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FORSYTH CO, NC FEE \$26.00

PRESENTED & RECORDED:

04-29-2022 08:27:24 AM

LYNNE JOHNSON

REGISTER OF DEEDS

BY: OLIVIA DOYLE, ASST

BK: RE 3691

PG: 3775-3788

W:\DOC FILES-MSWORD-PDF-OTHER FORMATZ-REALPR\COVER SHEETS - TO RECORD IN PUBLIC REGISTRY\DEED\MAIN STREET PART - EVERHART - SBT SIGN - 3-25-22.DOCX

Mail to: Main Street Partners, 1484 Hampton Plaza Dr., Kernersville, NC, 27284

NORTH CAROLINA)
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)
FORSYTH COUNTY)

DECLARATION
OF
RESTRICTIVE COVENANTS
(For Commercial Subdivision)

ENVELOPE

This is a first page to the “**DECLARATION OF RESTRICTIVE COVENANTS (For Commercial Subdivision)**” by and between:

1. **MAIN STREET PARTNERS**, a North Carolina General Partnership; and
2. **BTAR HOLDINGS, LLC**, a North Carolina Limited Liability Company,

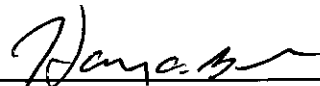
concerning the commercial subdivision known as the “**Final Plat for Main Street Partners and B.M.E Ltd.**” recorded in **Plat Book 39 at Page 39** of the Forsyth County, North Carolina, Registry and **Lot 1** on the Plat Map entitled “**Map for W. Gerald Malone**” recorded in **Plat Book 36 at Page 146** of the Forsyth County, North Carolina, Registry

[The “**DECLARATION OF RESTRICTIVE COVENANTS (For Commercial Subdivision)**” referenced above follows this cover sheet and this cover sheet is meant to request the Forsyth County Register of Deeds to record it under the following Grantor names:

1. **MAIN STREET PARTNERS**, a North Carolina General Partnership;

2. **BTAR HOLDINGS, LLC**, a North Carolina Limited Liability Company;
3. **Everhart Investments**, a North Carolina General Partnership;
4. **Everhart Investments, LLC**, a North Carolina Limited Liability Company;
5. **William Gerald Malone and Helen G. Malone**;
6. **Love and Faith Christian Fellowship**, a North Carolina Non-Profit Corporation;
7. **Pinsetter Properties, LLC**, a North Carolina Limited Liability Company; and
8. **B.M.E, LTD.]**

This 25th day of March, 2022.



HARRY A. BOLES

Attorney-at-Law and Attorney for Main Street
Partners

Declaration of Restrictive Covenants

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Mail to: Main Street Partners, 1484 Hampton Plaza Drive Kernersville, NC 27284

Drawn By: Harry A. Boles, Attorney-at-Law, 214 E. Mountain Street, Suite 101, Kernersville, NC, 27284

Excise Tax: \$ NTC

Statement from Grantor and Grantee concerning Primary Residence: The properties involved in these Restrictive Covenants are not the Primary Residence of the Grantors; by Signing this Instrument, Grantors Verify the Answer to this Statement and the Amount of Excise Stamps; and Delinquent Taxes, if any, to be paid by the Closing Attorney to the County Tax Collector upon disbursement of the closing proceeds, if any.

OWNER	PIN	LEGAL DESCRIPTION
1. BTAR Holdings, LLC	6886-57-8223.00 6886-57-7386.00	Lts. 1 and 2 of MSP PB 39/39
2. BTAR Holdings, LLC	6886-57-7447.00	Lt 1 W.Ger Malone Prop PB 36/146
3. Main Street Partners	6886-57-6310.00 6886-57-5856.00 6886-57-9889.00 6886-58-5083.00	Lts 3, 6, 7 & 8 of MSP PB 39/39

Brief Description for Index: **See Above**

NORTH CAROLINA)
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 FORSYTH COUNTY)

**DECLARATION
 OF
 RESTRICTIVE COVENANTS
 (For Commercial Subdivision)**

KNOW ALL MEN BY THESE PRESENTS that **MAIN STREET PARTNERS, a North Carolina General Partnership**, as First Declarant and the original owner (herein, also the "First Grantor") of the properties described as Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, and Lot 8 as shown on the Plat Map entitled " Final Plat for Main Street Partners and B.M.E., Ltd." (herein the "Commercial Subdivision") , shown on the Plat Map recorded in Plat Book 39 at Page 39 of the Forsyth County, North Carolina, Registry; and **BTAR HOLDINGS, LLC**, a North Carolina Limited Liability Company (successor in interest to Everhart Investments, LLC, a North Carolina Limited Liability Company), as Second Declarant and the present owner of Lots 1 and 2 located in the Commercial Subdivision and the owner of Lot 1 as shown on the Plat Map entitled " Map for W. Gerald Malone" recorded in Plat Book 36 at Page 146 of the Forsyth County, North Carolina, Registry (herein, the "Malone Property") (the said Second Declarant is also sometimes referred to herein as the "Second Grantor"), **hereby covenant and agree** to and with all persons, firms, and corporations hereafter acquiring any interest in the real property now owned by the First Declarant and the Second Declarant which is more particularly described in **Exhibit A** (herein, the "Property") attached hereto, said Property being owned by the undersigned First Declarant and Second Declarant and is hereby subjected to and burdened by the following restrictions, covenants, and conditions (herein, the "Restrictions") and to the use thereof, the said and following **Restrictions being appurtenant to and running with the said Property** by whomsoever owned:

1. The Property shall be used as allowed under the Unified Development Ordinance (herein, the "Ordinance") of the Town of Kernersville, as amended from time to time, as a portion of the Commercial Subdivision.

2. **Concerning the sign** (herein, the "Sign") presently located within the "Sign Easement" at the southeast corner of Lot 1 of the Commercial Subdivision:

a. The Second Declarant/Second Grantor shall pay the cost to build a new sign that complies with the Sketch attached hereto as **Enclosure 1** with full lighted translucent panels for each portion of the Sign including the cost of all electrical wiring, hook-ups, and services in accordance with the Sign Ordinance of the Town of Kernersville and the requirements of Duke Energy;

b. **The Sign shall be built** in accordance with the **Sketch attached at Enclosure 1 and:**

(1) shall include at its top, **“Countryside Centre Cinema”** as shown on the Sketch and as originally included in the previous Sign that was damaged by the wind in the spring of 2021;

(2) shall include in the next advertising space below b. (1) above for **Countryside Cinema** or other appropriate name associated with Lot 6, the space shown on Enclosure 1, a translucent double-sided panel lighted in accordance with the other provisions of these Restrictions;

(3) shall include in the next advertising space below b. (2) above sign panels reserved for the use of Second Declarant or its tenants or successors and assigns or other appropriate name associated with Lots 1 and 2, the space shown on Enclosure 1, a translucent double-sided four-paneled section in accordance with the other provisions of these Restrictions;

(4) shall include in the next advertising spaces below b. (3) above for First Declarant or its tenants or successors and assigns **“translucent double-sided panels** as shown on Enclosure 1 lighted in accordance with the other provisions of these Restrictions;

(5) shall include LED Fixtures with at least 110-amp wiring selected by First Declarant which shall light the entire face (i.e., all translucent sign panels) of the Sign and which shall include automatic devices set for the lighting to come on and off at predetermined times that can be programmed by First Declarant and First Grantor.

c. The Sign in Paragraph 2(b) above shall be under the exclusive control of *First Declarant and First Grantor*, who was and is the developer and declarant of the Commercial Subdivision that began in the 1990’s with First

Declarant and First Grantor still marketing (on the date these Restrictions will be recorded) the sale of properties therein and who still own individual lots therein;

d. First Declarant and First Grantor shall be responsible for all future:

(1). normal repairs (not panel replacements and not including property damages resulting from force majeure or acts of God) to the Sign, except that any replacement panels for the Sign caused by fading or deterioration, or a change in ownership or possession of the Lots or property involved, shall be the responsibility of the owner or business whose name appears on the Sign panel to be changed; and

(2). All electrical utility bills for the Sign, during the time that First Declarant and First Grantor shall be in control of the Commercial Subdivision as provided herein.

e. Although not a part of the Commercial Subdivision, **Lot 1 of the Malone Property shall have a right to have its business name or category included in one of the 48-inch wide by 24-inch-high** translucent double-sided panels as show on the bottom of the Sketch at **ENCLOSURE 1** attached.

f. First Declarant and First Grantor shall be responsible to interface with its tenants on Lots owned by it to secure that any names and logos to be placed on the sign panels.

g. In the event that Town of Kernersville shall not approve the sketch shown as Enclosure 1, the parties agree to be reasonable in negotiations with the Town and to facilitate the issuance of the required approvals and sign permits.

3. **Concerning Cinema Drive**, a private street, lying immediately east of and contiguous to the eastern boundary lines of Lots 1 and 2 of the Commercial Subdivision and Lot 1 of the Malone Property, said street as shown on the Plat Map of the Commercial Subdivision, extending from the northern margin of the right-of-way of NC Highway 150 (a/k/a Main Street)

to the northeast corner of Lot 1 of the Malone Property (herein, sometimes the "Initial Portion of Cinema Drive"):

- a. The owner of **Lot 1 of the Commercial Subdivision** shall pay seven percent (7%) of the cost of maintenance of the "Initial Portion of Cinema Drive;
- b. The owner of **Lot 2 of the Commercial Subdivision** shall seven percent (7%) of the cost of maintenance of the "Initial Portion of Cinema Drive;
- c. The owner of **Lot 1 of the Malone Property** shall seven percent (7%) of the cost of maintenance of the "Initial Portion of Cinema Drive; and
- d. **The owner of the remaining real properties** (Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, and Lot 8) of the Commercial Subdivision, or the First Declarant and First Grantor for so long as First Declarant and First Grantor shall be in total developmental control of the Commercial Subdivision, shall pay the remaining portion of the cost of maintenance of Cinema Drive.

4. Concerning the control of the Commercial Subdivision and Maintenance of the Sign and Cinema Drive until all Lots therein are developed and/or sold by First Declarant and First Grantor: the control of the Commercial Subdivision shall remain with First Declarant and First Grantor and First Declarant and First Grantor shall be responsible for the maintenance of the Sign and Cinema Drive for a period of ten (10) years from the date of recordation of these Restrictions or when the last lot in the Commercial Subdivision has been sold by First Declarant and First Grantor, whichever shall first occur. First Declarant and First Grantor hereby grant as a future interest, to be effective 10 years from the date of recordation of these Restrictions, all of the declarant rights and special declarant rights that First Declarant and First Grantor now have to the Association at which time, 10 years from the date of such recordation, or when the last lot in the Commercial Subdivision has been sold by First Declarant and First Grantor, whichever shall first occur, the said declarant rights and special declarant rights shall automatically transfer to the Association; The Association shall be perfected at the time of the initial organizational meeting. Within 90 days of the date of recordation of these Restrictions, Second Declarant and Second Grantor shall have the right to and shall file with the NC Office of the Secretary of State the required

filings to begin the creation of the Association. Upon the perfection of the Association as herein described, the Association shall be perfected by the owners of lots in the Commercial Subdivision by majority vote (with each Lot receiving 1 vote) in accordance with Paragraph 10 below and the association (herein the "Association") shall then manage the Commercial Subdivision. First Declarant and First Grantor shall retain all "special developmental rights" and "developmental rights" as defined in Chapters 47A, 47C, and 47 F of the NC General Statutes and other applicable law for long as First Declarant and First Grantor shall have absolute control of the Commercial Subdivision, and the definitions of same are incorporated herein by reference which shall include, but not be limited to, the control and exercise of authorities of a developer and declarant set out in the other portions of these Restrictions concerning the Commercial Subdivision.

5. Lot 1 of the Malone Property is not and shall not be a part of the Commercial Subdivision and the rights and responsibilities of the owner to the Sign and Cinema Drive (that portion described herein) shall be determined under the provisions of these Restrictions.

6. The 1.2-acre tract owned by Farmers Hardware, Inc., located at 637 N Main Street is not and shall not be a part of the Commercial Subdivision and the responsibilities of the owner of same shall be determined outside the provisions of these Restrictions.

7. First Declarant and First Grantor may have these Restrictions amended or modified for the **remaining real properties** (Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, and Lot 8) located in the Commercial Subdivision according to law or with the consent of the owners of such remaining real properties provided Second Declarant's and Second Grantor's obligations under any new restrictions and agreements shall not increase its obligations without its written consent. Notwithstanding the foregoing, in the event these Restrictions are amended or modified as contemplated by this Section 7, First Declarant and First Grantor shall provide Second Declarant and Second Grantor with a written copy of such amendments or modifications within ten (10) days of execution thereof.

8. Notwithstanding anything in these Restrictions to the contrary, First Declarant's and First Grantor's control of the Commercial Subdivision shall automatically terminate and cease, unless extended with the written consent of all owners of real properties described in **Exhibit A** which shall be recorded, **ten (10) years from the date of recordation of these Restrictions or when the last Lot in the Commercial Subdivision has been sold by First Declarant and First Grantor, whichever shall first occur.**

9. OTHER PROVISIONS:

- a. These Restrictions resolve all of the outstanding issues set out in the respective parties' claims pending in the civil action captioned *Everhart et al. Vs. Main Street Partners, et al.* in civil file number 21 CVS 4404 in the Office of Superior Court of Forsyth Count, North Carolina;
- b. Although Plaintiff Everhart Investments, LLC, is still a party to the pending civil action referred to above, immediately before the Mediation was held in that civil action, Plaintiff Everhart conveyed the ownership to Lots 1 and 2 of the First Tract described in Exhibit A and Lot 1 of the Commercial Subdivision to BTAR HOLDINGS, LLC, the Second Declarant and Second Grantor herein, which explains why it has been denominated as a "successor in interest" Everhart in these Restrictions;
- c. Concurrent with the execution of these Restrictions, the parties to the civil action in Paragraph 1.a. above shall sign Voluntary Dismissals with Prejudice.

10. With respect to the Association referred to above that shall come into existence at the time that the First Declarant and First Grantor shall cease having control of the Commercial Subdivision as set out above:

- a. any one (1) owner of a Lot in the Commercial Subdivision shall have a right to send a written notice of a special called meeting of the Association for the purpose of organizing and perfecting the Association to all owners of Lots 1 through 8, inclusive, of the Commercial Subdivision, and such notice shall give at least a 21 day written notice in advance of the organizational meeting of the Association and

state that a majority vote of the owners (with each owner having one vote for a total vote of eight votes) present shall constitute a quorum for perfecting its organization and taking actions to elect officers and setup rules and regulations for the governance of the Commercial Subdivision;

b. these Restrictions shall constitute the authority to setup an organizational structure for the governance of the Commercial Subdivision and its Association and at the organizational meeting by majority vote of those present actions should be taken to notify the Secretary of state of the formation of the Association as required by law; and

c. at the said initial special called meeting of the Association, By-Laws or other organizational rules may be adopted by the Association for the governance of the Association.

11. Any restrictions, covenants and/or conditions set forth in these Restrictions may be removed, modified, or changed by securing the written consent of the undersigned or their heirs, beneficiaries, successors or assigns, or by the survivor, which written consent shall be duly executed, acknowledged, and recorded in the Office of the Register of Deeds of Forsyth County, North Carolina, and which written consent may be given or withheld within the uncontrolled and sole discretion of the undersigned.

12. Enforcement of these Restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain or to recover damages, and invalidation of any one of these covenants and provisions by Judgment or Court Order shall in no way affect any of the other provisions which shall remain in full force and effect. By accepting a deed, the grantees of the Property and their heirs, beneficiaries, successors, and assigns shall be bound by these Restrictions.

13. The foregoing covenants, restrictions, and conditions shall run with the lands (i.e. , the "Property") and shall be kept, observed, and performed by the parties charged therewith for a period of twenty-five (25) years from the date of recording these Restrictions, unless the owners of the Property shall sign an instrument which shall be duly recorded in the Office of the Register

of Deeds of Forsyth County, North Carolina, extending these Restrictions for a mutually agreeable and reasonable period of time.

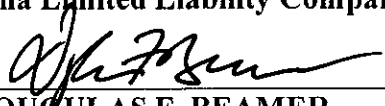
PROVIDED, further that, in the event any one or more of the foregoing covenants, conditions, reservations, or restrictions shall be declared for any reason, by any court of competent jurisdiction, to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions, reservations, and restrictions not so expressly held to be null and void shall continue unimpaired and in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be signed, the 25th day of March, 2022.

MAIN STREET PARTNERS, a North Carolina General Partnership, First Grantor/First Declarant:

By:  (SEAL)
JOHN WALLACE HODGES, SR.
General Partner

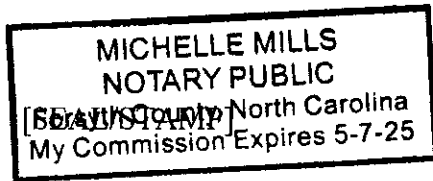
BTAR HOLDINGS, LLC, a North Carolina Limited Liability Company, Second Grantor/Second Declarant (successor in interest to Everhart Investments, LLC, a North Carolina Limited Liability Company):

By:  (SEAL)
DOUGLAS F. BEAMER
Manager/Member

NORTH CAROLINA)
)
FORSYTH COUNTY)

I, **MICHELLE MILLS**, a Notary Public of Forsyth County, North Carolina, certify that, **JOHN WALLACE HODGES, SR.**, General Partner of **MAIN STREET PARTNERS**, a North Carolina General Partnership, First Grantor and First Declarant in the foregoing instrument, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 25th day of March, 2022.



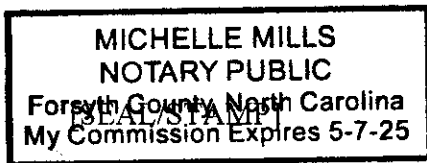
[Signature]
MICHELLE MILLS
Notary Public

My Commission Expires:
May 7, 2025

NORTH CAROLINA)
)
FORSYTH COUNTY)

I, Michelle Mills, a Notary Public of Forsyth County, North Carolina, certify that Douglas F. Brown, Manager/Member of **BTAR HOLDINGS, LLC**, a North Carolina Limited Liability Company, Second Grantor and Second Declarant in the foregoing instrument, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 25th day of March, 2022.



[Signature]
Michelle Mills (Print Name of Notary)
Notary Public

My Commission Expires:
May 7, 2025

EXHIBIT A

Property Description

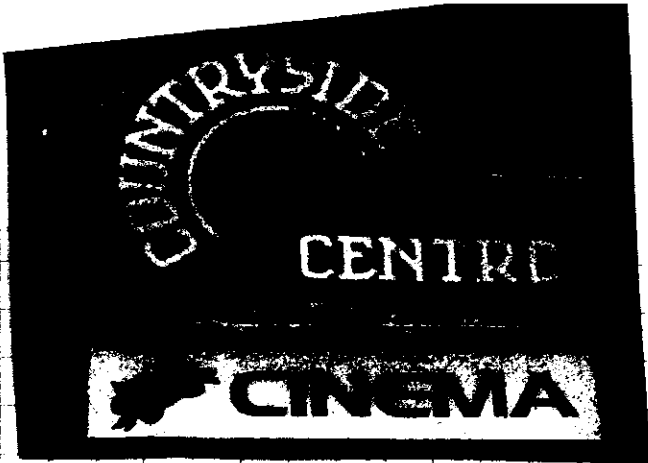
(21-105/4922; Main Street Partners) Being tracts or parcels of real property lying in **Kernersville Township, Kernersville, Forsyth County, North Carolina**, which is more particularly described as follows:

FIRST TRACT:

COMMERCIAL SUBDIVISION: Known as Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, and Lot 8 as shown on the Plat Map entitled "Final Plat for Main Street Partners and B.M.E., Ltd." (herein the "Commercial Subdivision"), shown on the Plat Map recorded in Plat Book 39 at Page 39 of the Forsyth County, North Carolina, Registry

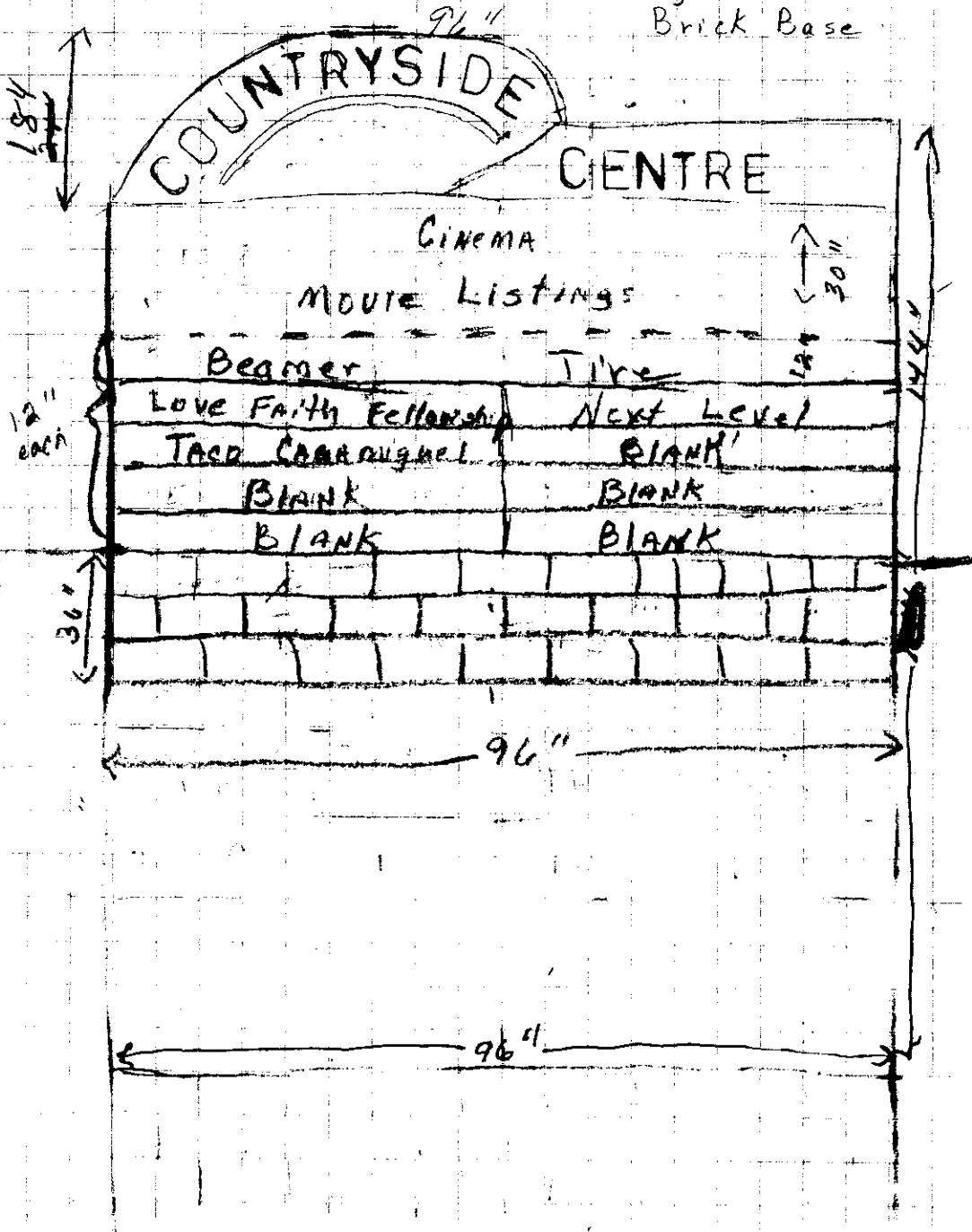
SECOND TRACT:

MALONE TRACT: Known as Lot 1 as shown on the Plat Map entitled "Map for W. Gerald Malone" recorded in Plat Book 36 at Page 146 of the Forsyth County, North Carolina, Registry.



Enclosure 1

- Acrylic Panels - off white
- Letters - green
- Aluminum Trim - Green
- Lights - LED
- Brick Base



Basically, I want the top of the sign to
 look exactly like it did on the wall with the acrylic