot buffer in accordance with the Landscaping Plan (as defined in Section 5.07).

Section 5.05. Signs. No signs will be erected or installed on the Property except signs related to the school operated on the Property; provided that, during the construction of Improvements on the Property in accordance with this Declaration, the School may place temporary signs on the Property as may be required by Governmental Requirements and to show the identity of the general contractor performing the work and any lender financing such construction.

Section 5.06. Fences and Walls. The School shall install a fence along the property line between the Property and the Adjoining Property, which shall be six (6) feet in height and constructed of chain link covered in black vinyl. No gates may be installed

in such fence and the School will maintain such fence in good repair, normal wear and tear excepted, and replace such fence as may be necessary from time to time while this Declaration remains in effect.

Section 5.07. Landscaping. The School will install reasonable landscaping in the buffer area along the northern boundary of the Property in accordance with a landscaping plan to be developed by the School. The proposed landscaping plan will be submitted to Glenn for review and approval, which may not be unreasonably withheld, delayed or conditioned, prior to installation of any landscaping in the buffer area. Glenn must give written notice of approval or disapproval within ten (10) business days after receipt of the proposed landscaping plan. If a notice of disapproval is given, the notice must specify in reasonable detail the changes in the landscaping plan which would cause it to be acceptable to Glenn. The landscaping plan approved by Glenn is referred to in this Declaration as the "Landscaping Plan". The School shall plant the trees and shrubs listed or depicted in the Landscaping Plan not later than ninety (90) days after the completion of the grading of the property; provided, however, that the School may defer such planting until the first season appropriate for such planting that occurs after the completion of grading. The School shall replace any tree or shrub so planted which dies within the first three (3) years after planting.

Section 5.08. Maintenance. Owner will maintain all Buildings and other Improvements and all landscaping in good operating condition.

Section 5.09. No Rezoning or Resubdivision. Owner shall not seek rezoning of the Property or seek to subdivide the Property. Owner will have the right to seek such variances or other consents of Governmental Authorities as may be necessary from time to time to proceed with construction of all Improvements contemplated by the Master Plan.

Section 5.10. Modular Classrooms. The School will have the right to install modular, temporary classroom buildings on the Property, in compliance with all applicable requirements of all Governmental Authorities having jurisdiction, in generally the locations established for Building sites in the Master Plan or in the areas of the Site Plan marked "BASEBALL FIELD" AND "FUTURE TENNIS". The School will have the right to use the modular classroom buildings, as necessary to meet the classroom needs of the student body, in the areas specified above, until all Buildings shown on the Site Plan have been constructed, at which time use of modular buildings must cease unless approved by Glenn or by the Glenn Descendants in accordance with Section 7.01. If the School determines that it is not possible to install the modular classrooms in the areas specified above, the School may request the approval of Glenn to the placement of a modular classroom building in the parking areas, but Glenn will be entitled to grant or withhold such approval in his discretion.

purchase price paid by the School to Rabun (hereinafter referred to as the "Option Price"). In the event Rabun exercises the Repurchase Option, then a closing shall take place within ninety (90) days following the date of Rabun's notice exercising the Repurchase Option. The Option Price shall be payable by the School to Rabun in cash at the closing of such reconveyance; provided that, if the Rabun Parcel is still subject any purchase money indebtedness of the School held by Rabun and still then outstanding, Rabun shall be entitled to receive a credit against the Option Price for the outstanding principal balance of such indebtedness and any accrued but unpaid interest thereunder outstanding as of the date of closing such repurchase, and such indebtedness shall be thereby deemed to have been paid in full and the promissory note evidencing such indebtedness shall be marked by Rabun as paid in full and shall be surrendered to the School, and the deed to secure debt securing such note shall be canceled and satisfied of record by Rabun. In the event the Repurchase Option is validly exercised by Rabun, title to the Rabun Parcel shall be conveyed by the School to Rabun at the closing of the Repurchase Option (the "Repurchase Closing") by limited warranty deed subject only to the exact same title exceptions which encumbered the Rabun Parcel at the time of conveyance by Rabun to the School on the date of this Declaration (except that all property taxes shall be maintained fully current by the School during the period it holds title to the Property and only property taxes which are either not delinquent or not due and payable will be a permissible title exception), other than general utility easements granted by the School to provide utility services to the Property and this Declaration (the "Repurchase Permitted Title Exceptions"). Rabun shall have the right to perform a title examination of the title to the Rabun Parcel and give written notice to the School of the existence of any title exceptions ("Unpermitted Repurchase Exceptions") other than the Repurchase Permitted Title Exceptions encumbering the Rabun Parcel. The School shall take such action and incur such expense as may be necessary to remove or cancel any Unpermitted Repurchase Exceptions. At the time of the Repurchase Closing, there will be no improvements or personal property of any kind on the Rabun Parcel and the School shall, prior to the Repurchase Closing and at the expense of the School, fully and completely remove all such improvements and personal property. The School shall pay the State of Georgia Real Estate Transfer Tax due on the deed from the School to Rabun. Rabun and the School shall otherwise pay the costs and expenses which each of them incur in connection with the Repurchase Option. Rabun and the School shall, at the Repurchase Closing, execute and deliver documents comparable to the documents which were executed and delivered at the closing of the sale of the Rabun Parcel by Rabun to the School to effect conveyance of the Rabun Parcel by the School to Rabun. In the event, however, that the School satisfies the Repurchase Option Requirements within the time periods hereinabove provided, or at any time thereafter which is prior to the exercise of the Repurchase Option by Rabun, or in the event that Rabun for any reason fails to exercise the Repurchase Option or to close the repurchase of the Rabun Parcel in the manner and within the time periods above provided, then the Repurchase Option shall be deemed to have lapsed and expired and Rabun shall have no further right or option to repurchase the Rabun Parcel from the School. If Rabun is prevented from exercising the Repurchase Option (or if Rabun attempts to exercise the Repurchase Option in accordance with its terms but is prevented from doing so) by virtue of (x) a failure or refusal by Owner to perform its obligations under the Repurchase Option, (y) bankruptcy

of Owner or any other entity then holding title to the Property or (z) a finding by any court that the Repurchase Agreement is unenforceable for any reason, then, and in any such event, Rabun shall be deemed to have exercised the Repurchase Option for all purposes under this Declaration and the Use Restriction shall, without any action of any person, remain in effect for the full twenty (20) year term of this Declaration.

Article VII General Provisions

Section 7.01. **Enforcement.** The terms and provisions of this Declaration shall be enforceable against the Property by Glenn, during his lifetime, so long as either Glenn or his wife, Louise Rand Glenn ("Louise Glenn") or any Glenn Descendant owns all or any portion of the Adjoining Property. If Glenn dies or becomes mentally incompetent before expiration of this Declaration, then all rights of Glenn under this Declaration will automatically pass to and be enforceable by Louise Glenn. If Louise Glenn dies or becomes mentally incompetent before expiration of this Declaration, then all rights of Louise Glenn under this Declaration will automatically pass to the Glenn Descendants. Whenever (i) the Glenn Descendants are entitled to enforce this Declaration in accordance with this Section 7.01 and (ii) there is more than one (1) Glenn Descendant, the individuals comprising the Glenn Descendants shall, within ten (10) business days following receipt of a written request from the School, appoint by written document one Glenn Descendant who shall have complete authority to make all decisions and determinations required or permitted by this Declaration to be made by Glenn and thereby to bind all Glenn Descendants. The Glenn Descendant so appointed in such written document is referred to in this Declaration as the "Designated Glenn Descendant". In the event that the Glenn Descendants fail to designate a Designated Glenn Descendant within such ten (10) business day period, then, to the extent that the School is entitled to seek any approval or consent of the Glenn Descendants pursuant to this Declaration, then, until appointment of the Designated Glenn Descendant, the School will have the right to rely conclusively on any written consent or approval granted by any Glenn Descendant who is then occupying the residence on the Adjoining Property which, on the date of this Declaration, is occupied by Glenn and Louise Glenn. Rabun will have the right at any time to transfer and assign all of its right, title and interest under this Declaration, including, without limitation, the rights of Rabun under the Repurchase Option, to any entity ("Glenn Entity") which (i) becomes the holder of title to all or any portion of the Adjoining Property and (ii) is owned or controlled, directly or indirectly, by Glenn or Glenn Descendants.

Section 7.02. **Non-Compliance.** Except under circumstances which constitute an emergency or create the potential for immediate or irreparable harm, Owner will not be in default under or in violation of this Declaration (excluding Article VI) unless and until Glenn has first given to Owner written notice of the event or circumstances which Glenn has determined to be a breach or violation of this Declaration an opportunity for ten (10) business days to cure the alleged breach or violation. Glenn will not be entitled to take any form of legal or other remedial action against Owner to enforce this Declaration until Owner is in default. If Glenn determines that Owner has violated this Declaration under circumstances which constitute an emergency or create the potential for immediate or

Declaration), execute and deliver to the School a document, in a form acceptable for recording in the Office of the Clerk of the Superior Court of Fulton County, Georgia, confirming such expiration.

Section 7.05. Amendment. This Declaration may be amended only by a written document signed by Rabun, Glenn and the Owner and recorded in the Office of the Clerk of the Superior Court of Fulton County, Georgia.

Section 7.06. Notice. Any notice, request, demand, instruction or other communication (hereinafter referred to as a "Notice") to be given to any Person pursuant to this Declaration may be given either by said Person or its counsel and shall be deemed to have been properly sent and given when delivered by any of the following methods of delivery: (a) by hand delivery; (b) by certified mail, return receipt requested, or registered mail, postage prepaid; or (c) by reputable courier service or commercially reliable overnight delivery. All Notices to Glenn, Rabun and the School shall be sent to their respective addresses as set forth below. If delivered by hand, a Notice shall be deemed to have been sent, given and received when actually delivered to the addressee. If sent by certified or registered mail, a Notice shall be deemed to have been timely given when deposited in the mail with the proper address and adequate postage, but the time period allowed for any response to such notice will not begin until the date of receipt. If sent by courier service or commercially reliable overnight mail delivery service, a Notice shall be deemed to have been timely given when delivered to said courier service or overnight mail delivery company with the proper address and delivery charges either prepaid or charged to a proper account, and shall be deemed to have been received on the earlier of the date of its actual receipt by the addressee or on the day which is the second (2nd) Business Day following such deposit, whether or not actually received by the addressee. Any rejection or other refusal to accept any such Notice or the inability of the Person giving such notice to deliver same as a result of a change of address as to which no notice of change has been given as provided for herein shall be deemed to constitute the receipt of such Notice by the Person which is unwilling or unable to accept such Notice. Each of the School, Glenn and Rabun shall have the right to change the address to which Notices to it are to be sent by giving written notice of said change to the other parties to this Agreement as provided in this section. The addresses to which any such Notice shall be sent are as follows:

TO RABUN:

Rabun Partners III, L.P.
1201 W. Peachtree Street, N.W.
Suite 5000
Atlanta, Georgia 30309

TO GLENN:

Mr. Thomas K. Glenn, II
1201 W. Peachtree Street, N.W.
Suite 5000
Atlanta, Georgia 30309

TO THE SCHOOL:

Mount Vernon Presbyterian School, Inc.
471 Mt. Vernon Hwy
Atlanta, Georgia 30328
Attention: Head of School

With an additional copy to:

Troutman Sanders LLP
600 Peachtree Street, N.E., Suite 5200
Atlanta, Georgia 30308-2216
Attn: Hazen H. Dempster, Esq.

Section 7.07. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7.08. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 7.09. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 12.09. Preparer. This Declaration was prepared by Michael R. Davis, Alston & Bird, One Atlantic Center, 1201 West Peachtree Street, Atlanta, Georgia 30309-3424.

Section 12.10. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one

(21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 12.21. Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the School, Rabun and Glenn have executed and sealed this instrument as of the day and year first above written.

RABUN:

RABUN PARTNERS III, L.P.

BY: Acadia Management, LLC, a Georgia limited liability company, Its General Partner

By: Thomas K. Glenn
Thomas K. Glenn, II, Member

BY: Thomas K. Glenn
Thomas K. Glenn, II, General Partner

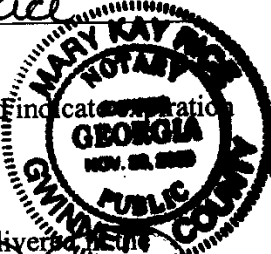
GLENN:

Thomas K. Glenn (SEAL)
Thomas K. Glenn, II

Signed, sealed and delivered in the presence of:
[Signature]
Witness

Mary Kay Rice
Notary Public

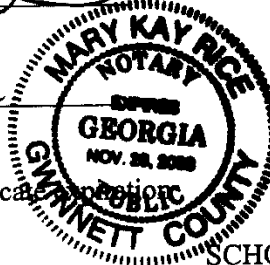
(Affix official seal and indicate date of commission)



Signed, sealed and delivered in the presence of:
[Signature]
Witness

Mary Kay Rice
Notary Public

(Affix official seal and indicate date of commission)



SCHOOL:

MOUNT VERNON PRESBYTERIAN SCHOOL, INC.

By: [Signature]
Title

Signed, sealed and delivered in the presence of:

Katrina M. Rodgers
Witness

Susan Cheryl Arnold
Notary Public

(Affix official seal and indicate expiration date of commission)

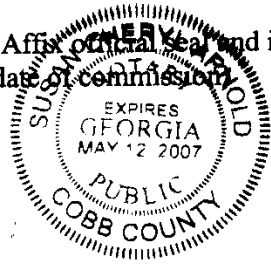


EXHIBIT C

Tract I

All that tract or parcel of land, lying and being in land lots 71, 72 and 35 of the 17th District of Fulton County, Georgia, more particularly described as follows:

BEGINNING at an iron pin located one hundred fifty (150) feet north of the southeast corner of said land lot 72, and running thence east two hundred eighty-two and six-tenths (282.6) feet to an iron pin at Old Roswell Road; thence northerly along the western side of Old Roswell Road seventeen hundred eighty-three and three-tenths (1783.3) feet to an iron pin; thence west three hundred eighty-seven (387) feet to an iron pin; thence continuing west eight hundred thirty-seven (837) feet to an iron pin; thence south twenty-five hundred ninety-seven and six-tenths (2597.6) feet to Dunwoody Road; thence easterly along the northern side of Dunwoody Road eight hundred thirty-six and two-tenths (836.2) feet to an iron pin; thence northwesterly three hundred twenty-two (322) feet to an iron pin; thence north one hundred fifty (150) feet to an iron pin; thence east one hundred eighty-five (185) feet to the point of beginning; said tract containing an aggregate of 60.06 acres, according to a plat of property survey for T. Glenn, made by R.T. Brice, Engineer, April 1939, a copy of which plat is on file in the office of Atlanta Title & Trust Company, Atlanta, Georgia.

AND:

Tract II

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 35 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin on the west side of Glenridge Drive, 1190 feet south of Abernathy Road; thence in a southerly direction along the west side of Glenridge Drive and following the curvature thereof, a distance of 240 feet to an iron pin; thence S 88 degrees 30 minutes 39 seconds W, a distance of 183 feet, more or less, to a point; thence in a northerly direction, parallel to the west side of Glenridge Drive a distance of 240 feet to a point on the south property line of William K. and Donna D. Glenn; thence N 88 degrees 53 minutes 29 seconds E along the south property line of William K. and Donna D. Glenn, a distance of 183 feet more or less to the west side of Glenridge Drive and the point of beginning. Said tract to contain one acre.

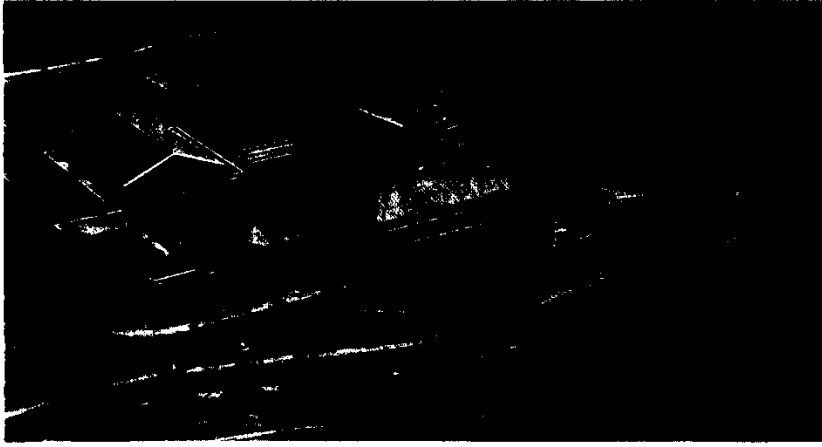
AND:

Tract III

**ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 35
and 72 of the 17th District of Fulton County, Georgia, and being
more particularly described as follows:**

To reach the POINT OF BEGINNING: Commence at the intersection formed by the westerly r/w of Glenridge Drive (40' r/w) and the south curb line of Abernathy Road (as said curb line existed on June 21, 1979) and proceed thence in a southerly direction along the westerly r/w of Glenridge Drive (40' r/w) for a distance of 1190.0 feet to a point; proceed thence S88°53'29"W for a distance of 183 feet, more or less, to the point of beginning; from the point of beginning thus established running thence in a southerly direction along a line which is parallel to the westerly r/w of Glenridge Drive (40' r/w) a distance of 240 feet, more or less, to a point; running thence S88°50'39"W a distance of 910.6 feet, more or less, to a point; running thence N01°06'04"W a distance of 397.6 feet to a point; running thence N88°53'29"E a distance of 504.9 feet to a point; running thence S01°06'31"E a distance of 157.9 feet to a point; running thence N88°53'29"E a distance of 381.4 feet, more or less, to the point of beginning, said property containing 6.78 acres, more or less.

EXHIBIT D



POOR ORIGINAL

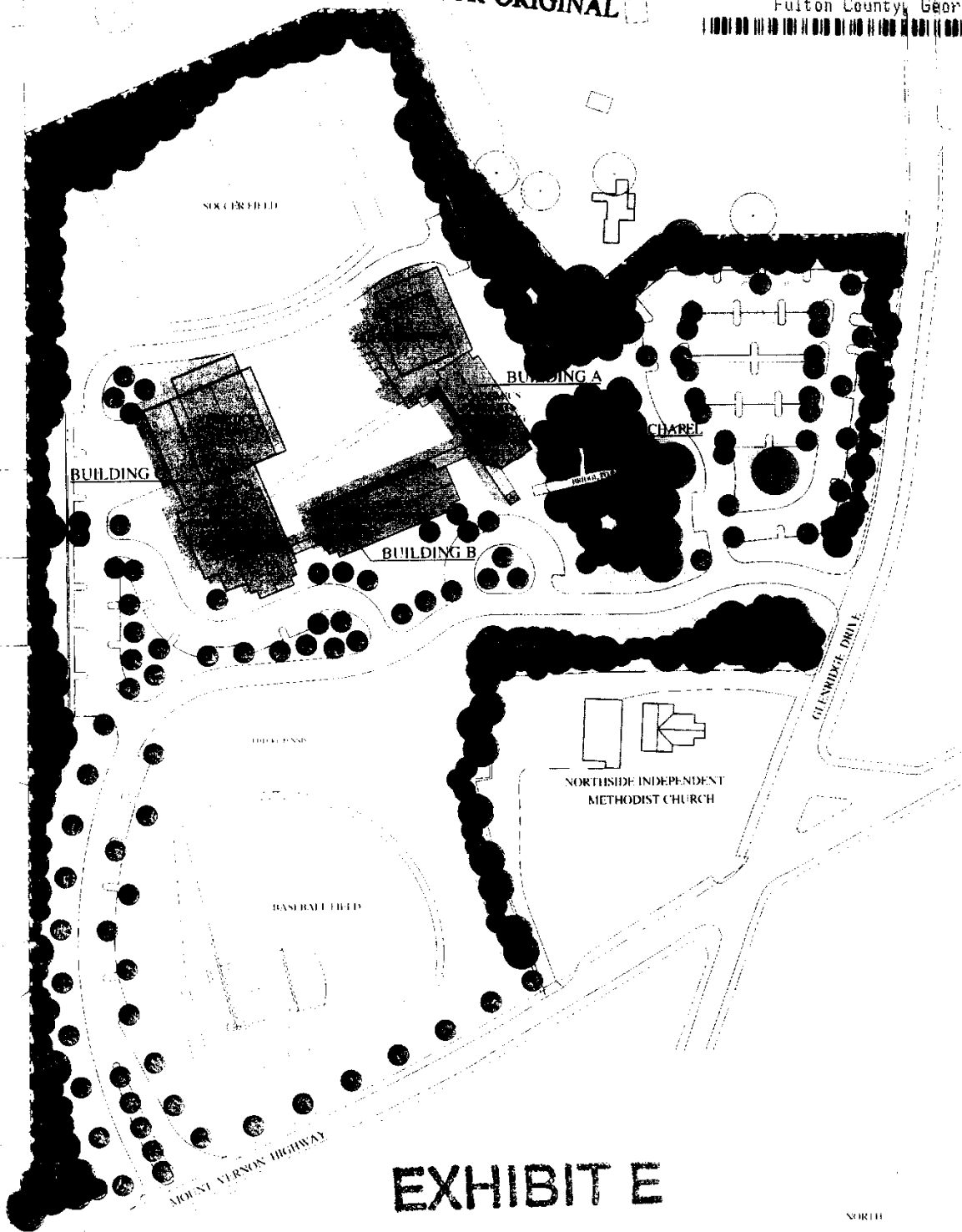


EXHIBIT E

CONCEPT SITE PLAN

