

Prepared by and after recording return to:  
Neil Harkavy, Esq.  
Harkavy Shainberg Kaplan & Dunstan PLC  
6060 Poplar Ave., Suite 140  
Memphis, Tennessee 38119  
(901) 866-5331

Index Information:

Section 34, Township 1  
South, Range 7 West,  
Southaven, DeSoto County,  
Mississippi

### Declaration of Reciprocal Easements, Covenants and Restrictions

THIS DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS AND RESTRICTIONS, entered into this 30th day of OCTOBER, 2007 ("Declaration"), by and between Cobblestone, L.P., a Mississippi limited partnership (hereinafter referred to as "Cobblestone") and Community Bank, N.A. (hereinafter referred to as "Community Bank") (Cobblestone and Community Bank shall be hereinafter collectively referred to as "Declarants").

#### WITNESSETH:

WHEREAS, Cobblestone is the owner of a fee simple interest in that certain tract or parcel of real property located in the County of DeSoto and State of Mississippi, as described more particularly in Exhibit A, attached hereto and incorporated herein (said parcel being hereinafter referred to as "Parcel A"); and

WHEREAS, Community Bank is the owner of a fee simple interest in that certain tract or parcel of real property located in the County of DeSoto and State of Mississippi as described more particularly in Exhibit B and Exhibit C, attached hereto and incorporated herein (said parcel being hereinafter referred to as "Parcel B"); and

WHEREAS, Parcel A and Parcel B lie adjacent to one another (Parcel A and Parcel B shall be collectively referred to as the "Property"); and

WHEREAS, Cobblestone has improved Parcel A and constructed thereon a shopping center substantially in the location shown on the site plan attached hereto as Exhibit C (hereinafter referred to as the Site Plan); and

WHEREAS, Community Bank intends to improve Parcel B by constructing thereon a bank substantially in the location shown on the Site Plan; and

WHEREAS, the parties hereto desire to enter into this Reciprocal Easement Agreement for the joint use of walking and driving areas in Parcel A and Parcel B, as more particularly shown on Site Plan and for the joint rights of access to, and ingress and egress to and from the public streets adjacent to Parcel A and Parcel B over and across said areas; and

WHEREAS, the parties certify they have established a plan for the protection, maintenance, and improvement of the Property, and have fixed and do hereby fix the easements, covenants, and reservations upon, and subject to which, all lots, parcels, and portions of the Property shall be used, held, leased, or sold, or conveyed by the owner, whether by operation of law or otherwise, and each and all of which is and are for the benefit of the Property, and of each owner of land therein, whether present or future, and which shall inure and pass with said property, and each and every parcel of land

*Austin* 503-07-0159

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therein, and shall apply to and bind the owner, its heirs, executors, administrators, and successors in interest.

NOW THEREFORE, in consideration of the mutual benefits to be realized by such joint use, the mutual agreements set forth herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Cobblestone does hereby establish, give, grant, and convey to Community Bank, its respective successors, successors-in-title, and assigns, and the tenants, customers, employees, and invites of such parties, a non-exclusive easement appurtenant to Parcel B for passage and use for the purpose of ingress and egress to and from Parcel B over Parcel A from Goodman Road and Cobblestone Drive, and for the purpose of walking upon and driving vehicles upon and across all those sidewalks, entrances, drives, and lanes in Parcel A which are now or may hereafter from time to time be used for pedestrian and vehicular traffic.

2. Community Bank does hereby establish, give, grant, and convey to Cobblestone, its respective successors, successors-in-title, and assigns, and the tenants, customers, employees, and invites of such parties, a non-exclusive easement appurtenant to Parcel A for passage and use for the purpose of ingress and egress to and from Parcel A over Parcel B from Goodman Road and Cobblestone Drive, and for the purpose of walking upon and driving vehicles upon and across all those sidewalks, entrances, drives, and lanes in Parcel B which are now or may hereafter from time to time be used for pedestrian and vehicular traffic.

3. The Declarants intend for the parcels to be developed harmoniously with each other and in connection with the grant of the reciprocal easements contained herein, Declarants do further agree as follows:

(a) All buildings constructed on Parcel A shall be constructed entirely within the area shown on the Site Plan as "Building Area - Parcel A." At all times during the term of this Agreement, Parcel A shall contain paved parking spaces for at least 143 full-sized automobiles, subject to reduction in such number by virtue of condemnation or eminent domain. All driveways and entrance ways on Parcel A which are crosshatched on the Site Plan shall be constructed and maintained by the owner of Parcel A, subject to closings or takings by governmental authorities. The entrances between Parcel A and Parcels B shall be substantially in the locations shown on the Site Plan.

(b) All buildings constructed on Parcel B shall be constructed entirely within the area shown on the Site Plan as "Building Area - Parcel B." At all times during the term of this Agreement, Parcel B shall contain paved parking for at least 27 full sized automobiles, subject to reduction in such number by virtue of condemnation or eminent domain. All driveways and entranceways on Parcel B which are crosshatched on the Site Plan shall be constructed and maintained by the owner of Parcel B, subject to closings or takings by governmental authorities. The entrances between Parcel B and Parcels A shall be substantially in the locations shown on the Site Plan.

(c) No portion of the Property may be used for any of the following purposes without the prior written consent of Declarants or successors in interest:

- i A tavern, bar, nightclub, discotheque or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, that the foregoing shall not prohibit the operation of a restaurant where the sale of alcoholic beverages therein comprises less than fifty (50%) percent of the restaurant's gross revenues;
- ii A service station or truck stop;
- iii A flea market;
- iv Any facility used for the sale, rental, leasing, replacement, repair (including engine work, body work, among others), storage or service, or any combination of the foregoing, of new or used cars, trucks, motorcycles, trailers, mobile homes, recreational vehicles or any motor vehicle (including, without limitation, engines, transmission or any essential of a motor vehicle);
- v "Second-hand" store or Army-Navy or governmental "surplus" store;
- vi Warehouse for storage of goods other than storage areas reasonably incidental to the operation of a permitted use in this Declaration;
- vii Bailbondsman;
- viii Blood bank;
- ix An adult type bookstore or other establishment selling, leasing or exhibiting pornographic materials of any type;
- x A massage parlor unless as a component of a health spa, beauty spa or exercise facility;
- xi A mortuary or funeral parlor;
- xii A mobile home or trailer court, labor camp, junkyard or stockyard;
- xiii A land fill, garbage dump or other facility for the dumping, disposing, incinerating or reduction of garbage;
- xiv A business which features sexually explicit materials or drug related paraphernalia, so called "head shops", tattoo parlor, massage parlor, adult bookstore or store selling or exhibiting pornography materials; or
- xv Pornographic adult theater or the display of male or female dancers or a so called "strip tease" establishment.

(d) No building, fence, wall, drive, sign or other improvement shall be commenced, erected, placed, moved on, or maintained upon the Property, nor shall any exterior addition to or change or alteration of any improvement upon the Property (including a change in color of any exterior trim, wall or roof surface), be made without the approval by Declarants or successors in interest, which approval shall not be unreasonably withheld, conditioned or delayed.

4. Each party hereby grants and conveys to the other party, its successors, successors-in-title, assigns, or tenants, at any time and from time to time during the term of this Agreement, the

right, but not the obligation, to enter upon the other party's parcel or parcels for the purpose of constructing, installing, and maintaining the driveways, sidewalks, and lighting as more particularly shown on the Site Plan.

5. The parking lot, sidewalks, driveways, and lighting located on Parcel A and Parcel B shall be maintained in good order and repair by the respective owners of such Parcels at all times during the term of this Agreement, including striping, snow, ice and trash removal. The owner of each of such Parcels shall keep the parking lot located thereon lighted during the hours of business maintained by any tenant or business enterprise located on such parcel.

6. The easements, covenants, restrictions, and agreements provided for herein shall be effective upon execution of this Declaration of Reciprocal Easements, Covenants and Restrictions by the parties hereto. The covenants, restrictions, easements and agreements provided for herein shall run with the land and shall constitute a use for reciprocal benefits to and burdens upon Parcel A and Parcel B. This Declaration shall inure to the benefit of and be binding upon the respective successors, successors-in-title, assigns, heirs, and tenants of each party hereto and the customers, employees, and invitees of such parties, and shall remain in full force and effect and shall be unaffected by any change in ownership of Parcel A or Parcel B, or any of them, or by any change of use, demolition, reconstruction, expansion, or other circumstances, except as specified herein. The agreement and undertakings by each party hereto shall be enforceable by action for specific performance, it being agreed by both parties hereto that an action for damages would not be an adequate remedy for a breach of this Declaration.

7. This instrument is not intended to, and should not be construed to dedicate the said easement areas to the general public, nor shall this instrument be construed to restrict the use and development of Parcel A and Parcel B, except as stated herein.

8. Upon the written request of the owner of any of the Parcels, the then owner of any Parcel, or any portion thereof, shall execute and deliver, within ten (10) days after receipt of such request, a certificate certifying that there are no known defaults on the part of any party to this Agreement or, if there are such defaults, specifying the particulars of such defaults and the action required to remedy it and certifying that there are no setoffs or defenses to the enforcement of the terms of this Agreement, or if there are, specifying the particulars of such setoffs or defenses.

9. The Lincoln National Life Insurance Company, successor by merger to Jefferson-Pilot Life Insurance Company ("Lender"), currently the mortgagee of Parcel A, joins herein and executes the Joinder attached hereto to acknowledge that Lender (i) consents to this Declaration (ii) acknowledges the rights of Declarants' or their successors in interest created pursuant to this Declaration, and (iii) agrees that in the event of foreclosure of Lender's mortgage or deed of trust or a deed in lieu of foreclosure, so long as Declarants' or their successors in interest is not in default hereof beyond any applicable cure period, this Declaration shall be recognized and Cobblestone's rights hereunder shall not be disturbed.

10. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating a partnership or any other relationship between the parties hereto other than the relationship of Declarants as provided for herein.

11. Any notices shall be in writing and shall be sent by registered or certified mail, return receipt requested, by nationally recognized overnight courier, or by fax (with contemporaneous electronic confirmation of delivery) addressed to the parties at the following addresses or such other address as such party has been advised of in writing:

To Cobblestone: Cobblestone, L.P.  
1010 June Road  
Memphis, TN 38117  
Attn: Mr. Michael Greenberg  
Fax: 901-683-9247

With a copy to:

Harkavy Shainberg Kaplan & Dunstan PLC  
6060 Poplar Avenue, Suite 140  
Memphis, TN 38119  
Attn: Mr. Neil Harkavy  
Fax: 901-866-5409

To Community Bank: Community Bank, N.A.  
P.O. Box 129  
Southaven, Mississippi 38671  
Attn: Jeffrey D. Frazier  
Fax: \_\_\_\_\_

With a copy to: Austin Law Firm  
6928 Cobblestone Drive Suite 100  
Southaven, Mississippi 38672  
Fax: 662-890-7576  
FILE: 863-07-0159

12. This Declaration shall be interpreted and governed by the laws of the State of Mississippi.

13. A waiver of any breach or default by either party shall not be a waiver of any other breach or default.

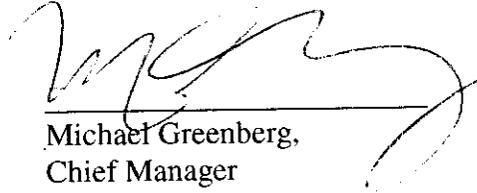
14. If legal action is commenced to secure or enforce a party's rights hereunder, the prevailing party shall be entitled to recover its costs and attorney's fees from the non-prevailing party.

IN WITNESS WHEREOF, the parties hereto have executed this Declaration as of the date first above written.

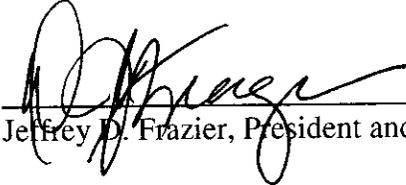
DECLARANTS:

COBBLESTONE, L.P.,  
A Mississippi limited partnership

By: MRG, LLC,  
a Tennessee limited liability company,  
its General Partner

By:   
Michael Greenberg,  
Chief Manager

COMMUNITY BANK, N.A.

By:   
Dr. Jeffrey D. Frazier, President and CEO

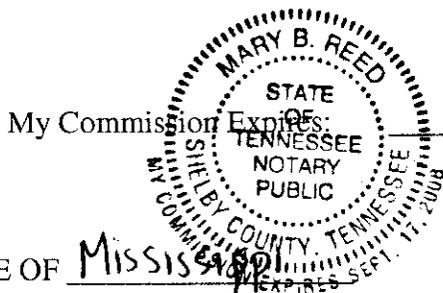
STATE OF TENNESSEE

COUNTY OF SHELBY

Personally appeared before me, the undersigned authority in and for the said county and state, on this 30<sup>th</sup> day of October, 2007, within my jurisdiction, the within named Michael Greenberg, who acknowledged to me that he is Chief Manager of MRG, LLC, a Tennessee limited liability company, which is the sole general partner of Cobblestone, L.P., a Mississippi limited partnership, and that for and on behalf of said limited liability company as sole general partner of said limited partnership, and as the act and deed of said limited liability company as sole general partner of said limited partnership, and as the act and deed of said limited partnership, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company and said limited partnership so to do.

*Mary B. Reed*

Notary Public



My Commission Expires: \_\_\_\_\_

STATE OF Mississippi  
COUNTY OF Desoto

Personally appeared before me, the undersigned authority in and for the said county and state, on this 30<sup>th</sup> day of October, 2007, within my jurisdiction, within named Jeffrey  Frazier, who acknowledged that he is President and CEO of Community Bank, N.A., a \_\_\_ national association, and that for an on behalf of the said association and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said association so to do.

*Janet Gross*  
NOTARY PUBLIC



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

**JOINDER OF MORTGAGEE**

**The Lincoln National Life Insurance Company** ("Lender"), currently the mortgagee of Parcel A, joins herein and executes the Joinder attached hereto to acknowledge that Lender (i) consents to this Declaration (ii) acknowledges the rights of all parties created pursuant to this Declaration, and (iii) agrees that in the event of foreclosure of Lender's mortgage or deed of trust or a deed in lieu of foreclosure, so long as either party is not in default hereof beyond any applicable cure period, this Declaration shall be recognized and each party's rights hereunder shall not be disturbed.

**THE LINCOLN NATIONAL LIFE  
INSURANCE COMPANY,  
An Indiana corporation**

By:   
Name: Dennis A. Blume  
Title: Vice President

STATE OF INDIANA

COUNTY OF ALLEN

Personally appeared before me, the undersigned authority in and for the said county and state, on this 23<sup>rd</sup> day of October, 2007, within my jurisdiction, the within named Dennis A. Blume, who acknowledged to me that he is Vice President of The Lincoln National Life Insurance Company, an Indiana corporation, and that for and on behalf of said corporation as Vice President of said corporation, and as the act and deed of said corporation, he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

**RICHELLE K. REEVES**  
**Notary Public**  
**Resident of Allen County**  
**My Commission Expires 03-19-2009**



My Commission Expires: \_\_\_\_\_

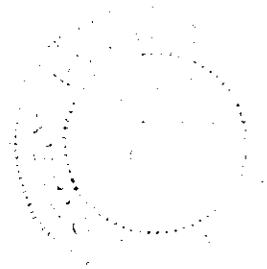


EXHIBIT A  
(PARCEL A)

PROPERTY IN OLIVE BRANCH, DESOTO COUNTY, MISSISSIPPI

Lot 4, Section A, Final Plat, The Offices of Cobblestone Subdivision in Section 34, Township 1 South, Range 7 West, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 71, Page 42, in the office of the Chancery Clerk of DeSoto County, Mississippi.

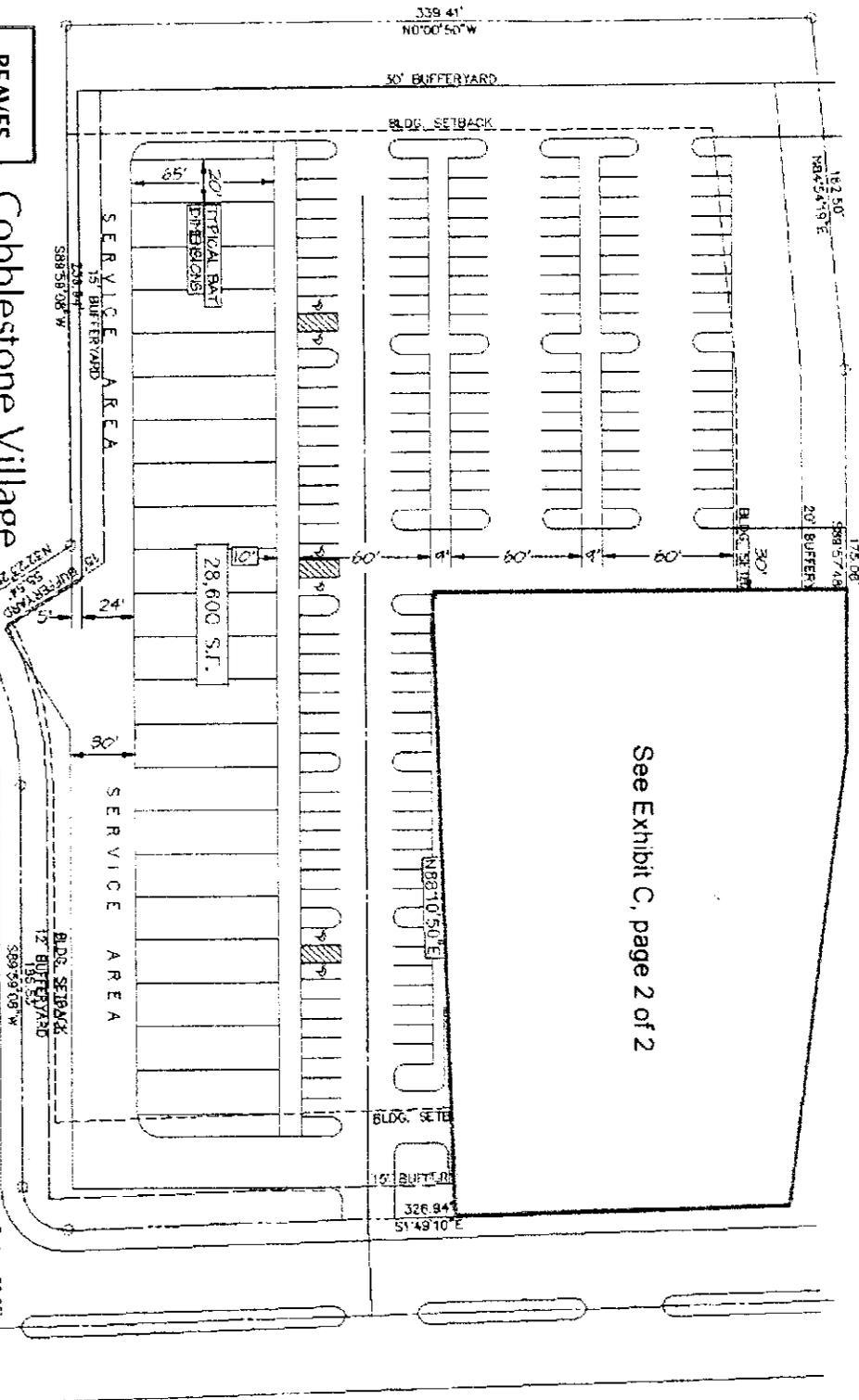
EXHIBIT B  
(PARCEL B)

PROPERTY IN OLIVE BRANCH, DESOTO COUNTY, MISSISSIPPI

Lot 3, Section A, Final Plat, The Offices of Cobblestone Subdivision in Section 34, Township 1 South, Range 7 West, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 71, Page 42, in the office of the Chancery Clerk of DeSoto County, Mississippi.

**EXHIBIT C**  
**(Site Plan)**

**EXHIBIT C, PAGE 1 OF 2**



**REAVES  
SWEENEY  
MARCOM**

INCORPORATED  
PLANNING • ENGINEERING  
LANDSCAPE ARCHITECTURE  
508 HIGH RIDGE DRIVE  
SUITE 1000  
MILWAUKEE, WISCONSIN 53212  
TEL: 414-224-7400 FAX: 414-224-7401

**Cobblestone Village  
RETAIL SITE PLAN**  
PREPARED 30/MAR/2000  
FOR MARCOWSKY AND RINCEB, INC

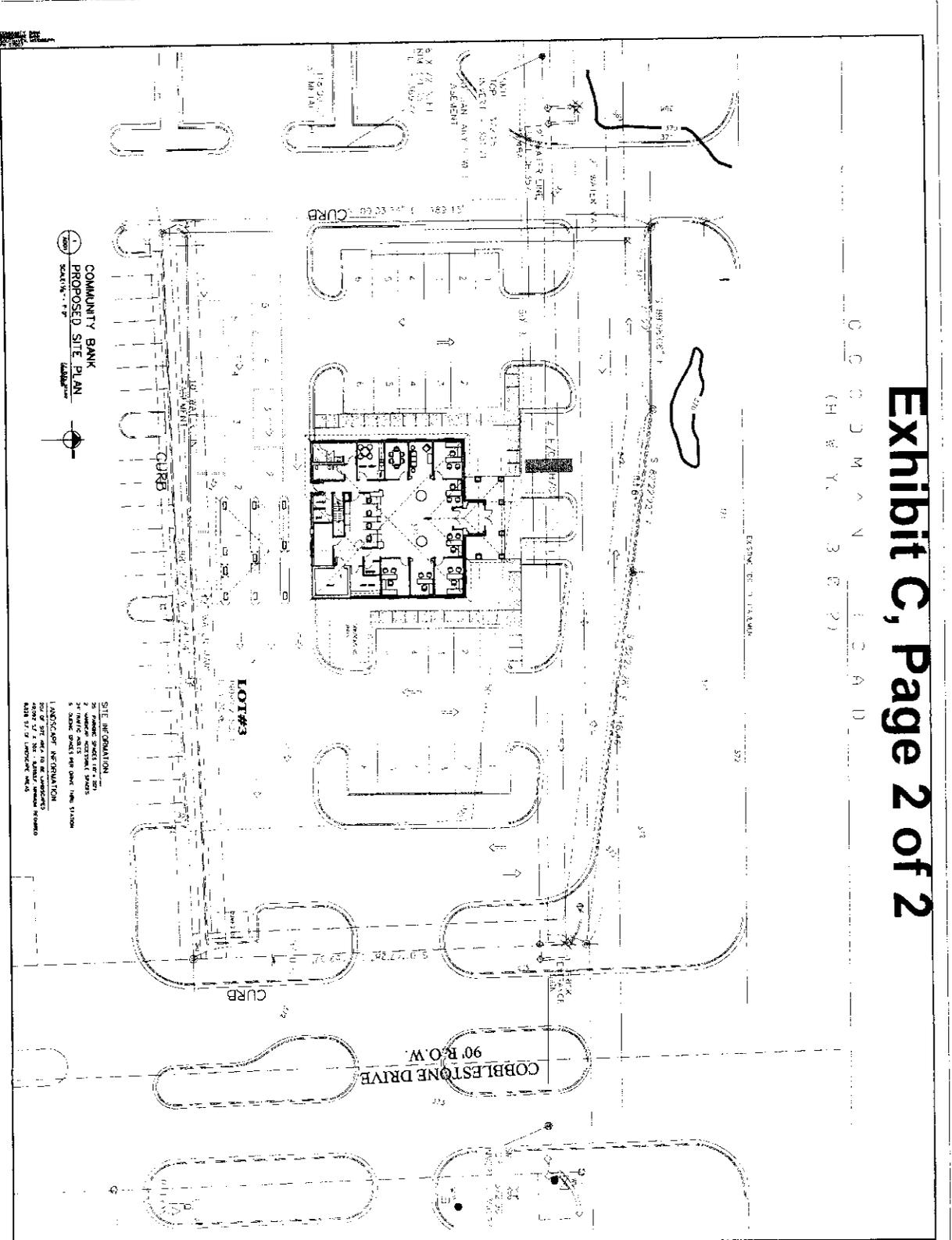
Rad = 150.00'  
Arc = 59.76'  
Tan = 43.44'  
Chd = 53.64'  
S73°47'51\"/>

**PARKING SUMMARY**  
PARKING REQ'D: 143 SPACES  
(@ 1,200)  
PARKING PROVIDED: 149 SPACES  
(@ 6 H/C SP.)

Rad = 20.00'  
Arc = 32.62'  
Tan = 28.71'  
Chd = 14.47'  
N44°05'20\"/>

# Exhibit C, Page 2 of 2

O S O J M A N I C A D  
(H W Y L 3 E 2)



COMMUNITY BANK  
PROPOSED SITE PLAN  
SCALE: 1/8" = 1'-0"

**SITE INFORMATION**  
 1. EXISTING SITE LINES  
 2. PROPOSED SITE LINES  
 3. EXISTING DRIVEWAYS  
 4. PROPOSED DRIVEWAYS  
 5. EXISTING SIDEWALKS AND DRIVE LANE STRIPS  
 6. PROPOSED SIDEWALKS AND DRIVE LANE STRIPS

**LANDSCAPE INFORMATION**  
 1. EXISTING TREES TO BE MAINTAINED  
 2. TREES TO BE REMOVED  
 3. TREES TO BE PLANTED  
 4. EXISTING LANDSCAPE  
 5. PROPOSED LANDSCAPE

Sheet Number: 01  
 of 01 Sheets

COMMUNITY BANK  
 PROTOTYPE  
 SOUTHAVEN, MISSISSIPPI

Project No: 07007  
 Date: JUNE 21, 2007  
 Drawn: JMD  
 Checked: RMD



**Dean and Dean/Associates**  
 architects  
 a professional association  
 ARCHITECTURE • PLANNING • INTERIOR DESIGN  
 P.O. Box 1482, Jackson, MS 39206-1482, 601-949-4400, Fax 601-949-4401, 601-949-4402, 601-949-4403