HAWKS NEST AT HIGHLAND LAKES

Hawks Nest Premier Living Planned Residential District Big Walnut Road and Worthington Road Westerville, Ohio August 25, 2017

PRD EXECUTIVE SUMMARY

This serves to highlight documents added/changed to the August 25, 2017 submission for Hawks Nest at Highland lakes Preliminary Development Plan Submission

- Text updated to reflect change in pathways and open space-specifically- Page 4- Easements and funding of pathways, page 11 and 12, updated open space number (county requesting 120' ROW versus 100' per thoroughfare plan), page 22, height of pole lights reduced to 10'
- 2.) Exhibit C-1 updated to reflect new pathway configuration and easements, increased ROW and updated open space numbers
- 3.) Exhibit C-2 updated to reflect new pathway configuration and easements and increased ROW
- 4.) Exhibit D-1 updated to reflect new pathway configuration and easements and increased ROW
- 5.) Exhibit D-2 updated to reflect new pathway configuration
- 6.) Exhibit D-3 updated to reflect new pathway configuration and easements, increased ROW and updated open space numbers. Limited Common area reduced to 15' at rear of units to compensate for additional ROW take to maintain open space numbers
- 7.) Exhibit F-1 updated to reflect reduction in amount and height of light poles

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ZONING MAP AMENDMENT APPLICATION GENOA TOWNSHIP DEVELOPMENT & ZONING OFFICE (614) 899-0725 PHONE, (614) 895-1255 FAX

ZC CASE NO:

5111 S. OLD 3C Hwy., Westerville, Ohio 43082, <u>www.genoatwp.com</u>	EFFECTIVE: 01/07/16
PROPERTY OWNER(S): See Attachment	MAILING ADDRESS: Se Attachment
DEVELOPER/CONTRACTOR: Hawks Nest Premier Living	РНОЛЕ: 614-341-4800
ADDRESS: 150 E Mound St, Ste. 103 Columbus, Ohio 43215	EMAIL: patshivleysr@gmail.com
PRIMARY CONTACT: Pat Shivley Sr.	Рноле: 614-341-4800
ADDRESS: 150 E Mound St, Ste. 103 Columbus, Ohio 43215	EMAIL: patshivleysr@gmail.com
PROPERTY ADDRESS: See attachment	
Parcel Number(s): See attachment	
ACREAGE: 19.055 ACRES NUMBER OF PROPOSED LOTS (BUILDAB	BLE LOTS): <u>30</u> PROPOSED OPEN SPACE: <u>10.07</u> ACRES
SUBDIVISION NAME (IF APPLICABLE): NA	LOT NUMBER(S): NA LOT SIZE: condos
EXISTING ZONING DISTRICT(S): ERR (RURAL RESIDENTIAL) SR (SU CB (COMMUNITY BUSINESS) FPCF (PLANNED COMMUNITY FACILITIES)	\Box LI (LIGHT INDUSTRIAL) \Box PCD (PLANNED COMMERCIAL)
PRESENT USE(S):	□ INSTITUTIONAL □ AGRICULTURAL □ OTHER: Church
PROPOSED ZONING DISTRICT(S): RR (RURAL RESIDENTIAL) PRR SR (SUBURBAN RESIDENTIAL) PRD (PLANNED RESIDENTIAL) PRD PCD (PLANNED COMMERCIAL) PID (PLANNED INDUSTRIAL) PCF (F PROPOSED USE(S): RESIDENTIAL COMMERCIAL INDUSTRIAL	-V (Lower-Density Planned Residential)
AGREE TO BE BOUND BY PROVISIONS OF THE ZONING RESOLUTION OF G I REQUEST TO INDUCE THE AFOREMENTIONED AMENDMENT TO I HAVE ATTACHED OR ENCLOSED WITH THIS APPLICATION TE APPROVAL WITH THIS APPLICATION AND ONE DIGITAL COPY (F PLAN, A LANDSCAPE PLAN, A SIGNAGE PLAN, A TRAFFIC S APPLICATION PROCEDURES AND/OR TO PROVE COMPLIANCE WI I HAVE ATTACHED OR ENCLOSED A LIST OF NAMES AND ADDRES PROPERTY(S) FOR WHICH THIS APPLICATION IS SUBMITTED (C OFFICE). ALSO, PROVIDED IS A SET OF ADDRESSED AND STA LIST. UPDATED ENVELOPES WILL BE REQUIRED PRIOR TO THE I HAVE SUBMITTED APPLICABLE FEES, PER THE CURRENT ADDITIONAL FEES WILL BE DUE FOR SUBSEQUENT PUBLIC HEAR PAT Shivle	THE GENOA TOWNSHIP ZONING MAP. EN (10) COPIES OF ALL MATERIALS WHICH ARE TO BE CONSIDERED FOR PDF FORMAT), INCLUDING AN EXISTING FEATURES PLAN, A DEVELOPMENT TUDY AND OTHER INFORMATION REQUIRED IN ACCORDANCE WITH THE TH OTHER SECTIONS OF THE ZONING RESOLUTION. SSES OF ALL PROPERTY OWNERS WITHIN FIVE HUNDRED (500) FEET OF THE FAN BE OBTAINED FROM THE GENOA TOWNSHIP DEVELOPMENT & ZONING AMPED PLAIN WHITE BUSINESS SIZE ENVELOPES FOR EACH NAME ON THIS TRUSTEE'S HEARING. GENOA TOWNSHIP ZONING FEE SCHEDULE AND ACKNOWLEDGE THAT FINGS IF I SO CHOOSE TO TABLE OR WITHDRAW THIS APPLICATION.
SIGNATURE OF OWNER(S) OWNER(S) NAME F	PRINTED OR TYPED DATE OF APPLICATION
	ORMS WILL NOT BE PROCESSED S LINE – FOR OFFICE USE ONLY
DATE RECEIVED: COMPLETE APPLICATION: □ YE	
TYPE OF PAYMENT: CREDIT CARD CHECK NO. AMOUNT	IT: STAFF COMPLETING REVIEW:
DCRPC HEARING DATE: ACTION: ACTION: APPROVED DENI	ED / ZC HEARING DATE: ACTION: APPROVED DENIED
NOTES:	TRUSTEE HEARING DATE: ACTION: APPROVED DENIED

Attachment to Zoning Map Amendment Application

Hawks Nest at Highland Lakes

Property Owner M	ailing and Property Address	Parcel Number
The Greater Ohio District of the Wesleyan Church	5960 Big Walnut Road, Galena, OH 43021	31723004003000
Michael R. Emrich	6090 Big Walnut Road, Galena, OH 43021	31723004001000
Michael R. Emrich	Worthington Road, Westerville, Oh, 43082	31723004093000
Michael R. Emrich	5450 Worthington Road, Westerville, Oh, 43082	31723004094000

Hawk's Nest at Highland Lakes

August 25, 2017 September 22, 2017

ARTICLE 9: PLANNED RESIDENTIAL DISTRICT (PRD)

Section 901: Intent and Purpose

The Township recognizes that with increased suburbanization and population growth come increased demands for well-organized residential areas which take into account unique natural features, contemporary land use concepts, and a balanced residential environment. The Planned Residential District is intended to promote flexibility of land development for residential purposes while still preserving and enhancing the health, safety, and general welfare of the inhabitants of the Township. Such developments shall be based upon a unified development plan conceived and carried out for the entire site.

901.01 It is the policy of the Township to permit the creation of Planned Development Districts to:

A) Preserve and extend the charm and beauty existent in and inherent to the rural residential character of Genoa Township;

B) Provide the economic and social advantages resulting from an orderly planned use of large parcels of land;

C) Provide a more useful pattern of Open Space and recreation areas;

D) Promote development patterns, which preserve and utilize natural topography and geologic features, scenic vistas, trees and other vegetation, and prevent the disruption of natural drainage patterns;

E) Promote a more efficient use of land than is generally achieved through conventional development resulting in substantial savings in utility and street extensions; and

F) Promote development patterns in harmony with land use density, transportation facilities and community facilities.

901.02 This Section establishes standards for Planned Residential Districts in areas served by central sanitary sewers and Central Water Systems, or developments utilizing other sewage treatment options approved in the development plan.

901.03 Pursuant to Ohio Revised Code Section 519.021(A), this District may be permitted upon application and approval of specific and detailed Final Development Plans and all shall require amendments to the official Zoning Map. Approval for Planned Development rezoning applications may be granted pursuant to ORC 519.12 only when the plan for the project complies with these

regulations and promotes the general public health, safety, morals and welfare and encourages the efficient use of land and resources, promotes greater efficiency in providing public and utility services and encourages innovation in the planning and building of the development.

Section 902: Contiguity of Land and Project Ownership

902.01 All land within a proposed Planned Development shall be contiguous and shall not be divided into parts by any state or federal limited access highway or by any railroad Right-of-Way.

The subject property consists of contiguous parcels currently zoned Planned Communities Facility District (PCF) AND Rural Residential (RR) and consisting in total of 18.6794 acres.

902.02 The Planned Development area shall be under contract for purchase by a single entity or owned by a single entity at the time of application. For the purposes of this subsection a single entity includes the following: a husband and wife; corporation; partnership; or two or more property owners who have entered into a general development plan for a Planned Development.

The subject property is under contract to be sold to a single entity, Hawk's Nest Premier Living.

Section 903: General Requirements

903.01 The provisions of this Article shall apply to all lands zoned in the Planned Residential District. Only parcels of at least twenty-five (25) acres in size or under application for rezoning to PD-1 that collectively sum twenty-five (25) acres or more shall be considered for Planned Residential District zoning (PRD).

A divergence is required to this section, said divergence is appropriate and consistent with the land use goals of Genoa Township to accommodate appropriate redevelopment of the property using conservation methods at a density below the density recommendation of the recently adopted Genoa Township Comprehensive Plan. Residential uses are in keeping with the character of all the surrounding land uses rather than the present use and zoning of Planned Community Facilities District, which allows for various uses that are much more intense and disruptive than single family condominiums.

903.02 The Density of land use within a Planned Residential District shall not exceed 2.2 Dwelling Units per Net Developable Acre when Conservation Development Standards are used or 1.8 Dwelling Units per Net Developable Acre otherwise.

The proposed development shall not exceed thirty (30) dwelling units for a gross density of **1.61 Dwelling Units per acre.** The net developable density shall be **1.95 Dwelling Units per** (net developable) acre.

903.03 Reserved

903.04 Single-family detached Dwelling Units shall constitute no less than sixty-five percent (65%) of the total Dwelling Units in a Planned Residential District (PRD) if Conservation Development Standards are not used.

Conservation Development Standards will be used and accordingly this section does not apply.

903.05 Cluster or common wall Single-family zero lot line, attached twin singles, townhouses, or other innovative forms of residential development shall constitute no more than thirty-five percent (35%) of the total number of Dwelling Units within a Planned Residential District (PRD) if Conservation Development Standards are not used.

Conservation Development Standards will be used and accordingly this section does not apply.

903.06 Perimeter requirements shall call for comparable type and value of land use with neighboring Districts where feasible.

The proposed type and value of homes within the proposed development shall be comparable to the neighboring districts.

903.07 Storm Water Management – all site plans must have a storm water management plan, approved by the Delaware County Engineer's Office, with the improvements constructed before a zoning certificate will be issued for construction of Buildings.

Prior to commencement of construction a storm water management plan will be submitted to and approved by the Delaware County Engineer's Office by the developer.

903.08 Parking and Loading Areas

A) The overnight parking of automobiles and other vehicles on private or public streets within a Planned Development is prohibited.

All streets within the proposed development shall be private and overnight parking shall be prohibited, unless in a designated off street parking spot. All parking regulations will be enforced by a forced and funded Owner's Association.

B) All automobile parking lots shall be screened from adjoining streets and adjoining residential properties in accordance with Article 20.

Parking shall occur primarily in garages (two spaces per homes) and on the driveways (two spaces per home) of each Dwelling Unit for a total of four (4) parking spaces per home. Main Streets are proposed to be 26.5 feet in width, which allows for parking on one side of the street opposite from side with fire hydrants, which shall serve as additional parking to accommodate residents and guests. No parking signs shall be

placed on the hydrant side of streets and the both sides of the 22' width street serving units 25 and 26

C) No parking lot shall be closer than seventy-five (75) feet from the edge of the contiguous street Right-of-Way in a Planned Residential District.

There are no parking lots proposed. See exhibit C-1.

D) Parking spaces and loading areas shall be provided in accordance with Article 19.

All parking shall be provided as stated herein <mark>item B</mark> above and as shown on the site plan, exhibit C-1. No loading areas are proposed.

903.09 Streets – All streets including private streets shall conform to specifications as set forth in the Delaware County Subdivision Regulations. Public road improvements in Planned Developments shall require the following:

- A) All street drainage shall be enclosed;
- B) Curbs and gutters shall be installed; and

C) All streets shall have a minimum pavement width of twenty-two (22) feet.

The entry to the site from Worthington Road will provide both inbound and outbound lanes. In addition, there will be an emergency access connection to Big Walnut Road, as shown on the site plan. The main private street through the site shall be twenty-six and one half (26.5) feet in width with concrete curb and gutter. The street serving units 25 and 26 shall be twenty two (22) feet wide. All street drainage shall be enclosed.

903.10 Walkways – All residential developments shall be provided with concrete sidewalks on both sides of the street throughout the development. All other walkways shall be constructed of a suitable, dust free, hard surface material. Mulch or other similar surfaces may be permitted for walking trails in areas the Zoning Commission feels are appropriate.

A four (4) foot wide concrete sidewalk along both sides of the internal streets shall be provided as shown on the site plan, exhibit C-1. Additionally, five (5) foot width asphalt sidewalks will be incorporated into open spaces throughout the site, which will have **easements to** be interconnected with a perimeter path system along both road frontages. The Worthington Road frontage will have the pathway constructed as part of this development, while the Big Walnut frontage will provide easements for future pathway construction. The developer shall provide funds for the future construction of this pathway or other methods as determined by the Township during the final development approval portion of this project. The sidewalks along both Big Walnut Road and Worthington Road shall be eight (8) feet wide and constructed of asphalt. The 8' width sidewalks along Big Walnut and Worthington Road shall have pedestrian and construction easements to allow for connections to be constructed in the future.

903.11 Trees

A) The clearing of land shall be kept to a minimum to help preserve the existing natural conditions.

B) No land shall be cleared of trees more than fifteen (15) feet from the foundation of a proposed Building. An exception to this requirement shall be granted in the case of those trees that should be removed due to malformation, disease, safety hazards, or to the general benefit of surrounding trees. The foregoing shall be considered as a guideline for preservation of the natural environment.

C) No trees shall be cleared further than five (5) feet from curbs of a parking lot. The foregoing shall be considered as a guideline for preservation of the natural environment.

The proposed development will comply with this section.

903.12 Landscaping – All yards, front, side, and rear shall be landscaped and all nonresidential Use areas shall be landscaped. The developer shall submit a conceptual landscaping plan to be reviewed as part of the development plan. Each platted Lot shall be seeded or sodded in accordance with the approved development plan before a Certificate of Zoning Compliance is issued.

All landscaping will be owned and maintained by the Owner's Association. Landscape Design criteria submitted by the applicant will be administered and enforced by the developer and the subsequent condominium owners association.

Improving the limited common areas and protected open spaces with amenities, landscaping, and gardens or any other improvement permitted within such spaces without permit via the Zoning Resolution, shall be solely controlled and managed by the developer and the subsequent condominium owner's association.

It is the developer's intent to construct an undulating earthen mound in the setback area located generally at the side/rear of homes within the west boundary of the site as conceptually shown on the site plan, along rear and sides of homes around the periphery of the existing home located in the center of the site, and along the existing homes on Worthington Road. These mounds will be landscaped with a combination of shade, ornamental, and evergreen trees. An evergreen buffer along shall be incorporated along the southern perimeter from the existing tree preserve westerly. The mound and all other landscaping details will be presented and considered with the Final Development Plan. See exhibits D-1 and D-2 for concept landscape plan.

Section 904: Permitted Principal Uses

904.01 Permitted Uses without Conservation Development Standards

Within a Planned Residential District, without the use of Conservation Development Standards, the following Uses are permitted subject to the area, size, Density, and other provisions set forth in this Resolution.

Conservation Development Standards will be used and accordingly this section does not apply.

A) Single-family detached Dwellings on Lots of ten thousand (10,000) square feet or greater.

B) Cluster Housing and Single-family zero lot line units on portions of the property. The overall Density for such portion of the property devoted to Cluster Housing and related Open Space shall not exceed the Density that would result if those portions of the property were developed for single-family detached units in accordance with Section 901. The portions of the property devoted to Cluster Housing shall not exceed six (6) units per acre, except as permitted in Section 904.01 (C).

C) Common Wall Single Family Attached Dwelling Units on portions of the property. The overall Density for such portion of the property devoted to Common Wall Single Family Attached Dwelling Units and related Open Space shall not exceed the Density that would result if those portions of the property were developed for Single-family detached units in accordance with 903. The portions of the property devoted to Common Wall Single Family Dwelling Units shall not exceed six (6) Dwelling Units per acre.

D) Nonresidential Uses of a religious, cultural, educational or recreational nature or character to the extent they are designed and intended to serve the residents of the Planned Residential District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.

E) Public Buildings and/or Uses which are supported in whole or part by taxes or by special public assessment. Such Uses include but are not limited to parks, playgrounds, libraries, schools, fire stations, community centers, water treatment, pumping and storage facilities, and wastewater treatment and pumping facilities.

F) Forest and wildlife preserves.

G) Projects specifically designed for watershed protection, conservation of soil or water or for flood control.

H) Family care homes and group care homes as regulated by Section 1704.

904.02 Permitted Uses With Conservation Development Standards

The proposed development will use Conservation Development Standards and shall comply with this section.

A) Single-Family detached Dwellings.

B) Cluster Housing units.

C) Common Wall Single Family Attached Dwelling Units.

D) Single-family zero lot line, Attached twin singles, townhouses, or other innovative forms of residential development, provided all Density criteria and applicable requirements are met.

E) Nonresidential Uses of a religious, cultural, educational or recreational nature or character. Said facilities must be located with direct access to a major Thoroughfare or arterial street as to permit access without burdening residential streets.

F) Public Buildings and/or Uses which are supported in whole or part by taxes or by special public assessment. Such Uses include but are not limited to parks, playgrounds, libraries, schools, fire stations, community centers, water treatment, pumping and storage facilities, and wastewater treatment and pumping facilities.

G) Forest and wildlife preserves.

H) Projects specifically designed for watershed protection, conservation of soil or water or flood control.

I) Family Care Homes and Group Care Homes as regulated by Section 1704.

Section 905: Permitted Accessory Uses

Any accessory uses desired by the developer will be presented and considered with the Final Development Plan. Concept signage is located on Ex. D-2.

905.01 Accessory Buildings as regulated by Section 1609.

905.02 Accessory Signs as regulated by Article 18.

All signage will be presented by the applicant for consideration by the Township with the Final Development Plan.

905.03 Accessory storage of recreational vehicles, boats, motor homes, equipment, trailers, and other vehicles other than passenger cars as regulated by Section 1906.

905.04 Private Swimming Pools together with game courts for the use of occupants and their guests as regulated by Section 1709.05.

905.05 Golf courses, as regulated by Section 1710, provided that such courses are subsidiary to the primary residential use of the property.

905.06 Private Recreational Facilities, as regulated by Section 1711, provided that such facilities are subsidiary to the primary residential use of the property.

A community area shall be located in the large centrally located open space island. It will contain landscaping, pathways, and benches. Further details shall be presented and considered during the Final Development Plan phase. See D-1 for landscape plan.

905.07 A clubhouse and/or multipurpose Building shall be allowed as an Accessory Use on those properties where a golf course is provided, as specified in Section 905.05. Such clubhouse and/or multipurpose Building may contain a restaurant catering primarily to golf club members and their guests.

905.08 Home Occupations conducted by the owner in residence of a permitted Dwelling as regulated by Section 1708.

905.09 Parking lots or storage yards for boats and recreational vehicles provided such area is owned or controlled by neighborhood or community associations and use is limited to the residents of the subdivision served.

905.10 Temporary Uses specified in and regulated by Section 1702.

Section 906: Prohibited Uses

No uses specified below as prohibited are proposed.

906.01 All Uses not specifically authorized as a permitted or conditionally permitted Use by the express terms of this Section of the Zoning Resolution are hereby prohibited unless it is specifically determined by the Board of Zoning Appeals, in accordance with Article 3, Section 308 that the proposed Use is substantially similar to and compatible with other Uses permitted within the District.

906.02 Outdoor Storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days is prohibited. Such vehicles, if stored on the premises, shall be enclosed within a Building so as not to be visible from any adjoining property or public road.

906.03 Except as specifically permitted by Section 1707 and Section 1702 no Mobile Home or mobile office shall be placed or occupied in this District.

906.04 Adult Entertainment and Adult Entertainment Facilities are prohibited.

906.05 Homes for adjustment and institutions as herein defined under Residential Care Facilities are prohibited.

906.06 Except as specifically permitted by Article 22, no telecommunications tower as defined in Ohio Revised Code Section 519.211(B)(1) shall be allowed in this District.

906.07 Any commercial or business use of a parcel in this District shall be prohibited unless it complies with Section 1708, Home Occupations, of this code. This shall include but is not limited to parking of vehicles or equipment used in a business or the operation of a service type business where no work actually takes place on the site such as roofing, excavating or lawn maintenance, plumbing and other similar type operations.

Section 907: Residential Driveway Setback Requirements

907.01 All driveways or pavement shall have a Setback of no less than two (2) feet from the property line.

All driveways shall comply

907.02 All side load garages shall have a turning pad of no less than twenty-four (24) feet.

All driveways shall comply

907.03 No driveway shall be located so it enters a public road within forty (40) feet of the intersection of the edge of the contiguous Right-of-Way of any two (2) public roads.

All driveways shall enter the proposed private street and none will enter any public roads. Driveways may connect to the private street at any point in accordance with industry practice and sound traffic engineering principles.

Section 908: Minimum Floor Area Requirements

The minimum residential Floor Area per Dwelling Unit within Genoa Township shall be in accordance with the following. The minimum square footage of Floor Area shall be exclusive of Porches, breezeways, utility areas, storage areas, unheated areas, unfinished areas, Basements and Attached Garages.

Dwelling Type		Minimum Floor Area.
One story		One thousand one hundred (1,100) s.f. of Floor Area above grade.
1½/Split	level/Bi-	One thousand two hundred (1200) s.f. of Floor Area with nine
level/Walkout		hundred sixty (960) square feet on the first floor above grade.
		One thousand four hundred (1400) square feet of Floor Area
Two stories		with
		Eight hundred (800) square feet on the first floor above grade.
	Attached on	Six hundred (600) square feet of Floor Area for a one (1)
0	Attached or	bedroom unit; seven hundred fifty (750) square feet for a two
Common Wall		(2) bedroom

unit.

Garage

Two (2) car Attached Garage.

All Dwelling Units shall be single-family detached condominium homes with two (2) car attached garages. All dwellings may be built, at the buyer's option, as either one-story or one-and-a-half story. All units shall have basements. Minimum square footage shall be 1,900 sf, and with optional finished basement and story and a half addition, will reach 2,700 sf.

No structure shall exceed 35' in height per Township resolution.

Section 909: Dimensional Requirements

909.01 Dimensional Requirements without Conservation Development Standards

Conservation Development Standards will be used and accordingly this section does not apply.

A) Minimum yard requirements: front, side, and rear yards for single family detached Dwellings on Lots of ten thousand (10,000) square feet or greater shall be designed so that no residential Dwelling is closer than twenty (20) feet to any other residential Dwelling. Other permitted Uses shall have front, side, and rear yards each of which is at least forty (40) feet. No Buildings shall be located closer than fifty (50) feet to any residential District boundary line or thirty (30) feet to any private street or public Right-of-Way.

B) Floor space requirements: each residential Dwelling hereafter erected in this District shall have a minimum Floor Area per Dwelling Unit as specified in Section 908.

C) Minimum yard requirements: Front, side and rear yards for Common Wall and Cluster Housing shall be designed so that no residential Building is closer than eleven (11) feet to any other residential Building. Other permitted Uses shall have front, side, and rear yards each of which is at least forty (40) feet. No Buildings shall be located closer than twenty-five (25) feet to any private street or public Right-of-Way or fifty (50) feet to any residential District boundary line.

D) There shall be an Open Space no-build Setback of two hundred (200) feet measured from the centerline of a major Thoroughfare or arterial street to any Lot Line(s) of the house lots created within the PD-1 zone.

909.02 Dimensional Requirements with Conservation Development Standards

The proposed development will use Conservation Development Standards.

The Zoning Commission may, as a part of the PD-1, with Conservation Development Standards, review process, require specific dimensional requirements if in their opinion such requirements are in the best interests of the health and welfare of the general Township.

A) Minimum yard requirements: Residential, none. Other permitted Uses shall have front, side, and rear yards each of which is at least fifty (50) feet. No Building shall be located closer than fifty (50) feet to any residential district boundary line. There shall be an Open Space no-build Setback of two hundred (200) feet measured from the centerline of a major Thoroughfare or arterial street to any Lot Line(s) of the house lots created within the PD-1 zone.

The proposed development shall comply with this section.

B) Floor space requirements: each residential Dwelling hereafter erected in this District shall have a minimum Floor Area per Dwelling Unit as specified in Section 908.

The proposed development shall comply with this section as described in more detail in Section 908.

Section 910: Open Spaces

At least forty percent (40%) of the gross acreage within a "PD-1" Planned Development, shall be reserved as Open Space. In computing the amount of gross acreage Open Space, road Rights-of-Way of all types, paved vehicular areas including parking areas and driveways shall be excluded. It does not include the areas of individual fee simple lots conveyed to homeowners. The gross acreage open space area may be, but is not required to be, open to all residents of the Planned Development or general public.

Approximately **51.12% (9.55 +/- acres)** of the gross acreage of the site shall be open space.

The following items are a part of the computation of the gross acreage Open Space: Scenic easements, utility easements, existing lakes or ponds, and/or private and public active or passive Open Space, and including up to twenty-five percent (25%) of land area included within bounded stanchions but located between guy-wiring and stanchions Attached to a communications tower if said guy-wires and stanchions are located so as to leave said percent open to the sky. All land area located between guy-wiring and stanchions and included in an Open Space computation shall be landscaped so as to screen the base of the tower and all related Structures and shall not be used for active or passive recreation facilities of any kind.

Section 911: Common Open Spaces

911.01 Common Open Space requirements if Conservation Development Standards Are Not Used:

Conservation Development Standards and accordingly this section does not apply.

A) A minimum of fifteen percent (15%) of the gross acreage within a residential Planned Development shall be required to be Common Open Space, and shall be accessible to all tenants or residents within the zoning property, but is not required to be open to the general public.

B) The location, shape, size and character of Common Open Space shall be suitable for the Planned Development in relation to the location, number and types of Buildings it is intended to serve. In any case, it shall be highly accessible to all residents of the Planned Development. Entry features, detention and retention basins shall not be included in the area required for Common Open Space.

C) The Common Open Space shall be used for amenity or recreational purposes. Any Uses and/or Buildings authorized for the Common Open Space must be appropriate to the scale and character of the Planned Development in relation to its size, Density, expected population, topography, and the type of Dwellings.

D) The Common Open Space may be suitably improved for its intended Use, but Common Open Space containing natural features worthy of preservation such as slopes over twelve percent (12%) and wooded areas may be left unimproved. The Buildings, Structures, and improvements that are permitted in the Common Open Space must be appropriate to the Uses which are authorized for the Common Open Space and must conserve and enhance the amenities of the Common Open Space with regard to its topography and unimproved condition.

911.02 Common Open Space Requirements if Conservation Development Standards Are Used:

The proposed development will use Conservation Development Standards.

A) Conservation Developments requires that no less than fifty percent (50%) of the total gross area of the area being developed be set-a-side as Common Open Space. Open Space land may, at the discretion of the Township Trustees, be dedicated as public parkland or public institutional use; or placed within other protected land classification systems which will assure that such land will remain in a natural state prohibiting further development, and the establishment of appropriate standards safeguarding the site's special assets as identified by the Zoning Commission.

Approximately **51.12% (9.55 +/- acres)** of the site shall be common open space.

Included in the common open space calculation are the sidewalks through the open space areas. All such areas are designated on the attached exhibits.

All open space shall be part of the forced and funded Owner's Association designated as either Common Element or Limited Common Element but shall be not be accessible to the general public.

Improving the limited common areas and protected open spaces with amenities, landscaping, and gardens or any other improvement permitted within such spaces without permit via the Zoning Resolution, shall be solely controlled and managed by the developer and the subsequent condominium owner's association. Front and side yard improvements allowed will be limited to landscape and irrigation. Rear yard improvements that do not encroach onto required common open space shall be limited to gardens, landscape, irrigation, patios, decks, and fire pits.

B) The location, shape, size and character of Common Open Space shall be suitable for the Planned Development in relation to the location, number and types of Buildings it is intended to serve. In any case, it shall be highly accessible to all residents of the Planned Development. Entry features, detention and retention basins shall not be included in the area required for Common Open Space.

The attached Open Space Exhibit (Ex D-3) designates all areas included in the above described open space calculation.

C) The Common Open Space shall be used for amenity or recreational purposes. Any Uses and/or Buildings authorized for the Common Open Space must be appropriate to the scale and character of the Planned Development in relation to its size, Density, expected population, topography, and the type of Dwellings.

The proposed development shall comply with this section.

D) The Common Open Space may be suitably improved for its intended Use, but Common Open Space containing natural features worthy of preservation such as slopes over twelve percent (12%) and wooded areas may be left unimproved. The Buildings, Structures, and improvements, which are permitted in the Common Open Space, must be appropriate to the Uses which are authorized for the Common Open Space and must conserve and enhance the amenities of the Common Open Space with regard to its topography and unimproved condition.

The proposed development shall comply with this section.

Section 912: Off-Site Common Open Spaces

912.01 In lieu of the Common Open Spaces required in Section 911, above, the Zoning Commission or Township Trustees, as the case may be, may accept, as part of an approved Final Development Plan, Common Open Space consisting of an off-site unified tract of land which is suitably located and of adequate type and size to accommodate recreational facility sites, parks and other similar types of public uses.

No Off-site Common Open Spaces are proposed.

912.02 The proposed off-site Common Open Space shall be conveyed to a public authority that will agree to maintain the off-site Common Open Space and any Buildings, Structures or improvements that have been placed on it. All land conveyed to a public authority must meet the requirements of the appropriate public authority as to size, shape, location, character and the method, conditions, and timing of the transfer. Public utility or other similar easements and Right-

of-Way for watercourses or other similar channels are not acceptable for off-site Common Open Space dedication unless such land or Right-of-Way is usable as a trail or other similar purpose and approved by the public authority to which land is to be transferred.

912.03 The off-site Common Open Space shall be used for recreational purposes, Open Space, park, school site, or other similar type of public use. Any Uses and/or Buildings authorized for the off-site Common Open Space must be appropriate in relation to the location, size, shape and topography of the tract.

912.04 The off-site Common Open Space may be suitably improved for its intended Use, but offsite Common Open Space containing natural features worthy of preservation such as slopes over twelve percent (12%) and wooded areas may be left unimproved. The Buildings, Structures, and improvements that are permitted in the off-site Common Open Space must be appropriate to the Uses which are authorized for the off-site Common Open Space and must conserve and enhance the amenities of the off-site Common Open Space with regard to its topography and unimproved condition.

912.05 The minimum size of the proposed off-site Common Open Space shall be the greater of fifteen percent (15%) of the gross acreage of the Planned Development or five (5) acres.

912.06 Off-site Common Open Space shall only be considered upon request of the applicant and upon a determination that Common Open Space within the development is insufficient, inappropriate and impractical for the proposed Uses and purposes and that the off-site Common Open Space is reasonably accessible to all residents and users of the Planned Development. In all cases, the benefits of a proposed off-site Common Open Space shall outweigh the benefits of providing Common Open Space within the Planned Development.

Factors used in evaluating the adequacy and appropriateness of the proposed off-site Common Open Space include:

A) The location, size, shape and topography of the tract;

B) The intended Use of the tract and the existing and proposed amenities, improvements and facilities;

C) The access to and location of the tract in relation to the Planned Development;

D) The method and degree of integration of the tract with the Planned Development;

E) The character of the Zoning District in which the tract is located, the Uses permissible within the District, and the compatibility of the proposed Uses with adjoining development and Uses; and

F) The availability and adequacy of essential public facilities and services.

Section 913: Ownership of Common Open Space

Different ownership and management options apply to the permanently protected Common Open Space created through the development process. The Common Open Space shall remain undivided and may be owned and managed by a Homeowner's Association, the township, or a recognized land trust or conservation District (conservancy). A public land dedication, not exceeding ten percent (10%) of the total parcel size, may be required by the Township to facilitate trail or pathway connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

All open space shall be owned by the Owner's Association and its use shall be restricted by the approved zoning and the Owner's Association documents.

Ownership Standards. Common Open Space within the development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the township.

913.01 Offer of Dedication. The Township shall have the first offer of dedication of undivided Common Open Space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Township may, but is not required to accept undivided Common Open Space provided: 1) such land is accessible to all the residents of the Township; 2) there is no cost of acquisition other than incidental costs related to the transfer of ownership; 3) the Township agrees to maintain such lands. Where the Township accepts dedication of Common Open Space that contains improvements, the Township may require the posting of financial security to ensure structural integrity of improvements for a term not to exceed eighteen (18) months.

913.02 Homeowner's Association. The undivided Common Open Space and associated facilities may be held in common ownership by a Homeowner's Association. The association shall be formed and operated under the following provisions:

A) The developer shall provide a description of the association, including its bylaws and methods for maintaining the Common Open Space.

B) The association shall be organized by the developer and shall be operated by the developer, before the sale of any Lots within the development.

C) Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

D) The association shall be responsible for maintenance of insurance and taxes on the undivided Common Open Space, enforceable by liens placed by the Township on the association. The association may establish rules to ensure proper maintenance of property, including monetary liens on the homes and home sites of its members who fail to pay their association dues in a timely manner. Such liens may impose a penalty of interest charges.

E) The members of the association shall share equitably the costs of maintaining and developing, where appropriate, such undivided Common Open Space. Shares shall be defined within the association bylaws.

F) In the event of transfer, within the methods here permitted, of undivided Common Open Space land by the Homeowner's Association, or the assumption of maintenance of undivided Common Open Space land by the Township, notice of such pending action shall be given to all property owners within the development.

G) The association shall provide for adequate staff to administer common facilities and property and continually maintain the undivided Common Open Space.

H) The Homeowner's Association may lease Common Open Space lands to any other qualified person, or corporation, for operation and maintenance of Common Open Space lands, but such a lease agreement shall provide:

1) That the residents of the development shall at all times have access to the Common Open Space lands contained therein (except croplands during the growing season);

2) That the undivided Common Open Space shall be maintained for purposes set forth in this Section; and

3) That the operation of Common Open Space facilities may be for the benefit of the residents only, or may be open to all residents of the township, at the election of the developer and/or Homeowner's Association. In cases where public trails or paths are provided as linkage between developments or as a continuous link of Common Open Space within the township, all residents of the township shall have access to such identified paths/walkways.

I) The lease shall be subject to the approval of the Homeowner's Association board and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements shall be recorded with the Delaware County Recorder's office and notification shall be provided to the Township Trustees within 30 days of action by the Board.

913.03 Condominiums. The undivided Common Open Space and associated facilities may be controlled through the use of condominium agreements, approved by the Township. Such agreements shall be in conformance with all applicable laws and regulations. All undivided Common Open Space land shall be held as a common element.

All parts of this section shall be complied with by the Owner's Association which will be created by the developer as soon as allowed by law.

913.04 Dedication of Easements. The Township may, but shall not be required to, accept easements for public use of any portion or portions of undivided Common Open Space land, title of which is to remain in ownership by condominium or Homeowner's Association, provided:

A) Such land is accessible to township residents;

B) There is no cost of acquisition other than incidental transfer of ownership costs; and

C) A satisfactory maintenance agreement is reached between the developer, association and the Township.

913.05 Transfer of Easements to a Private Conservation Organization. With the permission of the Township, an owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources, provided that:

A) The organization is acceptable to the Township, and is a bona fide conservation organization with perpetual existence;

B) The conveyance contains appropriate provisions for the proper reverter or retransfer in the event that organization becomes unwilling or unable to continue carrying out its function; and

C) A maintenance agreement acceptable to the Township Trustees is entered into by the developer and the organization.

No easements shall be transferred to a Private Conservation Organization.

Section 914: Maintenance of Open Space

914.01 The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The owner shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.

914.02 In the event that the organization established to own and maintain Common Open Space shall at any time after establishment of the Planned Development fail to maintain the Common Open Space in reasonable order and condition in accordance with the Final Development Plan, the Township Trustees may serve written notice upon such organization or upon the residents of the Planned Development setting forth the manner in which the organization has failed to maintain the Common Open Space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Township Trustees may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured.

If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Township Trustees, in order to preserve the taxable values of the properties within the Planned Development and to prevent the Common Open Space from becoming a public Nuisance, may enter upon said Common Open Space and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any rights to use the Common Open Space. Before the expiration of said year, the Township Trustees shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the Common Open Space, call a public hearing upon notice to such organization, or to the residents of the Planned Development, to be held by the Township Trustees, at which hearing such organization or the residents of the Planned Development shall show cause why such maintenance by the Township Trustees shall not, at the election of the Township Trustees, continue for a succeeding year. If the Township Trustees shall determine such organization is ready and able to maintain said Common Open Space in reasonable condition, the Township Trustees shall cease to maintain said Common Open Space at the end of said year. If the Township Trustees shall determine such organization is not ready and able to maintain said Common Open Space in a reasonable condition, the Township Trustees may, in its discretion, continue to maintain said Common Open Space during the next succeeding year and subject to a similar hearing and determination, in each year thereafter. The decision of the Township Trustees in any such case shall constitute a final administrative decision subject to review as provided by law.

The cost of such maintenance by the Township Trustees shall be assessed against the properties within the Planned Development that have a right of enjoyment of the Common Open Space, and shall become a tax lien on said properties. The Township Trustees, at the time of entering upon said Common Open Space for the purpose of maintenance, shall file a notice of such lien in the office of the Delaware County Recorder, upon the properties affected by such lien within the Planned Development.

All parts of this section shall be complied with by the Owner's Association which will be created by the developer.

Section 915: Planning Process Overview

The following sequence of actions herein prescribed should be followed when applying for a change in zoning to the PD-1 classification. These steps should be followed sequentially and may be combined only at the discretion of the Zoning Commission.

915.01 Pre-application Discussion. A pre-application discussion is suggested between the applicant, and the Zoning Commission. The purpose of this informal meeting is to introduce the applicant and his/her representatives to the Township's Conservation Concept, and to discuss the applicant's objectives in relation to the Township's official policies and other related requirements.

The developer has discussed this application with the Township's Director of Development, as well as DCRPC Director.

915.02 Existing Features Plan (Site Analysis). Plans analyzing each site's special features are required for all proposed developments, as they form the basis of the design process for greenway lands, Building location, street alignments, and Lot Lines. Plans shall contain, at a minimum, the basic information contained within the Delaware County Regional Planning Commission's Geographic Information System (GIS) including:

A) A topographic map based upon the most recent U.S. Geological Survey;

B) The location of severely constraining elements such as steep slopes (over 20%), wetlands, watercourses, intermittent streams and 100-year floodplain, and all Rights-of-Way and easements;

C) Soil boundaries as shown on the USDA Natural Resource Conservation Service maps; and

D) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or from the site, watershed divides and drainage ways, existing Fences or stone walls, rock outcrops, and existing Structures, roads, tracks and trails, and sites or Buildings of historic importance.

Similar data shall be made available regarding adjacent properties and existing developments in order to provide continuity of plans including streets, paths and walkways.

These data and the accompanying analysis shall comprise the initial base for negotiating, with the Zoning Commission, the framework for the conceptual Preliminary Plan.

An Existing Conditions Plan showing the required elements is attached. See Exhibit B-2

915.03 Sewage Disposal. For sites not served by public centralized sewer, sewage disposal feasibility shall be demonstrated by letter from the local Board of Health, the Ohio EPA, or a licensed sanitary or civil engineer.

A letter from the Delaware County Sanitary Engineer regarding the availability of public sanitary sewer is attached.-See Exhibit E-2.

915.04 On Site Walkabout. The applicant and the Zoning Commission shall walk the site, at which time the Primary and Secondary Conservation Areas to be saved shall be identified. At the completion of the site walk or shortly thereafter a very conceptual development plan should be quickly sketched on the site analysis map by the applicant or his consultant for impromptu comments from the Zoning Commission. No binding decisions or votes are made at the onsite walkabout. Based upon such comments, a formal development plan can be prepared for public hearing. The On-Site Walkabout is a public meeting pursuant to Ohio Sunshine Law and must be properly noticed.

An On Site Walkabout has recently occurred on this property by various Township and County administration, elected and appointed officials.

915.05 Conceptual Preliminary Plan. The Conceptual Preliminary Plan refers to a preliminarily engineered sketch plan drawn to illustrate initial thoughts about a layout for greenway lands, house sites, and street alignments. This stage is undertaken before heavy engineering cost is incurred or commitments made to a final concept.

915.06 The Conceptual Preliminary Plan should be submitted by the applicant to the Zoning Commission for review for the purpose of securing early agreement on an overall pattern of streets, house lots and conservation lands prior to any significant expenditure on engineering costs in the design of streets, storm water management, or the accurate delineation of site details.

A site plan is attached. See Exhibit C-1

915.07 Design Process. Each sketch Plan or Conceptual Preliminary Plan should follow a design process described below:

A) Designating Open Space. During the first step, all potential conservation areas shall be identified, using the Existing Features Plan (Site Analysis). Conservation areas shall consist of wetlands, floodplain, slopes over twenty percent (20%), and soils susceptible to slumping. The remainder of the open space conservation areas shall include the most sensitive and noteworthy natural, scenic, and cultural resources on the remaining property. Guidance concerning Township values relating to desired Open Space shall be provided by the Zoning Commission. Mandatory setbacks from major roads may be counted, in whole or part, as Open Space.

Gross Acreage Open Space and Common Open Space are each designated on the attached Open Space Exhibit, Exhibit D-3.

B) Location of House Sites. During the second step, potential house sites are tentatively located. Structure location represents a significant decision impacting the site therefore applicants shall identify general location of house sites on the Conceptual Plan and proposed house sites on the detailed Final Plan. House sites shall not be located closer than thirty (30) feet of Conservation Areas. Actual Building footprints of proposed residences may be changed with approval of a majority vote of the Zoning Commission.

Home locations are indicated on the attached Site Plan. Exhibit C-1

C) Street and Lot Layout. The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economic way. When streets and Lots are laid out, they shall be located in a way that avoids or minimizes adverse impacts on the Conservation Areas. Wetland crossings and streets traversing existing slopes over fifteen percent (15%) shall be strongly discouraged. Street connections shall generally be encouraged to minimize the number of cul-de-sacs to be maintained by the Township and to facilitate ease of access to adjacent properties. Cul-de-sacs serving more than six homes shall generally be designed with a central island containing plantings to be maintained by a Homeowner's Association. The use of eyebrows for the purpose of increasing the number

of Lots shall not be permitted. Dedicated streets shall not be considered as land counted as Conservation Area. Fifty percent (50%) of the land area within private street Rights-of-Way may be considered as a portion of the required Conservation Area.

Private streets and building locations (no lot layout is included as this will be a condominium development without platted lots) are shown on the attached site plan and Open Space Exhibit, exhibit C-1 and D-3.

D) Lot Lines. The fourth step is simply to draw the Lot Lines (where applicable). These generally are drawn midway between house locations and may include flag-lots or other more innovative design creations.

No lot lines are shown as this will be a condominium development without platted lots. However, building locations and envelopes are shown on the attached site plan and Open Space Exhibit, exhibit C-1 and D-3

Section 916: Application Procedure

In addition to any other procedures set out in this resolution, all applications for amendments to the Zoning Map to rezone lands to this District shall follow the procedures hereinafter set forth:

916.01 Application - The owner or owners of Lots and lands within the township may request that the Zoning Map be amended to include such tracts in the Planned Development District in accordance with the provisions of this resolution. Ten (10) copies of the application for the proposed amendment shall be submitted to the Zoning Inspector and shall contain at a minimum the following information:

A) Name, address, and telephone number of applicant;

B) Date;

- C) Legal description of the property;
- D) Present Use;
- E) Present Zoning District;
- F) Proposed Use;
- G) Proposed zoning District;

H) Existing Features Plan (Site Analysis). Plans analyzing each sites special features are required for all proposed developments, as they form the basis of the design process for greenway lands, Building location, street alignments, and Lot Lines. Plans shall contain, at a minimum, the basic information contained within the Delaware County Regional Planning Commission's Geographic Information System (GIS) including:

1) A contour map based upon the most recent U.S. Geological Survey;

2) The location of severely constraining elements such as steep slopes (over 25%), wetlands, watercourses, intermittent streams and 100-year floodplain, and all Rights-of-Way and easements;

3) Soil boundaries as shown on the USDA Natural Resource Conservation Service maps;

4) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or from the site, watershed divides and drainage ways, existing Fences or stone walls, rock outcrops, and existing Structures, roads, tracks and trails, and sites or Buildings of historic importance; and

5) An aerial photograph of the site and surrounding area.

Similar data shall be made available regarding adjacent properties and existing developments in order to provide continuity of plans including streets, paths and walkways.

I) A development plan for the site;

See attached site plan and accompanying documents included with this application, exhibit C-1

J) A landscape plan, including an inventory of existing trees;

See attached conceptual landscape plans and tree inventory plan. See Exhibits D-1, D-2, D-4, D-4.1 and D-5

K) A plan for any exterior lighting and/or signage;

See attached conceptual signage plan showing signage consistent with similar developments. A final signage plan will be provided at time of Final Development Plan. See attached lighting plans. See D-2 for signage concept and F-1 for lighting. Light fixtures shall be cut off style/dark sky compliant and will not exceed 10' in height.

L) A Vicinity Map at a scale approved by the Zoning Commission showing property lines, streets, Structures within five hundred (500) feet of the property's boundary, existing and proposed zoning, and such other items as the Zoning Commission may require;

A vicinity map is included with this application. See exhibit B-2.

M) A site review conducted by Delaware County Regional Planning and their comments;

N) A traffic study, unless waived by the Zoning Commission;

Traffic information is included with this application, Exhibit G-1, and is currently under review by the Delaware County Engineer. Any revisions to that document will be given to the Township after the County review.

O) A list of all property owners, as appearing on the county auditor's current tax list within five hundred (500) feet of, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned, and others that may have a substantial interest in the case. For each of the property owners the applicant shall provide two sets of pre-addressed, stamped letter-size envelopes with postage sufficient to send a notice via first class mail; and

Provided with application. Exhibit A-1

P) A fee as established by the Township Trustees.

Provided with application.

916.02 Development Plan - Ten (10) copies of the development plan shall be submitted with the application which plan shall include in the text and map form:

A) The proposed size and location of the Planned Residential District (PD-1);

The Site is **18.6794** acres in size, and is generally located at the South of Big Walnut Road and west of Worthington Road.

B) The general development character of the tract including the limitations or controls to be placed on residential and related Uses, with probable Lot sizes, minimum setback requirements and other development features including Landscaping;

Only single family detached condominium homes and ancillary uses shall be allowed in this development. Minimum building setbacks from existing Big Walnut and Worthington Road shall be 200 feet from roadway centerline, and 50' from adjacent residential properties. Minimum building setbacks interior to the site shall be 15'. All homes shall be landscaped, and landscape entry features will be located at Worthington Road. Interior street trees shall be provided, and a landscape buffers shall be included along the west boundary line, along existing homes along Big Walnut and Worthington Roads, and along the south boundary west of the existing tree preserve.

C) Architectural design criteria for all Structures and criteria for proposed Signs with proposed control procedures;

- The exterior of the buildings shall include the following:
 - LP Smart Side and Trim, 50-year Limited Warranty

- Cultured/precast stone
- Single hung, Low-E vinyl windows, Lifetime Warranty
- 30 Year, Dimensional Shingle
- Insulated 2-car garage doors
- Standing seam accent roof (minimal use)
- Faux shutters
- Dormers (active and inactive)
- Thin Brick accents
- Other materials used as minor accents
- Exterior Colors
 - Stucco Colors
 - Natural earth tones –tans and greys.
 - High-chroma colors are not permitted.
 - Trim Colors
 - Natural earth tones and/or warm neutral colors, including white.
 - Complementary or contrasting to siding color.
 - High-chroma colors are not permitted.
 - Thin Brick Colors
 - Reds and Browns
 - Roofing Colors
 - Shingle colors shall be from the color range of natural materials; such as, but not limited to wood shakes, slate, etc.

Material samples shall be presented to the Zoning Commission with the Final Development Plan.

Conceptual Elevations of the proposed Dwelling Units are attached. Four floor plans will be offered, each featuring different options and selections. See exhibit H-1.

Architectural Design criteria submitted by the applicant will be administered and enforced by the developer and the subsequent condominium owners association.

D) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness;

Evidence of availability of public water and sanitary sewer service is attached in the form of letters from each of Del-Co Water Company and the Delaware County Sanitary Engineer. The proposed storm water detention facilities are shown on the site plan. All utility details will be included with the Final Development Plan. See exhibits E-1 and E-2.

E) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise;

All streets shall be private. See Exhibit C-1.

F) A traffic study examining the impact of the development on the existing infrastructure, modifications required to handle the increased traffic and the mechanism proposed to complete the necessary improvements;

Traffic information has been provided. See exhibit G-1.

G) The relationship of the proposed development to existing and probable Uses of surrounding areas during the development timetable;

The proposed development is surrounded by single family uses on all boundaries that are not public roadways

H) Location of schools, parks, and other facility sites, if any;

I) The proposed time schedule for development of the site including streets, Buildings, utilities, and other facilities;

Commencement of construction shall occur promptly upon the developer's acquisition of the subject property which is contingent upon Township and County approvals. The development will occur in 2 phases of approximately 12-18 months each to complete, but sales will ultimately determine pace of final construction.

J) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textural form in a manner calculated to give township officials definitive guidelines for approval of future phases; and

K) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.

The applicant has a purchase contract on the property and the preliminary engineering is feasible. The applicant possesses sufficient capacity to carry forth its plan. See exhibit E-1 for engineering feasibility.

L) Specific statements of Divergence shall be requested "per plan"; if any deviation from the development standards in this Resolution or existing county regulations or standards are desired, an applicant making such a request shall specifically and separately list each requested Divergence and submit written development text justifying each deviation from any requirements of this Resolution and demonstrating how each Divergence will advance public interests and the General Purposes of this Zoning Resolution, by promoting one or more of the following purposes: 1) The conservation and protection of the natural resources, scenic areas, wildlife habitat and the historical and unique natural features of the land;

2) The health, safety, morals, and general welfare of the present and future inhabitants of Genoa Township;

3) The quality of life within Genoa Township through the protection of the total environment, the prevention of nuisances and hazards, and the provision of adequate light, air, and convenient access to property;

4) The assurance of the compatibility of land uses which are either adjacent or in proximity to each other;

5) The orderly development of all lands within the Township to its appropriate use; and

6) The most appropriate use of land to facilitate and provide adequate public and private improvements. Unless a deviation from development standards is specifically approved as a Divergence, the same shall be complied with.

The following divergence is requested:

Section 903.01 which section requires a minimum of 25 acres for zoning to the PRD – Planned Residential District, where this property consists of 18.6794 acres. This divergence is warranted here, where the applicant is proposing an exceptionally low-impact style of development, with an expectation of attracting an empty-nester segment of the population, where the proposed density is below what is recommended on the recently adopted Comprehensive Plan, where considerable open space is being preserved, and where perimeter trails are being provided as an amenity to other Township residents consistent with the long-term planning goals and development principles of Genoa Township. Residential uses are in keeping with the character of all the surrounding land uses rather than the present use and zoning of Planned Community Facilities District, which allows for various uses that are much more intense and disruptive than single family condominiums.

1) The conservation and protection of the natural resources, scenic areas, wildlife habitat and the historical and unique natural features of the land; **The proposed site plan maintains the large tree lots located on site to minimize disturbance to those areas.** The development proposes removing existing structures located **near the roadways and in turn replacing those areas with open space.**

2) The health, safety, morals, and general welfare of the present and future inhabitants of Genoa Township; **The plan is in compliance with the township** code and comprehensive plan, other than the 25 acre requirement, and as this land is surrounded by existing development, the boundaries are set.

3) The quality of life within Genoa Township through the protection of the total environment, the prevention of nuisances and hazards, and the provision of adequate light, air, and convenient access to property; **The plan incorporates preservation of treed areas, increased open space along roadways, eliminating a nuisance pond, mitigation of traffic impact through turn lane addition, the correct procedures for storm water quality and quantity will be observed.**

4) The assurance of the compatibility of land uses which are either adjacent or in proximity to each other; The proposed development is compatible with surrounding residential development, and home values are similar. The association will maintain the property as one entity, so that there will not be 30 different maintenance styles that could come from a comparable single family fee simple development.

5) The orderly development of all lands within the Township to its appropriate use; and. This use is an approved use per the comprehensive plan at this density.

6) The most appropriate use of land to facilitate and provide adequate public and private improvements. Unless a deviation from development standards is specifically approved as a Divergence, the same shall be complied with. This land is an approved use per the comprehensive plan at this density.

916.03 Administrative Review - All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, or designated technical advisors for administrative review to insure substantial compliance with the development plan as approved.

Section 917: Action by Zoning Commission

The Zoning Commission shall hold a public hearing on the Proposed Amendment as provided by Article 26 of this Resolution. Such public hearing shall consider all aspects of the Proposed Amendment including the Final Development Plan as well as any proposed stages and/or units of development. The Zoning Commission shall within thirty (30) days after the final public hearing on such plan recommend the approval or denial of the proposed amendment, or the approval of some modification thereof and submit such recommendation together with such application or resolution, the text and map pertaining thereto and the recommendation of the Regional Planning Commission thereon to the Board of Township Trustees.

SURROUNDING PROPERTY OWNERS:

Roderick Budd 5570 Worthington Road Westerville, Ohio 43082

Terrence and Millie Dorgan 5233 Bardon Drive Westerville, Ohio 43082

Lester and Cheryl Gloege 5430 Worthington Road Westerville, Ohio 43082

Chad Headlee 5218 Bardon Drive Westerville, Ohio 43082

Ellen and Edward Korbini, Co-Tr 5253 Langwell Drive Westerville, Ohio 43082

Thomas and Barbara Matlock 5550 St. George Avenue Westerville, Ohio 43082

Thomas and Arlene McPherson 5540 Bellerive Place Westerville, Ohio 43082 Thomas and Cynthia Adams 5148 Bardon Drive Westerville, Ohio 43082

Glenn and Sharon Carlton 5550 Midfield Drive Westerville, Ohio 43082

Janet Mario Feliberty 5555 St. George Avenue Westerville, Ohio 43082

John Green 5532 Edinvale Lane Westerville, Ohio 43082

Homestead at Highland Lakes Condo Association Common Element 5150 Gillen Way Westerville, Ohio 43082

Michael Lewis 5142 Bardon Drive Westerville, Ohio 43082

Timothy Matt and Linda Stojkov 5557 Midfield Drive Westerville, Ohio 43082

Jason and Shannon Miller 5510 Bellerive Place Westerville, Ohio 43082 Helen and John Barry 5130 Bardon Drive Westerville, Ohio 43082

Joan Derstine 5481 Worthington Road Westerville, Ohio 43082

Margarette Ghee 5136 Bardon Drive Westerville, Ohio 43082

Jack and Jacqueline Hallman 5168 Bardon Drive Westerville, Ohio 43082

Hillary Kessler 5131 Gillen Way Westerville, Ohio 43082

Bonnie Mann 5380 Worthington Road Westerville, Ohio 43082

Brian and Lynn McPherson 5524 Bellerive Place Westerville, Ohio 43082

Thomas and Christine O'Reilly 5519 Bellerive Place Westerville, Ohio 43082 Oaks at Highland Lakes Homeowners' Association, Inc. c/o Real Property Management 5550 Blazer Parkway Dublin, Ohio 43017

Anthony Panzica and Kathleen Serino 5500 Bellerive Place Westerville, Ohio 43082

Chad and Amie Rundle 5569 St. George Avenue Westerville, Ohio 43082

Mark and Teresa Vallera 5528 St. George Avenue Westerville, Ohio 43082

Mary Walsh, Tr. 5549 Midfield Drive Westerville, Ohio 43082

Nathan and Sara Barnhart 5662 Jeffries Court Westerville, Ohio 43082

Robin and James Fuller 5992 Braymoore Drive Galena, Ohio 43021

Annette Ticoras 5640 Jeffries Court Westerville, Ohio 43082

Dmetri Domin, Tr. 6223 Big Walnut Road Galena, Ohio 43021

Michael and Melanie Gilbert 5929 Big Walnut Road Galena, Ohio 43021 Brian and Stacey O'Reilly 5547 Troon Place Westerville, Ohio 43082

Joan Quillin 5143 Gillen Way Westerville, Ohio 43082

Anita Stevens, Tr. 5360 Worthington Road Westerville, Ohio 43082

Carol Ventresca, Tr. 5162 Bardon Drive Westerville, Ohio 43082

Shirley Young 5533 St. George Avenue Westerville, Ohio 43082

Jefferey and Rebecca Bolchalk 5980 Braymoore Drive Galena, Ohio 43021

The Manors at Willow Bend Homeowners' Association 5656 Jeffries Court Westerville, Ohio 43082

Hexin Zhang and Erik Wilson 5648 Jeffries Court Westerville, Ohio 43082

Rose Drum 6245 Big Walnut Road Galena, Ohio 43021

Aaron and Kris Gillingham, Co-Tr. 6160 Braymoore Drive Galena, Ohio 43021 Lawrence and Christine Owen 5194 Bardon Drive Westerville, Ohio 43082

Karl and Bonnie Reeves 5223 Bardon Drive Westerville, Ohio 43082

Michael and Madeline Thompson 5565 Troon Place Westerville, Ohio 43082

Thomas and Mary Ventresco 5535 Troon Place Westerville, Ohio 43082

Robert and Janet Zwier 5156 Bardon Drive Westerville, Ohio 43082

Tagan and Steven Buettner 5968 Braymoore Drive Galena, Ohio 43021

Sierra Funding Group LLC 5656 Jeffries Court Westerville, Ohio 43082

Nicholas and Jennifer Bertagna 6170 Braymoore Drive Galena, Ohio 43021

Fred and Brenda Gaines 6319 Big Walnut Road Galena, Ohio 43021

Christopher Hoffman and Meagan Goe 6132 Braymoore Drive Galena, Ohio 43021 Timothy Holderbaum 5240 Worthington Road Westerville, Ohio 43082

Mansard Estates Homeowner's Association, Inc. P.O. Box 88 Sunbury, Ohio 43074

John and Michaela Pardubicka 6112 Braymoore Drive Galena, Ohio 43021

John and Tracy Rettstatt 6171 Big Walnut Road Galena, Ohio 43021

Marie Bardash 5617 St. George Avenue Westerville, Ohio 43082

Amy Essig 5542 Troon Place Westerville, Ohio 43082

Blake and Kimberly Hackler 5607 Jeffries Court Westerville, Ohio 43082

James and Lorre Huntley 5657 Jeffries Court Westerville, Ohio 43082

Mae McCorkle 5634 Jeffries Court Westerville, Ohio 43082

James and Jessica Phillips 5626 Jeffries Court Westerville, Ohio 43082 Robert and Sherry Kish 6146 Braymoore Drive Galena, Ohio 43021

Robert and Rebecca Martin 6092 Braymoore Drive Galena, Ohio 43021

Viraj and Ripal Parikh 6072 Braymoore Drive Galena, Ohio 43021

Craig and Amy Telesz 6030 Braymoore Drive Galena, Ohio 43021

Board of Trustees of Genoa Township, Delaware Co., Ohio 5111 South Old 3C Highway Westerville, Ohio 43082

Genoa Township Land Conservation Association P.O. Box 352 Galena, Ohio 43021

Thomas and Natalie Haidet 5605 St. George Avenue Westerville, Ohio 43082

Erin Liberati 5629 St. George Avenue Westerville, Ohio 43082

Charles and Sharon McGill 5581 St. George Avenue Westerville, Ohio 43082

Robert and Judith Rosbrook 5561 Jeffries Court Westerville, Ohio 43082 Wolfgang Kurapkat 5278 Worthington Road Westerville, Ohio 43082

Matthew and Melissa Muir 6010 Braymoore Drive Galena, Ohio 43021

Rossi and Pamela Phillips 6052 Braymoore Drive Galena, Ohio 43021

Danielle Walker 6277 Big Walnut Road Galena, Ohio 43021

Nathan and Barbara Case 5648 St. George Avenue Westerville, Ohio 43082

Cris and Laurie Gossard 5606 Jeffries Court Westerville, Ohio 43082

Highland Lakes Homeowners' Association c/o Real Property Management 9054 Cotter Street Lewis Center, Ohio 43035

Jeremy and Raegan Martin 5598 Jeffries Court Westerville, Ohio 43082

Amit and Hema Patel 5956 Braymoore Drive Galena, Ohio 43021

David and Colleen Ruggieri 5583 Jeffries Court Westerville, Ohio 43082 Joseph and Bonnie Schodorf 5636 St. George Avenue Westerville, Ohio 43082

Caleb and Fleur Shomo 5558 Troon Place Westerville, Ohio 43082

Richard and Martha Alt 6036 Big Walnut Road Galena, Ohio 43021 Michael and Kelli Shirey 5616 Jeffries Court Westerville, Ohio 43082

Wilmington Savings Fund Society 5593 St. George Avenue Westerville, Ohio 43082 Djovana Lesh Shkreli 5620 St. George Avenue Westerville, Ohio 43082

Richard and Alexanne Whitney 5664 St. George Avenue Westerville, Ohio 43082

Boundary Description – Big Walnut and Worthington Rd.

Situated in the State of Ohio, County of Delaware, Township of Genoa, being part of Farm Lot 13, Quarter Township 2, Township 3, Range 17 of the United States Military District and being all of a 4.83 acre tract described in a deed to R. Michael Emrich in Deed Volume 0623 page 066 (Auditor Parcel No. 31723004001000), all of Lot 1191 of Tuthill Sub'd. as described in a deed to R. Michael Emrich in Deed Volume 1041 page 1848 (Auditor Parcel No. 31723004094000), all of a 3.22 acre tract as described in a deed to R. Michael Emrich in Deed Volume 0396 page 0079 (Auditor Parcel No. 31723004093000) and all of a 9.51 acre tract as described in a deed to The Greater Ohio District of the Wesleyan Church in Deed Volume 0361 page 1385 (Auditor Parcel No. 31723004003000), all records on file in the Recorder's Office, Delaware County, Ohio, and being more fully described as follows:

Commencing at the intersection of Big Walnut Road, Twp. Rd. 109, and Worthington Road, C.R. 13, being the northeasterly corner of Tuthill Sub'd. as shown in Plat Book 11 page 101;

Thence South 84° 41' 32" West, following the centerline of Big Walnut Road and the northerly line of said Tuthill Sub'd., for a distance of 420.47 feet to the northwesterly corner of said Tuthill and the northeasterly corner of said 4.83 acre tract and being the **True Place of Beginning** of the parcel herein described;

Thence South 31° 53' 59" West, following the westerly line of said Tuthill and the easterly line of said 4.83 acre tract, passing a ¾" iron pipe found at 37.65 feet, for a total distance of 510.84 feet to 1" iron pipe found with an EMH&T identifying cap at the northwesterly corner of said Lot 1191;

Thence North 89° 08' 37" East, following the northerly line of said Lot 1191 and the southerly line of Lot 1193 of said Tuthill, for a distance of 361.43 feet to a ¾" iron pipe found at the northeasterly corner of said Lot 1191 and being on the westerly right of way of Worthington Road;

Thence South 31° 59' 34" West, following the westerly right of way of Worthington Road and the easterly line of said Lot 1191, for a distance of 123.49 feet to an angle point along said right of way;

Thence South 31° 56′ 59″ West, continuing along the westerly right of way of Worthington Road and the easterly line of said Lot 1191, for a distance of 19.33 feet to an iron pin set with a 'MS CONS. INC.' identifying cap at the southeasterly corner of said Lot 1191 and being on the northerly line of said 3.22 acre tract;

Thence North 89° 09' 56" East, following the northerly line of said 3.22 acre tract and the southerly line of said Tuthill, for a distance of 35.68 feet to a Survey Mag Nail set at the northeasterly corner of said 3.22 acre tract, the southeasterly corner of said Tuthill and being on the centerline of Worthington Road;

EXHIBIT B-1

Thence South 31° 56′ 59″ West, following the centerline of Worthington Road and the easterly line of said 3.22 acre tract, for a distance of 296.97 feet to a Survey Mag Nail set at the southeasterly corner of said 3.22 acre tract and the northeasterly corner of a 2.261 acre tract as described in a deed to Roderick D. Budd in Deed Book 492 page 83;

Thence South 88° 58' 56" West, following the southerly line of said 3.22 acre tract, , then the southerly line of said 9.51 acre tract and the northerly line of said 2.261 acre tract, then the northerly line of Highland Lakes North Section 4 as shown in Plat Cabinet 1 Slide 763, passing a 5/8" iron pin found at 35.75 feet and a 1" iron pipe found with a Hoy PS 7313 identifying cap at 1,009.83 feet, for a total distance of 1,185.78 feet to a 1" iron pipe found with a RDZ identifying cap at the southwesterly corner of said 9.51 acre tract, the northwesterly corner of said Highland Lakes North and the southeasterly corner of The Manor at Willow Bend as shown in Official Record 682 page 1406;

Thence North 02° 46′ 52″ East, following the westerly line of said 9.51 acre tract and the easterly line of said Manor at Willow Bend, passing a 1″ iron pipe found at 31.22 feet, a 1″ iron pipe found with a Hoy PS 7313 identifying cap at 344.03 feet and a 1″ iron pipe found with a Hoy PS 7313 identifying cap at 577.74 feet, for a total distance of 708.86 feet to a Survey Mag Nail set at the northwesterly corner of said 9.51 acre tract, the northeasterly corner of said Manor at Willow Bend and being on the centerline of Big Walnut Road;

Thence North 85° 05' 43" East, following the centerline of Big Walnut Road and the northerly line of said 9.51 acre tract, for a distance of 401.96 feet to a Survey Mag Nail found at the northeasterly corner of said 9.51 acre tract and the northwesterly corner of a 2.08 acre tract as described in a deed to Richard F. Alt and Martha S. Alt in Deed Volume 0189 page 1376;

Thence South 03° 34' 44" West, following the westerly line of said 2.08 acre tract and a line common with said 9.51 acre tract, passing a $\frac{3}{4}$ " iron pipe found with a PS 6579 identifying cap at 30.35, for a total distance of 284.06 feet to a 5/8" iron pin found at the southwesterly corner of said 2.08 acre tract and a corner common with said 9.51 acre tract;

Thence North 89° 07' 02" East, following the southerly line of said 2.08 acre tract and a line common with said 9.51 acre tract, for a distance of 290.56 feet to a 1" iron pipe found with an EMH&T identifying cap at the southeasterly corner of said 2.08 acre tract, a corner common with said 9.51 acre tract and being on the westerly line of said 4.83 acre tract;

Thence North 03° 34′ 40″ East, following the westerly line of said 4.83 acre tract and the easterly line of said 2.08 acre tract, passing a 1″ iron pipe found at 276.34 feet, for a distance of 306.75 feet to a Survey Mag Nail found with an EMH&T identifying shiner at the northwesterly corner of said 4.83 acre tract, the northeasterly corner of said 2.08 acre tract and being on the centerline of Big Walnut Road;

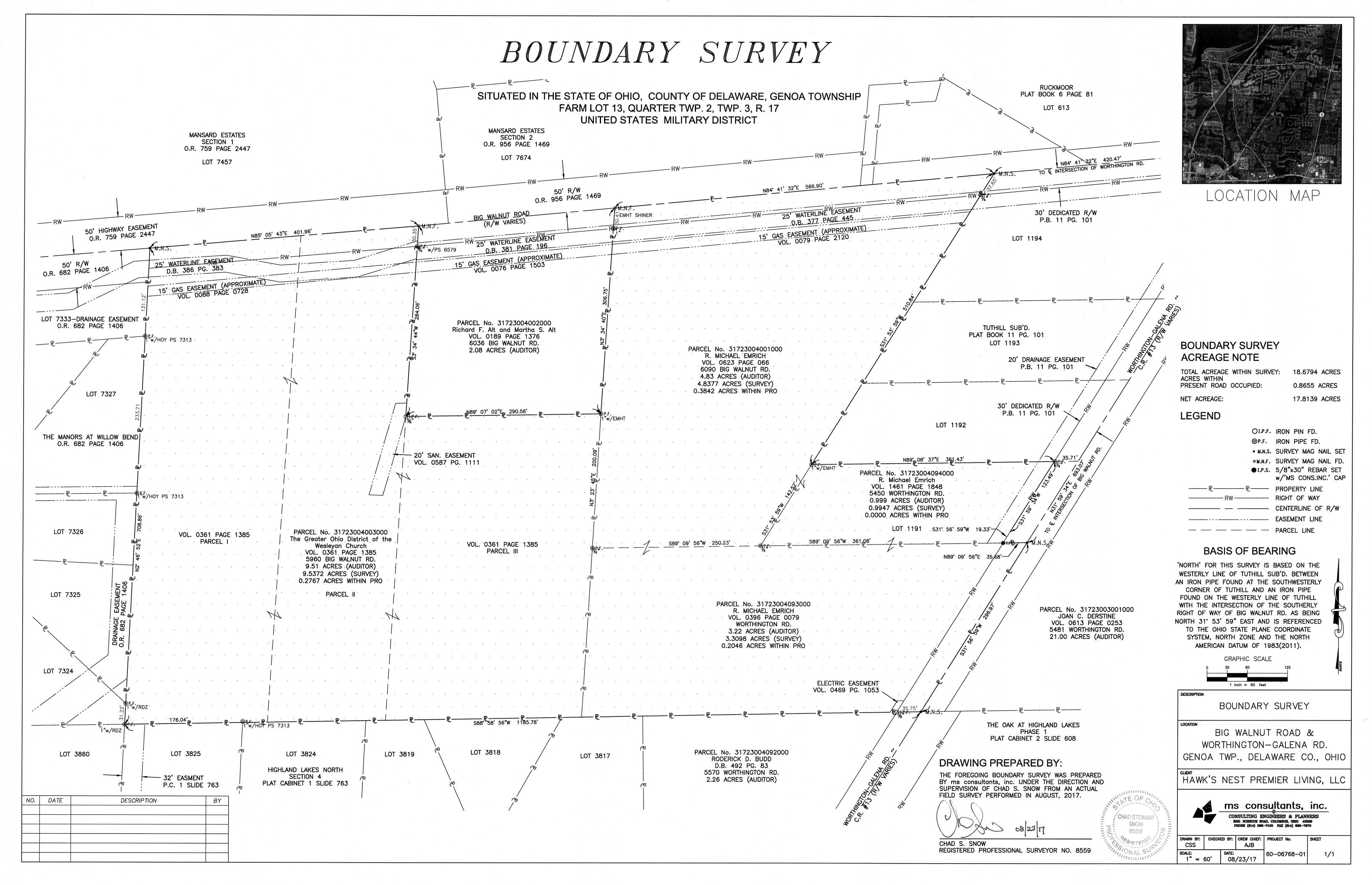
Thence North 84° 41' 32" East, following the centerline of Big Walnut Road and the northerly line of said 4.83 acre tract, for a distance of 566.90 feet to the **True Place of Beginning** and containing 18.6794

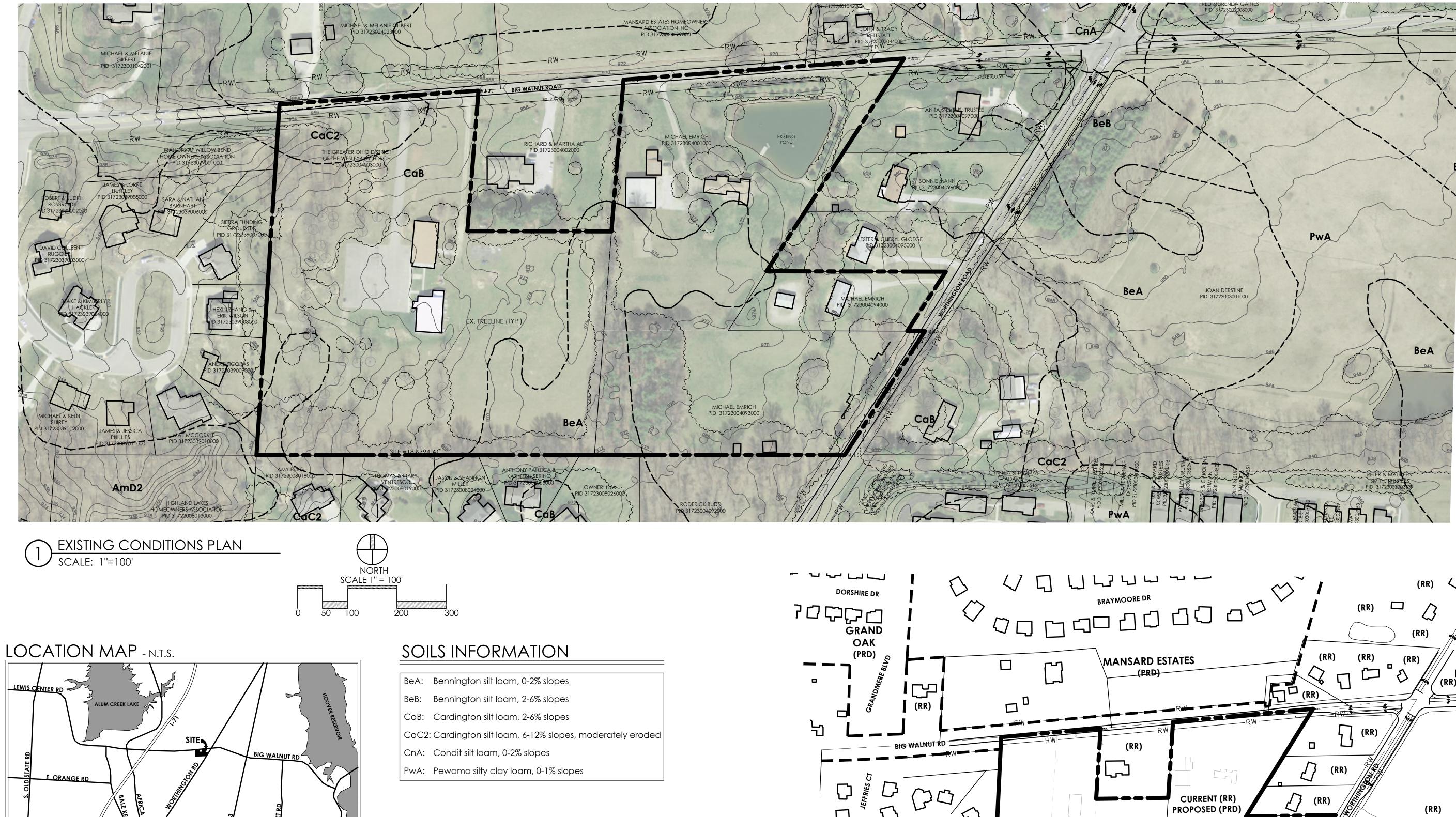
acres of land, more or less, of which 0.2046 acres lays within the Present Road Occupied by Worthington Road and 0.6609 acre s lays within the Present Road Occupied by Big Walnut Road.

'North' for this survey and description is based on the westerly line of Tuthill Sub'd. between an iron pipe found at the southwesterly corner of Tuthill and an iron pipe found on the westerly line of Tuthill with the intersection of the southerly right of way of Big Walnut Rd. as being North 31° 53' 59" East and is referenced to the Ohio State Plane Coordinate System, North Zone and the North American Datum of 1983(2011).

The above description was prepared under the direction and supervision by Chad S. Snow, Registered Professional Surveyor No. 8559 and is based on an actual field survey performed on August 22, 2017.

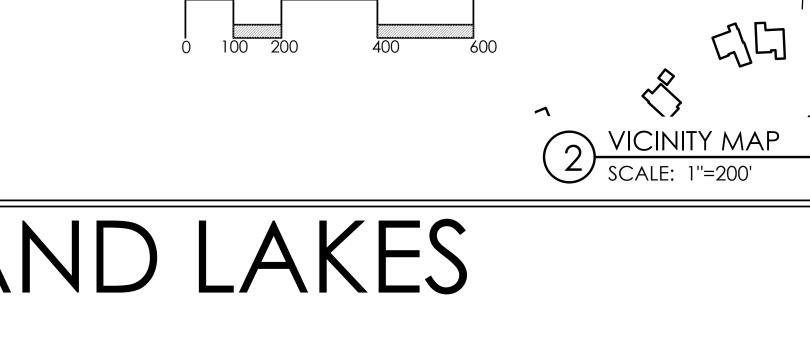
C CHAD STEWAR CHILDRAN W SNOW 8559

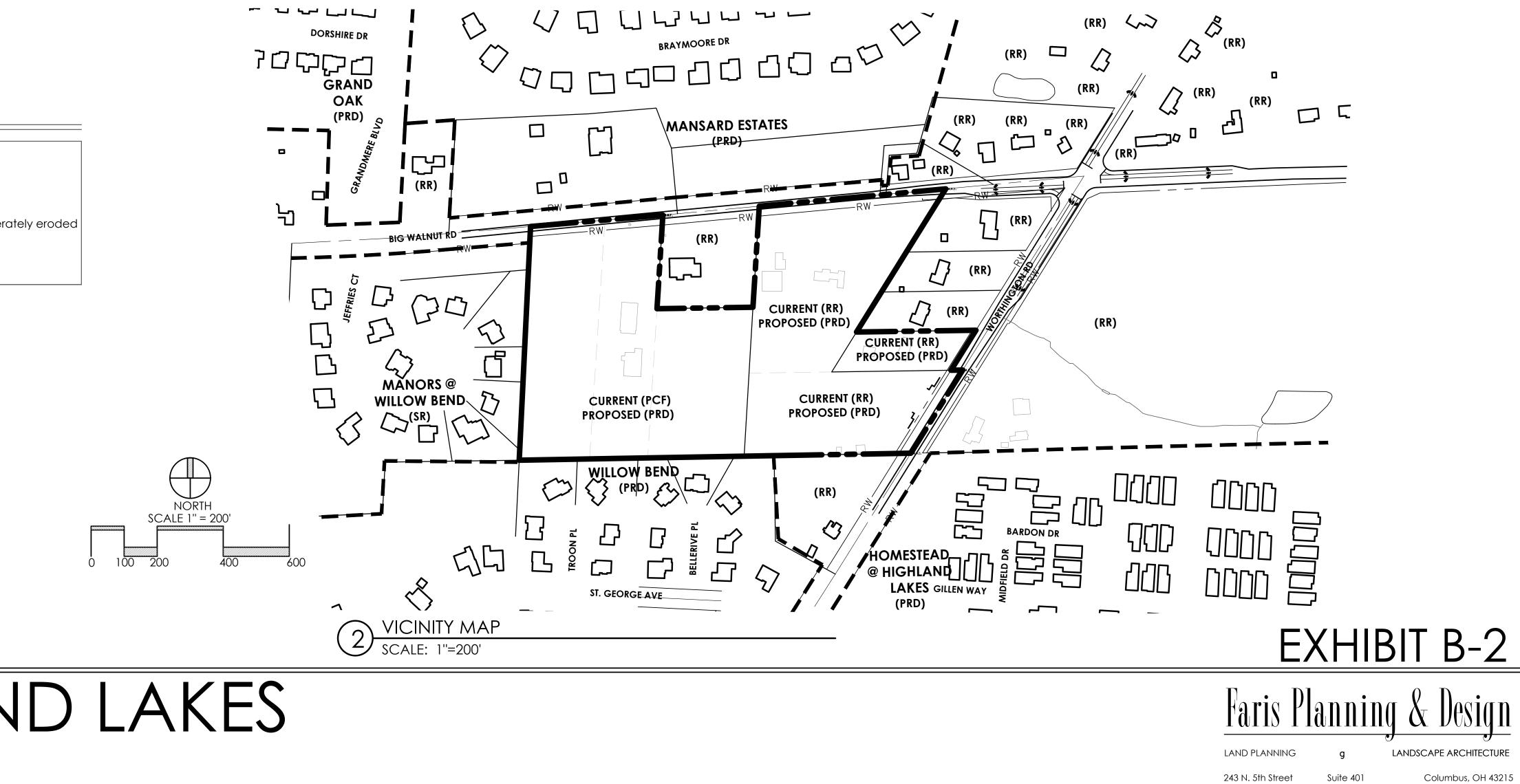




EXISTING CONDITIONS PLAN HAWKS NEST AT HIGHLAND LAKES PREPARED FOR HAWKS NEST PREMIER LIVING DATE: 8/25/17

E. POWELL RD





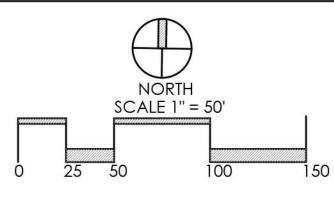
p (614) 487-1964

www.farisplanninganddesign.com



ILLUSTRATIVE PLAN HAWKS NEST PREMIER LIVING HAWKS NEST PREMIER LIVING DATE: 9/22/17

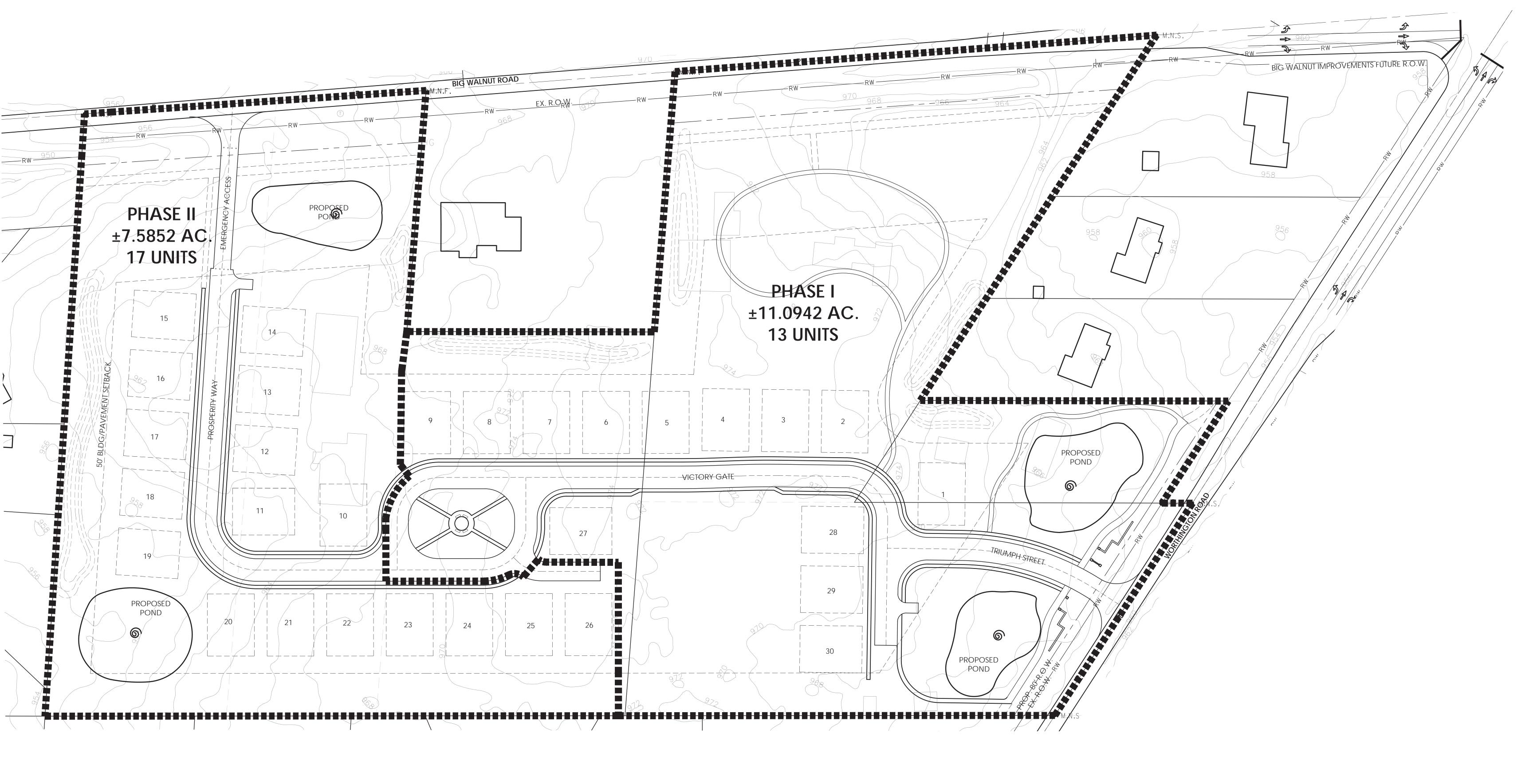
TOTAL ACRES	18.6794 ACRES
TOTAL UNITS	30 UNITS
DENSITY	1.61 D.U./AC.
-15% (2.80 AC)	
-EX. POND (±.51 AC)	
TOTAL NET DEVELOPABLE ACRES	15.37 ACRES
NET DENSITY	1.95 D.U./AC.
TOTAL OPEN SPACE	±9.55 AC. (51.12%)



Faris Planning & Design LAND PLANNING

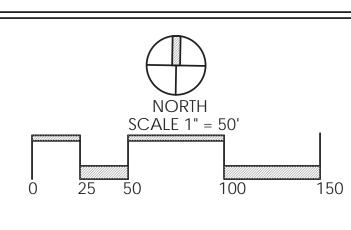
243 N. 5th Street p (614) 487-1964





PHASING PLAN

HAWKS NEST PREMIER LIVING DATE: 9/22/17





LAND PLANNING 243 N. 5th Street p (614) 487-1964 LANDSCAPE ARCHITECTURI Columbus, OH 43215

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CONCEPT LANDSCAPE PLAN HAWKS NEST PREMIER LIVING HAWKS NEST PREMIER LIVING DATE: 9/22/17

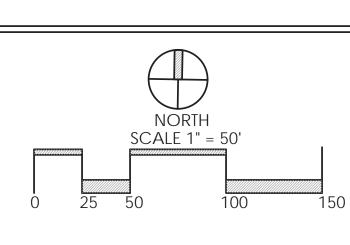


EXHIBIT D-1 Faris Planning & Design

LAND PLANNING

243 N. 5th Street

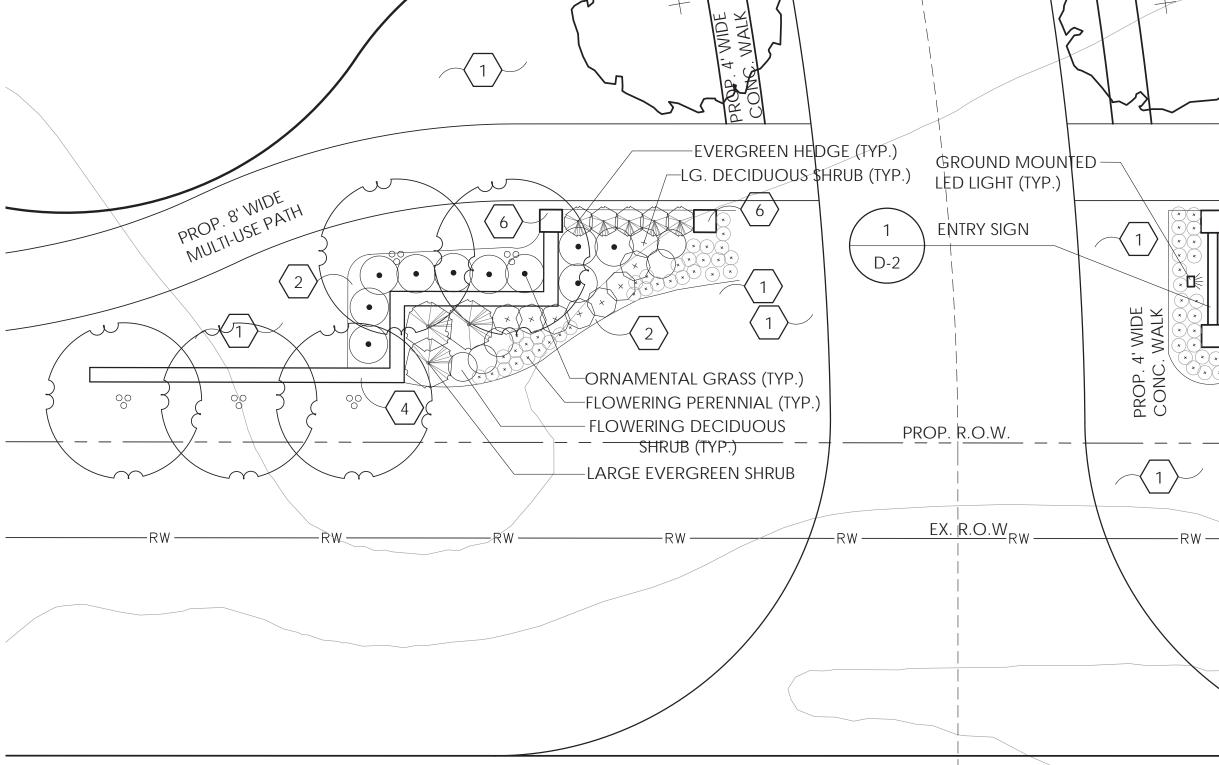
p (614) 487-1964

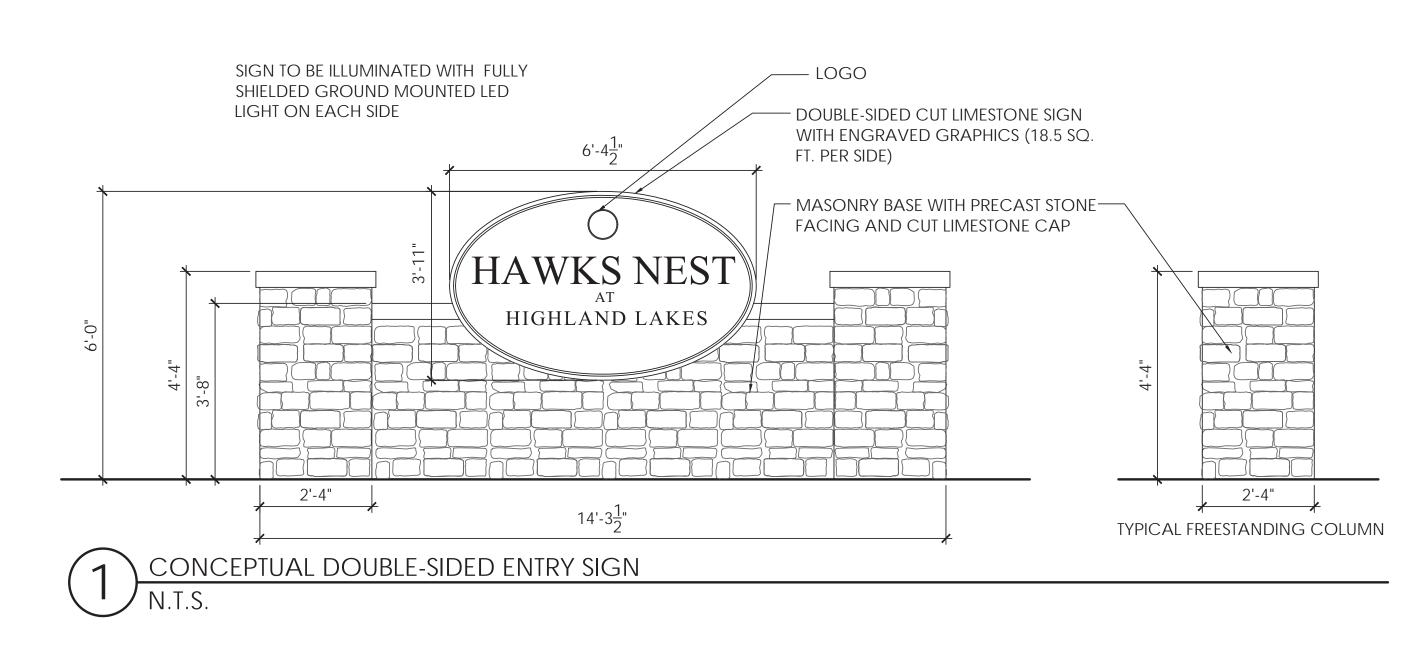
LANDSCAPE ARCHITECTURE

LANDSCAPE DETAILS HAWKS NEST PREMIER LIVING DATE: 9/22/17

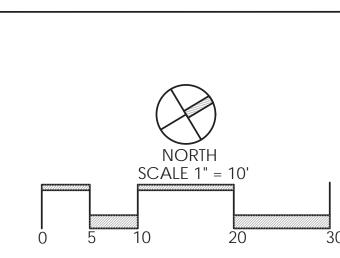
WORTHINGTON ROAD

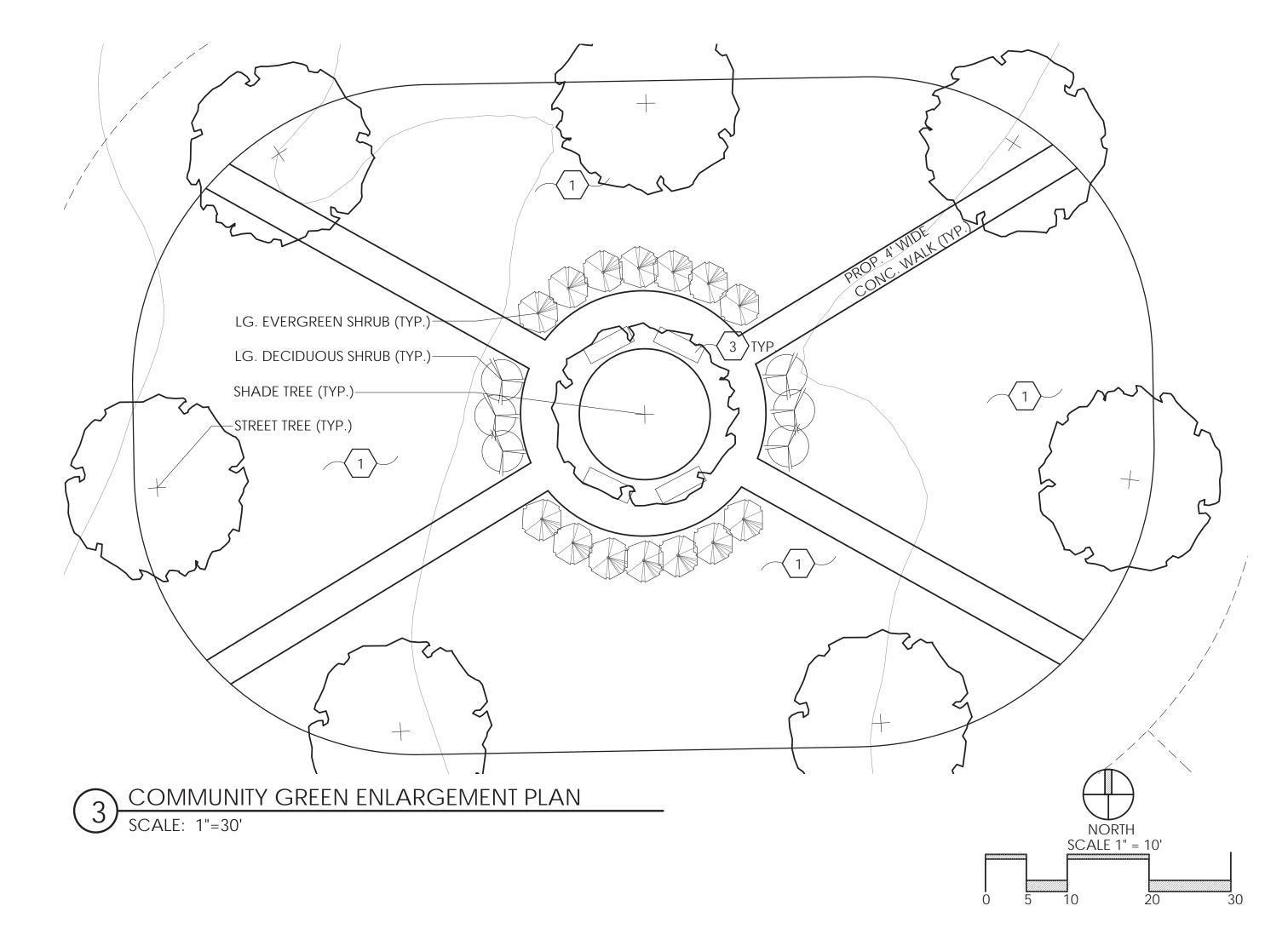
WORTHINGTON ROAD ENTRY ENLARGMENT PLAN 2) SCALE: 1"=10'





PROP. 8' WIDE MULTI-USE PATH $\langle 6 \rangle$ ORNAMENTAL TREE (TYP.

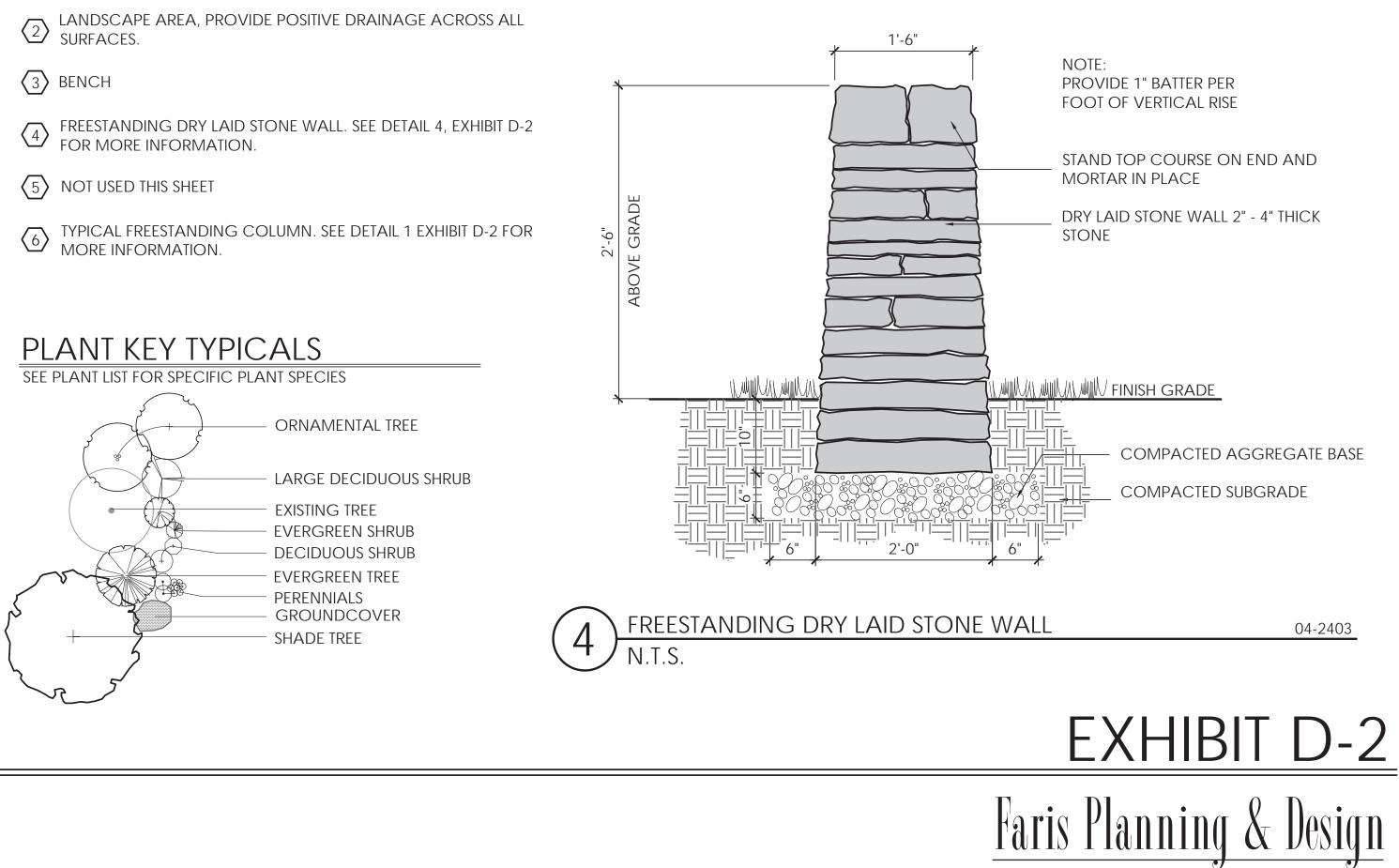




CONSTRUCTION NOTES:

- 1 LAWN AREA, PROVIDE POSITIVE DRAINAGE ACROSS ALL SURFACES.

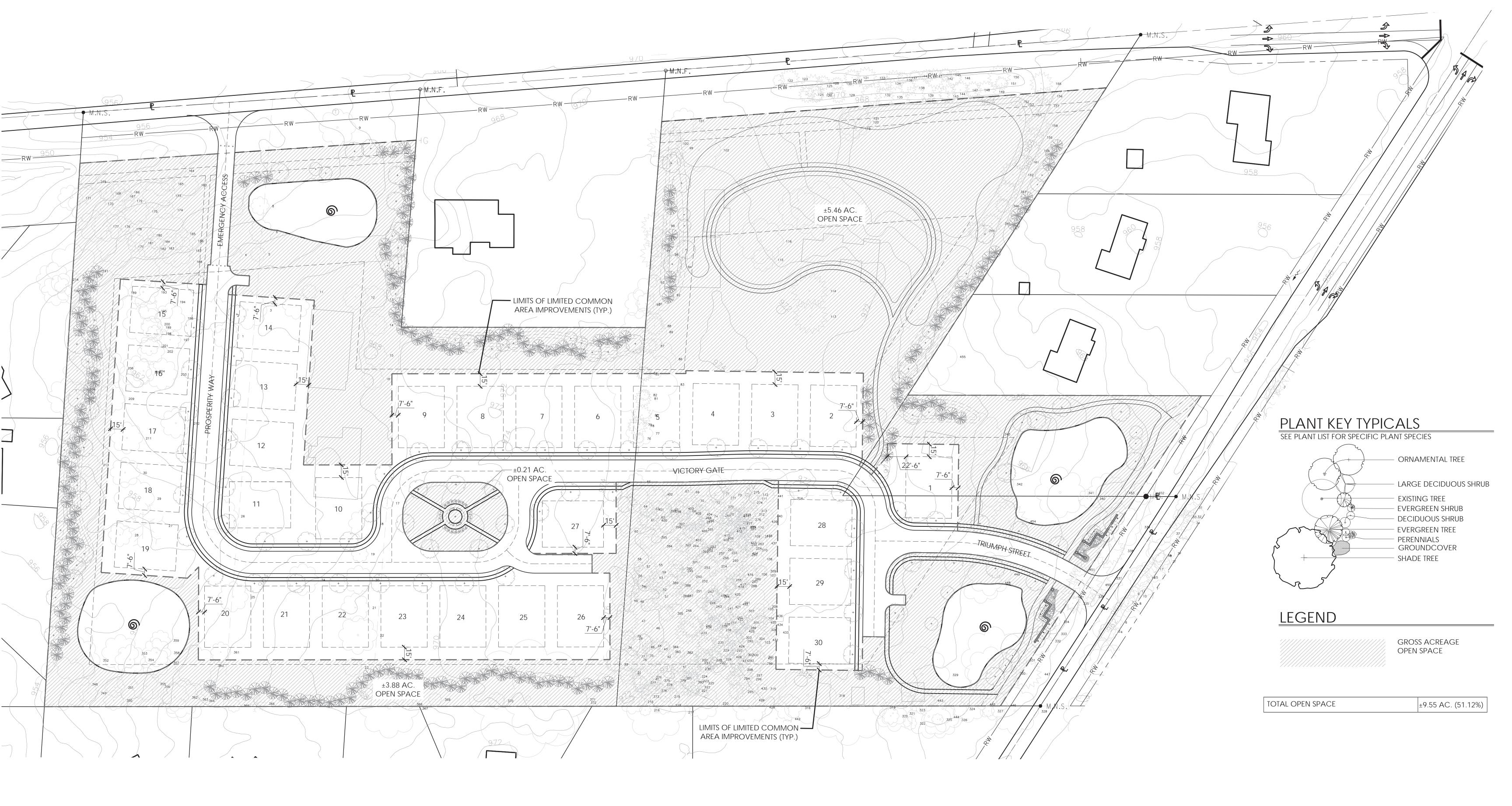




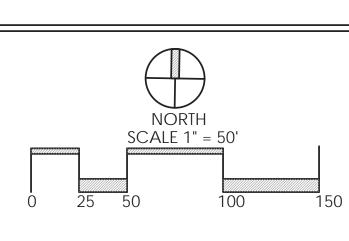
LAND PLANNING 243 N. 5th Street р (614) 487-1964

LANDSCAPE ARCHITECTURE Suite 401 Columbus, OH 43215

www.farisplanninganddesign.com

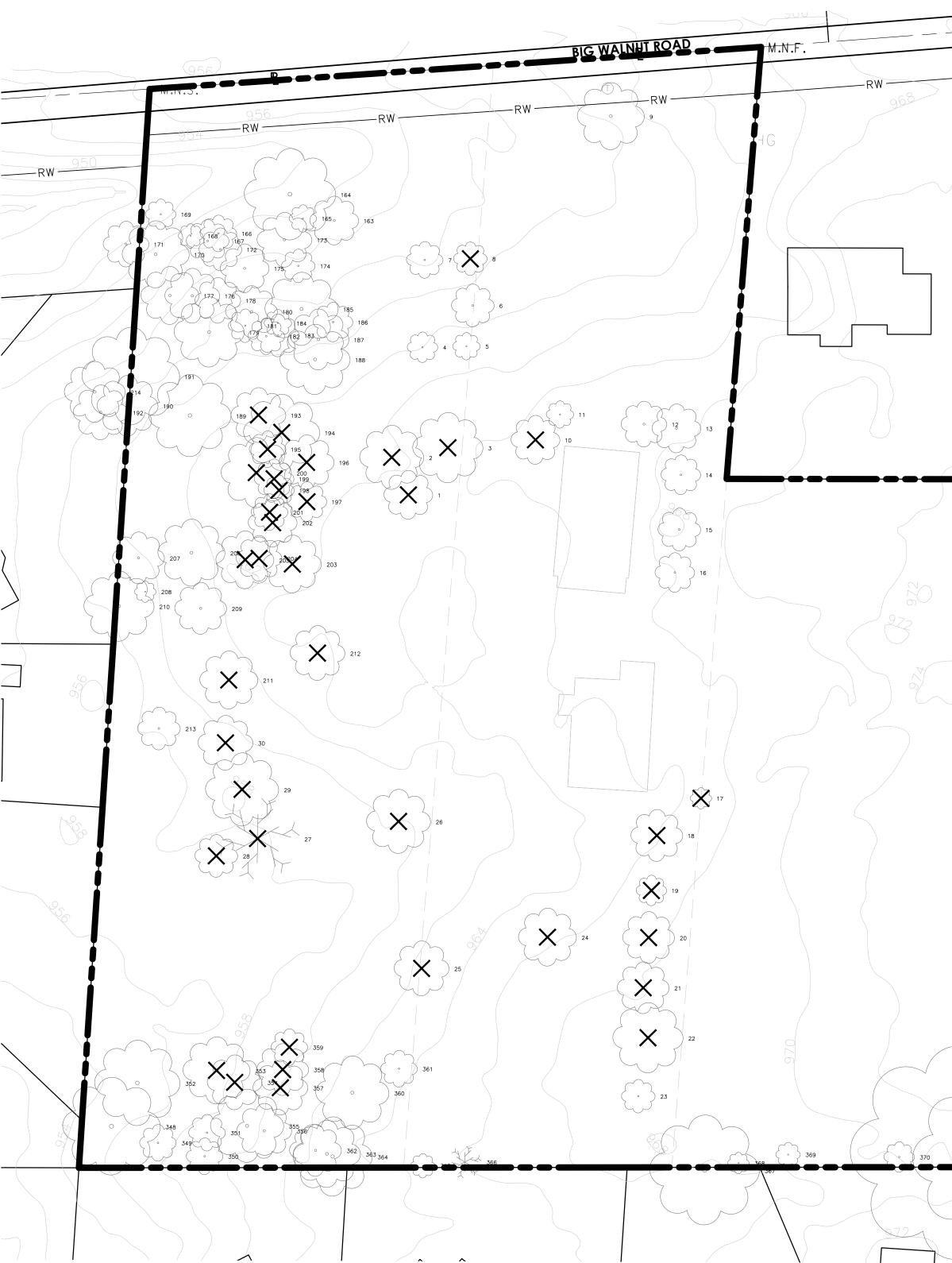


OPEN SPACE PLAN / LIMITED COMMON OPEN SPACE PLAN HAWKS NEST AT HIGHLAND LAKES PREPARED FOR HAWKS NEST PREMIER LIVING



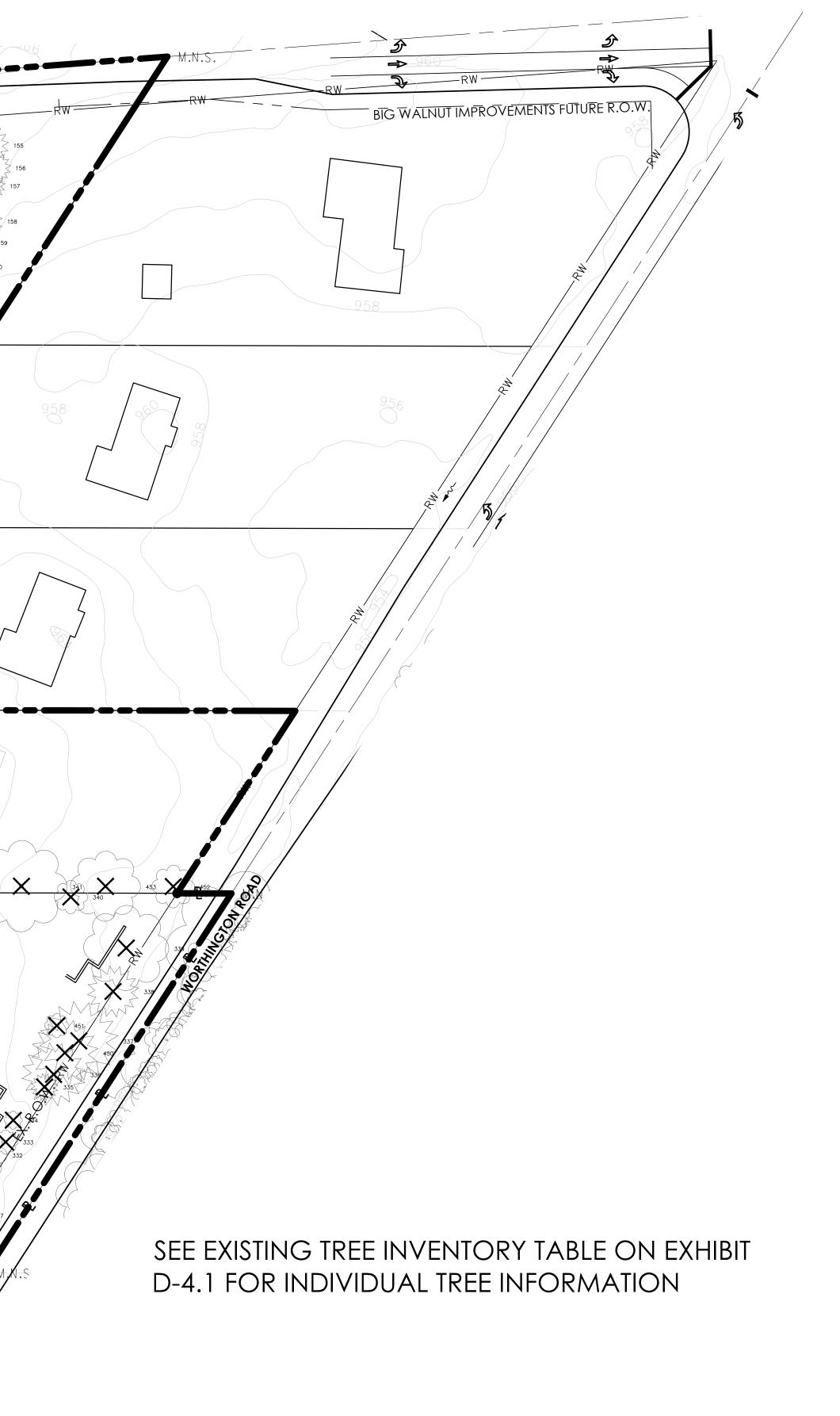


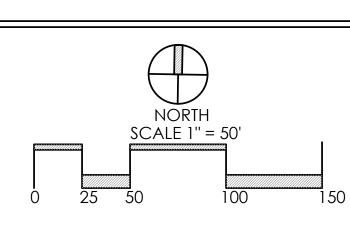
243 N. 5th Street p (614) 487-1964



EXISTING TREE INVENTORY PLAN HAWKS NEST AT HIGHLAND LAKES PREPARED FOR HAWKS NEST PREMIER LIVING

X







243 N. 5th Street p (614) 487-1964

		CONDITION	-
97 98	14 16	Fair Fair	Austrian Pine
99	22	Fair	Austrian Pine
100	20	Poor	Austrian Pine
101	15	Good	Honey Locust
102	26	Good	Silver Maple
103	21	Fair	White Pine
104 105	12	Fair Fair	Sugar Maple Pin Oak
105	13	Fair	White Pine
107	14	Good	Sugar Maple
108	14	Fair	American Elm
109	14	Fair	White Pine
110	11	Poor	White Pine
111	6	Fair	American Elm
112 113	9 21	Fair Good	American Elm White Pine
113	21	Good	White Pine
115	14	Good	Hawthorn
116	27	Fair	Silver Maple
117	24	Good	Silver Maple
118	35	Good	Silver Maple
119 120	15 19	Good Good	Black Willow Black Willow
120	15	Good	Black Willow
122	7	Good	White Pine
123	12	Good	White Pine
124	10	Good	White Pine
125	14	Good	White Pine
126	8	Good	White Pine
127 128	<u> </u>	Good Good	White Pine White Pine
129	10	Good	White Pine
130	8	Poor	White Pine
131	10	Good	White Pine
132	13	Good	White Pine
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134	12	Good	White Pine
136	12	Good	White Pine
137	7	Good	White Pine
138	10	Poor	White Pine
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143	12	Good	White Pine
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145	8	Fair	White Pine
146	10	Good	White Pine
147 148	11	Good Good	White Pine White Pine
149	13	Good	White Pine
150	14	Good	White Pine
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156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174	11 10 14 12 13 10 15 16 30 9 12 14 8 10 22 15 14 8 10 22 15 14 18 11	Good Good Good Good Good Good Fair Good Good Good Good Good Good Good Goo	White Pine Shagbark Hickor
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156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176	11 10 14 12 13 10 15 16 30 9 12 14 8 10 22 15 14 8 10 22 15 14 18 11 16 18	Good Good Good Good Good Good Fair Good Good Good Good Good Good Good Goo	White PineWhite PineWhite PineWhite PineWhite PineWhite PineWhite PineShagbark HickorShagbark Hickor
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EXISTING TREE INVENTOR	RY TABLE
HAWKS NEST PREMIER LIVING	HIGHLAN

REE NUMBER	2 DAMES	CONDITION	SPECIES
1	16	Good	Shagbark Hickory
2	21 23	Good Fair	Shagbark Hickory Black Walnut
4	10	Fair	Norway Maple
5	9	Poor	Norway Maple
6	14	Fair	Sugar Maple
7	12	Fair	Norway Maple
<mark>8</mark> 9	11 22	Fair Fair	Norway Maple
10	16	Good	Sugar Maple Sugar Maple
11	9	Good	Littleleaf Linden
12	15	Good	Sugar Maple
13	16	Good	Sugar Maple
14	13	Good	Sugar Maple
15 16	14 13	Good Good	Sugar Maple Sugar Maple
17	7	Poor	Norway Maple
18	17	Poor	Sugar Maple
19	10	Fair	Sugar Maple
20	17	Good	Silver Maple
21 22	17 23	Fair Fair	Silver Maple Silver Maple
23	11	Good	Sugar Maple
24	19	Poor	White Ash
25	18	Good	Black Walnut
26	21	Fair	Shagbark Hickory
27	28	Dead Poor	White Ash
28 29	14 24	Good	Red Maple Sugar Maple
30	18	Fair	Sugar Maple
31	24	Dead	White Ash
32	9	Good	Sugar Maple
33	9	Fair	American Elm
34 35	14 24	Good Poor	Sugar Maple Box Elder
36	6	Good	Sugar Maple
37	8	Good	Sugar Maple
38	9	Poor	White Ash
39	6	Good	Sugar Maple
40 41	14 30	Fair Fair	White Pine White Pine
41 42	12	Fair	White Pine
43	11	Fair	White Pine
44	14	Fair	Eastern Cottonwood
45	13	Fair	Sugar Maple
46	6	Good	Sugar Maple
47 48	15 15	Good Good	White Pine Sugar Maple
49	6	Poor	Black Cherry
50	11	Good	Sugar Maple
51	16	Fair	White Pine
52	17	Fair	White Pine
53 54	14 12	Fair Good	White Pine Sugar Maple
55	25	Good	Sugar Maple
56	12	Fair	Sugar Maple
57	6	Fair	American Elm
58	9	Good	Sugar Maple
59 60	14 7	Fair	White Pine Pin Oak
61	7	Good Good	Sugar Maple
62	12	Fair	American Elm
63	30	Good	Sugar Maple
64	8	Good	Sugar Maple
65	30	Good	Sugar Maple
66 67	10 33	Fair Poor	American Elm White Ash
68	12	Fair	Pin Oak
69	10	Poor	Black Cherry
70	20	Good	Sugar Maple
71	10	Poor	Black Cherry
72	9	Poor	Black Cherry
73 74	24 15	Good Fair	Sugar Maple White Pine
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76	6	Poor	Austrian Pine
77	16	Fair	Sugar Maple
78	12	Poor	Austrian Pine
79	7	Good	Pin Oak
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209	17	Fair	Black Walnut
210	23	Good	Shagbark Hickory
211	19	Good	Shagbark Hickory
212	18	Good	Shagbark Hickory
213	14	Good	Red Maple
214	20	Poor	White Ash
215	15	Good	Black Walnut
216	7	Good	Pin Oak
217	35	Good	Pin Oak
218	11	Good	Pin Oak
219	7	Good	Sugar Maple
220	20	Fair	Honey Locust
221	7	Good	Sugar Maple
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253	13	Fair	White Pine
254	15	Good	Sugar Maple
255	14	Fair	White Pine
255	13	Fair	White Pine
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262	10	Poor	American Elm
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269	9	Good	Sugar Maple
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272	14	Fair	White Pine
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274	14	Good	Sugar Maple
275	7	Poor	Black Cherry
276	14	Poor	White Pine
277	14	Poor	White Pine
278	10	Poor	White Pine
279	13	Fair	White Pine
280	7	Poor	White Pine
281	6	Poor	White Pine

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281 6 Poor

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TREE NUMBER SIZE CONDITION SPECIES 193 18 Poor Sugar Maple

194 25 Good Sugar Maple

19512PoorSugar Maple19618PoorSugar Maple

197 13 Fair Shagbark Hickory 198 10 Poor Sugar Maple 199 13 Fair Sugar Maple 200 23 Poor Sugar Maple 201 12 Poor Sugar Maple 202 16 Good Shagbark Hickory 203 19 Good Shagbark Hickory 204 15 Poor Sugar Maple 205 19 Poor Sugar Maple 206 22 Poor Sugar Maple

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209 17 Fair Black Walnut

TREE NUMBER	-		
289 290	9 12	Fair Fair	White Pine White Pine
291	8	Poor	White Pine
292	9	Poor	White Pine
293	22	Fair	Eastern Cottonwood
294 295	9 10	Poor Poor	White Pine White Pine
296	15	Fair	White Pine
297	13	Poor	White Pine
298 299	9 20	Good	Sugar Maple
300	6	Poor Poor	Eastern Cottonwood White Ash
301	22	Fair	Eastern Cottonwood
302	8	Poor	White Pine
303 304	10 14	Poor Good	White Pine
304	12	Poor	Sugar Maple White Pine
306	19	Fair	White Pine
307	9	Poor	White Ash
308 309	26	Poor Good	White Ash Pin Oak
310	8	Poor	White Ash
311	10	Poor	White Ash
312	9	Fair	White Pine
313 314	12 42	Poor Poor	White Pine White Ash
314	6	Fair	American Elm
316	16	Fair	Black Walnut
317	6	Poor	Black Walnut
318 319	34 46	Fair Good	Black Walnut Pin Oak
319	10	Good	Swamp White Oak
321	16	Fair	Swamp White Oak
322	8	Fair	Swamp White Oak
323 324	26 28	Fair Fair	Pin Oak Swamp White Oak
325	7	Fair	Swamp White Oak
326	22	Good	Swamp White Oak
327	7	Good	Hackberry
328 329	28 33	Good Good	Swamp White Oak Pin Oak
330	31	Good	Silver Maple
331	39	Poor	White Ash
332	17	Good	Pin Oak
333 334	8	Poor Poor	Black Walnut Black Walnut
335	9	Fair	Norway Spruce
336	21	Fair	Norway Spruce
337	26	Good	Norway Spruce
338 339	17 28	Fair Good	Norway Spruce Pin Oak
340	11	Good	Sugar Maple
341	30	Good	Silver Maple
342	28	Good	Silver Maple
343 344	25 11	Good Good	Silver Maple White Pine
345	12	Good	White Pine
346	9	Good	White Pine
347	13	Good	White Pine
348 349	32 12	Good Good	Red Oak Shagbark Hickory
350	12	Fair	Sugar Maple
351	12	Fair	Shagbark Hickory
352	28	Good Poor	American Beech Sugar Maple
355	18	Poor	Sugar Maple
355	24	Fair	Sugar Maple
356	18	Fair	Shagbark Hickory
357 358	18 17	Fair Good	Shagbark Hickory Shagbark Hickory
358	12	Fair	Shagbark Hickory
360	24	Poor	Sugar Maple
361	12	Poor	Sugar Maple
362	17	Fair	Shagbark Hickory
363 364	22	Good Good	Shagbark Hickory Shagbark Hickory
365	8	Fair	Black Cherry
366	11	Dead	Green Ash
367	36	Good	Pin Oak
368 369	7	Fair Fair	Sugar Maple Sugar Maple
370	10	Fair	American Elm
371	70	Poor	Pin Oak
372	50	Fair	Pin Oak
373	11	Dead Dead	Black Walnut Green Ash
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SPECIES	
Austrian Pine	
Honey Locust	
Silver Maple	
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Sugar Maple	
Pin Oak	
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Shagbark Hickory Black Walnut	
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American Beech	
American Beech	
Amenican Decel	
American Beech Black Walnut	

TREE NUMBER	SIZE	CONDITION	SPECIES
385	10	Fair	White Pine
386	18	Fair	White Pine
387	14	Fair	Sugar Maple
388	14	Fair	White Pine
389	14	Fair	White Pine
390	10	Fair	Black Cherry
391	10	Fair	Sugar Maple
392	21 8	Good Poor	Sugar Maple
393 394	8	Fair	White Pine
395	14	Fair	Sugar Maple Sugar Maple
396	8	Fair	American Elm
397	12	Fair	White Pine
398	11	Poor	White Pine
399	12	Fair	Pin Oak
400	12	Fair	White Pine
401	10	Fair	White Pine
402	10	Poor	Eastern Cottonwood
403	10	Good	Sugar Maple
404	20	Fair	White Pine
405	10	Poor	White Pine
406	10	Fair	White Pine
407	10	Fair	White Pine
408	12	Poor	White Pine
409	6	Poor	White Pine
410	14	Fair	White Pine
411	12	Fair	White Pine
412	8	Fair	American Elm
413	14	Fair	White Pine
414 415	18 7	Fair	White Pine White Pine
415	12	Poor Poor	Green Ash
416	8	Fair	White Pine
418	7	Poor	Eastern Cottonwood
419	12	Fair	Eastern Cottonwood
420	12	Fair	Eastern Cottonwood
421	18	Fair	White Pine
422	16	Poor	Green Ash
423	10	Fair	American Elm
424	14	Fair	White Pine
425	16	Fair	White Pine
426	15	Fair	White Pine
427	10	Fair	White Pine
428	20	Fair	Black Walnut
429	12	Fair	Hackberry
430	6	Good	Black Walnut
431	8	Fair	Black Walnut
432	8	Fair	Box Elder
433	6	Poor	Big-Tooth Aspen
434 435	9 8	Fair Fair	Big-Tooth Aspen Big-Tooth Aspen
435	8	Fair	Big-Tooth Aspen
436	8	Fair	Pin Oak
437	9	Fair	American Elm
439	20	Fair	White Pine
440	9	Fair	Black Walnut
441	8	Good	Pin Oak
442	18	Good	Black Walnut
443	16	Good	Swamp White Oak
444	26	Good	Pin Oak
445	22	Good	Swamp White Oak
446	18	Fair	Black Walnut
447	18	Fair	Norway Spruce
448	25	Good	Silver Maple
449	26	Good	Silver Maple
450	22	Good	Winged Sumac
1		Good	Red Mulberry
451	8		
451 452	14	Good	Sugar Maple
451 452 453	14 23	Good Good	Sugar Maple
451 452	14	Good	



PROPOSED REMOVED TREE

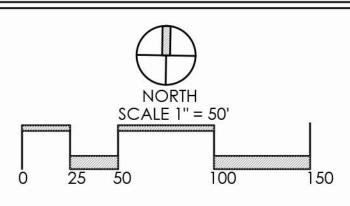


EXHIBIT D-4.1 Faris Planning & Design

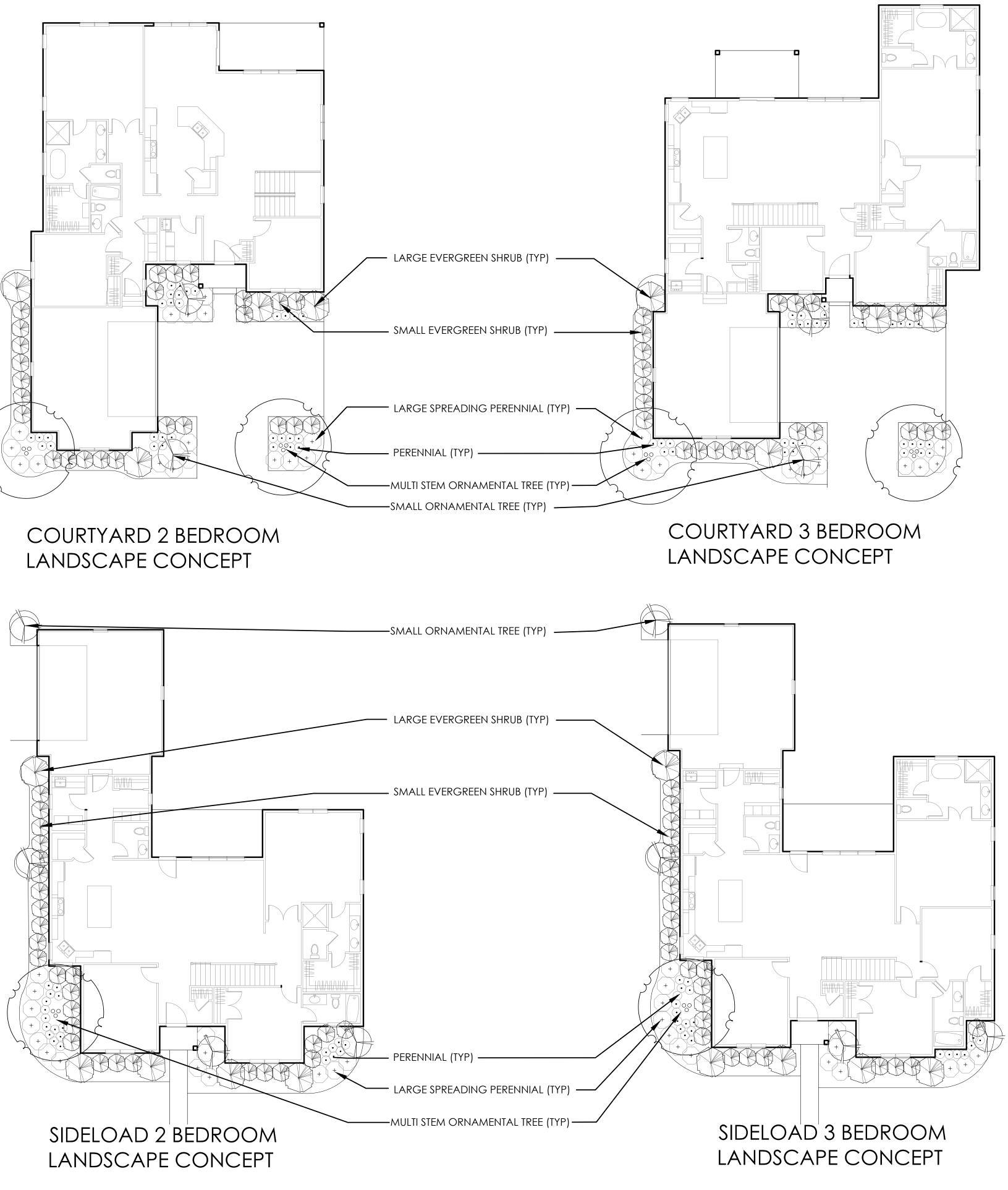
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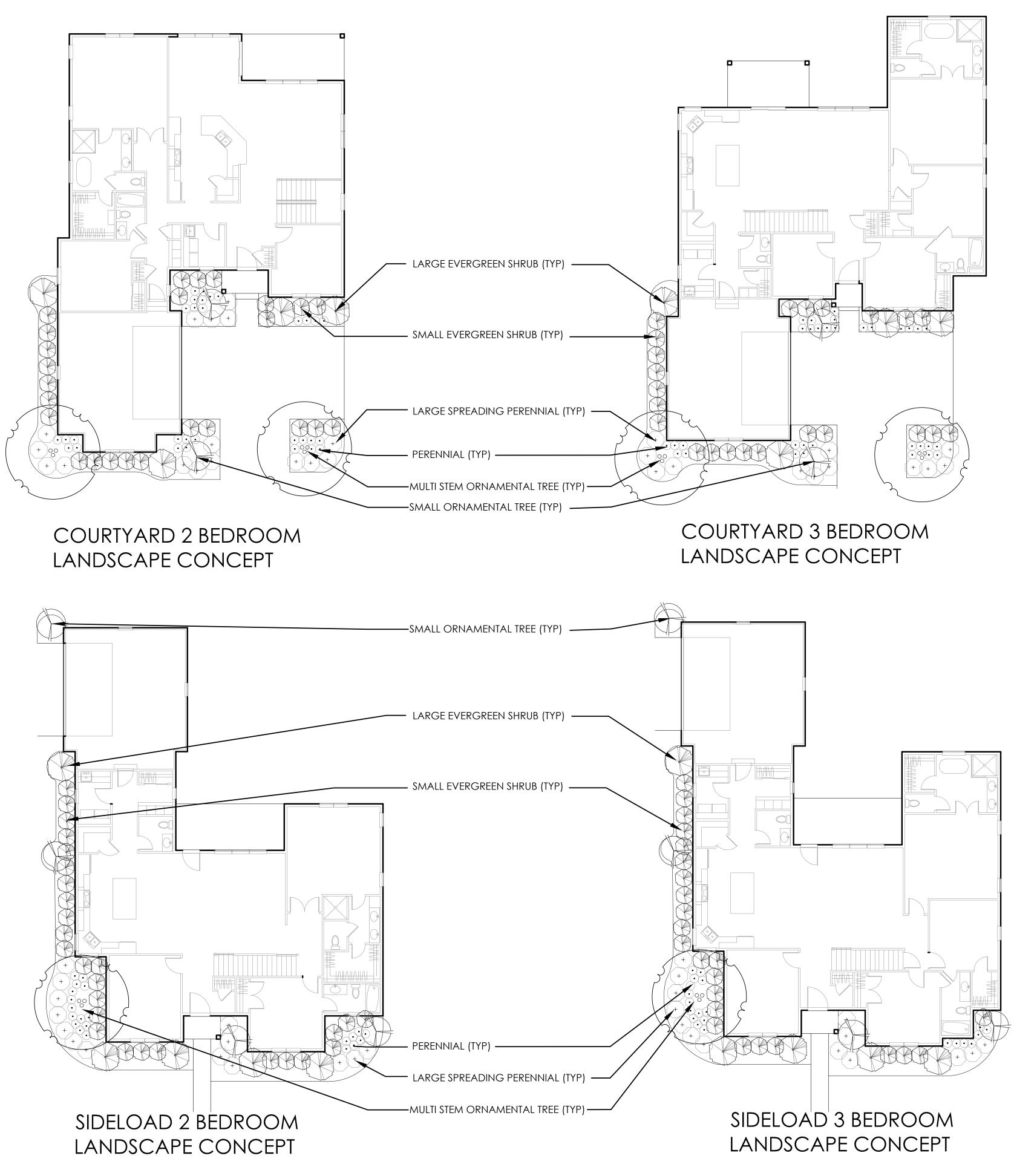
LAND PLANNING

LANDSCAPE ARCHITECTURE

243 N. 5th Street p (614) 487-1964

CONCEPT UNIT PLANTING PLANS HAWKS NEST PREMIER LIVING DATE: 8/25/17





PLANT KEY TYPICALS SEE PLANT LIST FOR SPECIFIC PLANT SPECIES

- ORNAMENTAL TREE

- LARGE DECIDUOUS SHRUB

- EXISTING TREE - EVERGREEN SHRUB - DECIDUOUS SHRUB - EVERGREEN TREE PERENNIALS - GROUNDCOVER - SHADE TREE



LAND PLANNING 243 N. 5th Street p (614) 487-1964

NORTH SCALE 1'' = 10'

LANDSCAPE ARCHITECTURE





AEP: America's Energy Partner SM

Kevin Henry

MS Consultants

2221 Schrock Rd Columbus, OH 43229

07/14/17

This correspondence is in response to your request confirming the availability of electric service at:

5960 Big Walnut Rd, Galena, OH and other properties on the same street

American Electric Power will serve the needs of its customers as those needs occur. Any extension of our facilities to serve a customer will be made in compliance with all rules and regulations your state's utility commission. Any cost associated with providing service to the above addressed will be discussed prior to service being installed.

Before construction begins, please notify AEP's Customer Solutions Center at 1-888-710-4237 to make arrangements for service. We ask that you allow us as much notice as possible, so we can prevent any delays.

Please do not hesitate to contact us if you need any assistance or further information.

Sincerely,

Johnnie Buckner American Electric Power Business Operations



DELAWARE COUNTY REGIONAL SEWER DISTRICT

MICHAEL A. FROMMER, P.E., EXECUTIVE DIRECTOR TIFFANY M. MAAG, P.E., DEPUTY DIRECTOR

March 2, 2017

Patrick J. Shivley North Gate Companies 150 E. Mound Street Suite 103 Columbus, OH 43215

Re: Request for Sewer Capacity Big Walnut Road / Worthington Road Parcels: 31723004001000, 31723004003000, 31723004093000, 31723004094000

Dear Mr. Shivley:

The Delaware County Regional Sewer District (the "County") has considered your request for approval to discharge sanitary sewage into the Delaware County Sanitary Sewer System from the above referenced location, representing 30 Equivalent Residential Unit(s) (ERU).

Capacity is currently available to serve the proposed project. An existing 8" sanitary sewer is located in the Highland Lakes North, Section 4 development to the south. Extensions from the existing sanitary sewer will be necessary to provide service to the proposed lots.

The current assessment of capacity availability is subject to periodic reevaluation by the County and shall not be valid after 18 months from the date of this letter.

If you have any questions, please feel free to contact me.

Sincerely,

Killy This

Kelly Thiel Staff Engineer II Delaware County Regional Sewer District

cc: Mike Frommer Project File Correspondence File



A NiSource Company

New Business Team 290 W Nationwide Blvd Columbus, OH 43215

July 11, 2017

MS Consultants, Inc. Attn: Brenda VanCleave, PE 2221 Schrock RD Columbus, OH 43229

Re: Big Walnut Road/ Worthington Road Parcels 31723004001000, 31723004093000, 31723004094000

Thank you for choosing Columbia Gas of Ohio, Inc. (COH), a NiSource Company, to serve your natural gas needs to your new proposed residential project. This letter is to confirm COH does have facilities in the area. Columbia Gas does have main on St George AVE and Worthington RD. Once the Attachment A of the Information Request Packet has been answered (you will receive when this comes to fruition) and returned and all other requested information is released to the COH New Business Team, the length of main line required to serve the subdivision, and any capacity issues will be determined; as well as any deposit and/or Aid-To-Construction costs that may be required.

<u>Please note that availability is contingent upon a cost benefit analysis. If the project is not deemed</u> <u>economically feasible for Columbia Gas, a deposit may be necessary</u>

If you have any questions regarding availability, or how it is determined, please feel free to contact me at 614-460-6354 Monday-Friday. Columbia Gas and I look forward to partnering with you on this and future projects.

Sincerely,

Jund Patral

Columbia Gas of Ohio Joe Codispoti New Business Development Manager

Officers TIMOTHY D. McNAMARA President DAVID A. BENDER Vice President ROBERT W. JENKINS Secretary G. MICHAEL DICKEY Treasurer GLENN MARZLUF General Manager/CEO SHANE CLARK Chief Operating Officer



6658 OLENTANGY RIVER ROAD DELAWARE, OHIO 43015 www.delcowater.org Phone (740) 548-7746 • Fax (740) 548-6203 Directors BRUCE A. BLACKSTON BRIAN P. COGHLAN WILLIAM E. COLE DOUGLAS D. DAWSON J. MICHAEL SHEETS PERRY K. TUDOR

July 6, 2017

Ms. Brenda VanCleave, P.E. MS Consultants, Inc. 2221 Schrock Road Columbus, Ohio 43229

Via Email: bvancleave@msconsultants.com

RE: Water Availability – Four Parcels at SW Corner of Big Walnut Rd. and Worthington Rd.

Dear Ms. VanCleave:

As requested, this is to inform you that Del-Co Water is able to provide water service to the site described below upon plan approval and payment of the required fees:

Proposed Land Use: ±30-unit condominium complex Location: Southwest corner of Big Walnut Road and Worthington Rd. Acreage: Approximately 19 acres

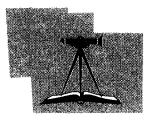
This site can be served from an existing 8-inch water line located on Worthington Road. Please note, that this development will be served by a master meter.

This letter of water availability is valid for a period of one year from the date of this letter. Del-Co makes no guarantee of water availability beyond this period. Contact our Engineering Department if you have any questions on the plan review process, or our Customer Service Department for information on tap fees.

Sincerely, DEL-CO WATER COMPANY, INC.

Shane -

Shane F. Clark, P.E. Deputy General Manager



Delaware County Engineer

Chris Bauserman, P.E., P.S. County Engineer **Robert M. Riley, P.E.** *Chief Deputy Engineer*

July 3, 2017

Genoa Township Zoning Board 5111 South Old 3C Highway Westerville, Ohio 43082

Re: Big Walnut Road Development Lot 1428 Chandler Corporate Park Genoa Township

Dear Zoning Board Members:

The Delaware County Engineer's Office (DCEO) has reviewed the proposed conceptual layout dated June 21, 2017 for the development of 30 condominium units on approximately 19.055 acres at the southwest corner of Worthington Road and Big Walnut Road in Genoa Township. We have reviewed the conceptual layout for access and drainage issues and offer the following:

ACCESS

Access to the site is proposed off of Worthington Road. The developer will be required to construct a northbound left turn lane at the point of access. In doing so, the developer will be responsible for connecting a 3-lane section between the existing improvements north and south of the entrance. A secondary access is proposed off of Big Walnut Road. This secondary access will be for emergency vehicle access only. Our office reserves the right to limit the construction materials used to build this emergency only access in order to prevent the traveling public from turning into this drive.

DRAINAGE

There is an existing pond at 6090 Big Walnut Road. If the County determines that the existing pond is required to be placed on County Maintenance, a geotechnical analysis, including soil borings, will be required to determine the integrity of the pond and also if the pond is leaching water into the surrounding area. The engineer will be required to ensure there is an Adequate Outlet, per current County Standards, available to drain the site, including the existing pond.

The conceptual layout appears to be feasible. The plans reviewed are preliminary in nature and, therefore, only address the conceptual layout. Final engineering plans will need to be submitted that comply with the current edition of the Delaware County Engineer's Design, Construction and Surveying Standards Manual.

Thank you for the opportunity to comment on this proposal. Subject to the Township's approval, we will review the detailed engineering plans for this site.

Sincercly _ John Piccin, P.E., P.S.

Deputy Development Engineer

cc: Brenda I. VanCleave, PE (via email)
 Joe Shafer, Genoa Township
 Rob Riley, Cindy Davis, Aaron Scheiderer, Brett Bergefurd, DCEO
 Milt Link, Matt Lanum, DCSWCD

encl

SUBURBAN NATURAL GAS COMPANY ESTABLISHED 1882

211 FRONT STREET, P.O. BOX 130 CYGNET, OHIO 43413-0130 (419) 655-2345

2626 Lewis Center Road Lewis Center, Ohio 43035-9206 (740) 548-2450

July 5, 2017

ms consultants, inc 2221 Shrock Road Columbus, Ohio 43229

RE: Big Walnut Road/Worthington Road

Dear Brenda I. VanCleave:

In response to your request for natural gas service availability to the approximately 19.055 acres located on the south of Big Walnut Road and west of Worthington Road, Genoa Township, Delaware County, Ohio, Suburban Natural Gas Company does have natural gas service available to the above described location.

As always, natural gas service to the area as well as any other served or to be served by Suburban Natural Gas Company is subject to the terms and conditions of our PUCO tariff.

We look forward to working with you on the proposed project. If you have any questions, feel free to contact me directly.

Cordially,

Aaron Roll Vice President System Development

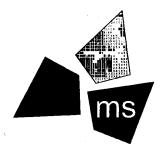
AR/hc

cc: Andrew Sonderman

ms consultants, inc.

engineers, architects, planners

2221 Schrock Road Columbus, Ohio 43229-1547 p 614.898.7100 f 614.898.7570 www.msconsultants.com



June 28, 2017

Mr. Chris E. Bauserman, P.E., P.S. Delaware County Engineer's Office 50 Channing Street Delaware, Ohio 43015

Re: Request for Serviceability Big Walnut Road / Worthington Road Parcels 31723004001000, 31723004093000, 31723004094000

Dear Chris,

ms consultants has been retained by Hawks Nest Premier Living, LLC to prepare a utility serviceability report in support of a Preliminary Development Plan and Zoning Amendment submittal for three (3) properties located at the southwest corner of the intersection of Big Walnut Road and Worthington Road in Genoa Township, Ohio. The property addresses are 5960 Big Walnut Road, 6090 Big Walnut Road, and an unnumbered property that fronts Worthington Road. The proposed use of the site is a 30 building condominium development representing 30 Equivalent Residential Units (ERU). Please see the attached plan for the location and proposed configuration of the subject property.

We are requesting a letter of serviceability from your utility for the subject parcel for the purposes of satisfying the rezoning requirements of the Genoa Township Preliminary Development Plan and Zoning Amendment requirements. We would appreciate a quick response no later than July 13, 2017. You may email me your response at <u>bvancleave@msconsultants.com</u>. If you have any questions, please feel free to contact me.

Sincerely,

Brenda I. VanCleave, PE Project Manager

Cc: Pat Shively Valerie Croasman File





BIG WALNUT ROAD PREPARED FOR NORTHGATE COMPANIES DATE: 6-21-17

LAND PU 243 N. 5th Street p (614) 487-1964

30 UNITS

±1.57 D.U./AC.

±1.91 D.U./AC.

Columbus, OH 43215

From: Damon Maddox [mailto:Damon.Maddox@wowinc.com]
Sent: Wednesday, July 05, 2017 8:53 AM
To: VanCleave, Brenda
Subject: Request for Serviceability, Big Walnut Rd/Worthington Rd, Parcels 31723004001000, 31723004093000, 31723004094000

Brenda,

In response to the attached Request for Serviceability, WOW! does offer service in the surrounding area and would be very interested in offering service within any planned development at the locations listed in the Request.

Thanks,

Damon Maddox Mgr, Construction WOW! internet, cable & phone

desk: 614-948-4615 mobile: 614-668-7760 fax: 614-948-4620

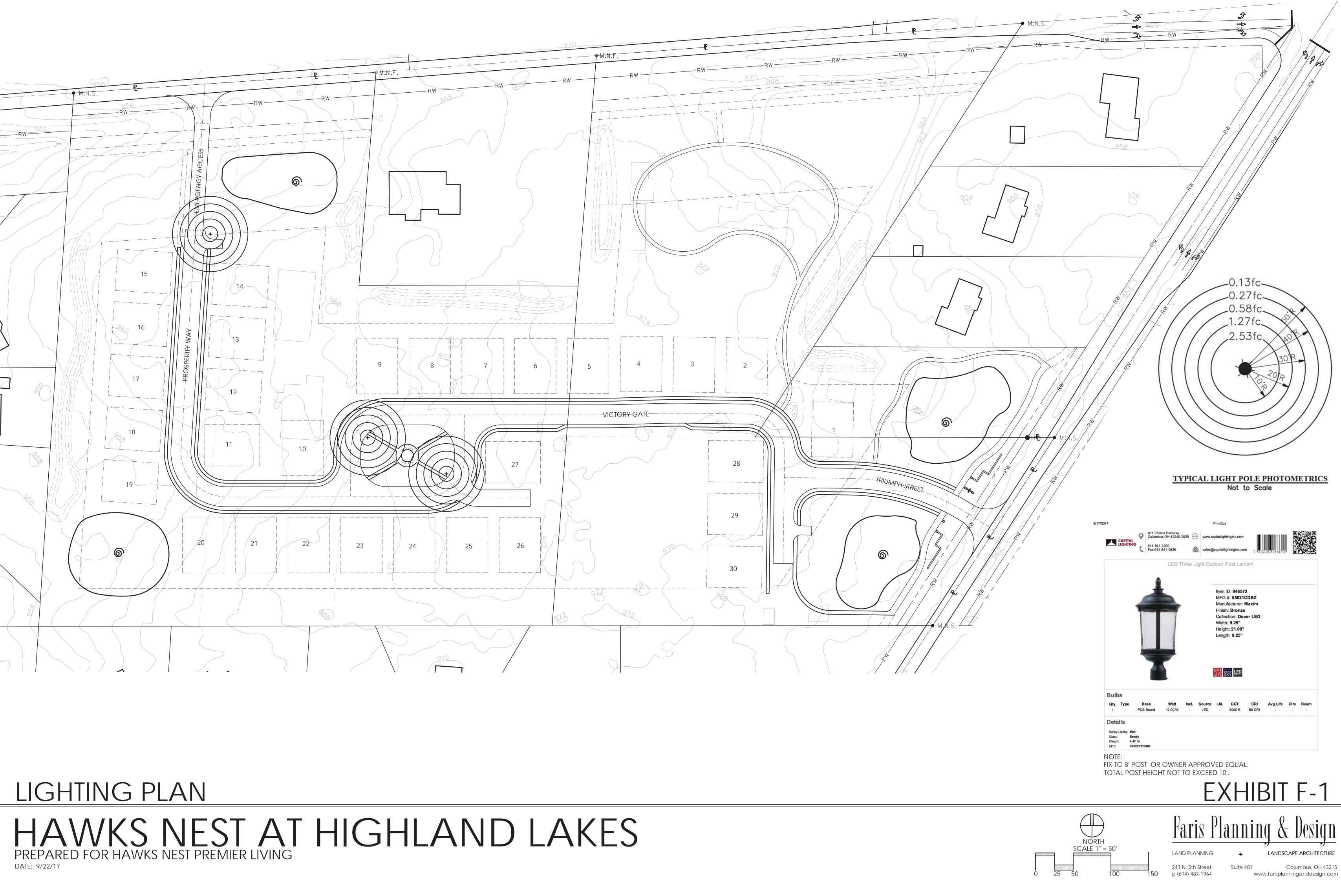


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EXHIBIT F-1



ms consultants, inc.

engineers, architects, planners

2221 Schrock Road Columbus, Ohio 43229-1547 p 614.898.7100 f 614.898.7570 www.msconsultants.com





July 6, 2017

Mr. John Piccin Delaware County Engineer's Office 50 Channing Street Delaware, Ohio 43015

Re: Traffic Access Study Big Walnut Road Development Big Walnut Road/Worthington Road Delaware County, Ohio RECEIVED

JUL 1 2 2017

DELAWARE COUNTY ENGINEER

Dear Mr. Piccin:

ms consultants has performed a traffic access study for the proposed detached single family condominiums located at the southwest corner of Big Walnut Road and Worthington Road in Genoa Township, Delaware County, Ohio. A map of the site location is shown on **Figure 1**.

The proposed development will have two access points onto the public road network. The main site access will be on Worthington Road, approximately 600' south of the Big Walnut Road/Worthington Road intersection. The access point on Big Walnut Road will be gated and will only allow emergency vehicles to access the site. The proposed development is 30 detached condominiums. The conceptual site layout is shown on **Figure 2**.

Trip generation has been performed using the *ITE Trip Generation Manual (9th Edition)*. The ITE Land Use used for this study was Senior Adult Housing – Detached (LU 251). The AM Peak hour is predicted to generate 35 trips, while the PM Peak hour is predicted to generate 18 trips.

The background traffic was developed from *Big Walnut Road/Worthington Road Feasibility Study (DEL-CR13-TR109)*. A growth rate of 5% was developed from this study to develop the Horizon Year Worthington Road volumes, south of Big Walnut Road. The Horizon Year traffic for the proposed development (2027) is less than the Design Year (2035) for Worthington Road. Additionally, the site traffic only represents 2% of the Design Year traffic.

2027 2035 2027 2035 2013 No-Build Build No-Build Build No-Build 1,475 1.125 1,440 **AM Peak** 640 1,090 1,698 **PM Peak** 850 1,450 1,468 1,680

Table 1: Worthington Road Volumes south of Big Walnut Road

NOTE: Access drive on Bib-Walnut Rd 13 Emerginey only. IF this becomes Full Access, then TAS needs Reused. EXHIBIT G-1 Mr. John Piccin July 6, 2017 Page 2

The proposed development will be required to build a northbound left turn lane at the Worthington Road site access drive. Because it is an emergency access point, no turn lanes are needed at the Big Walnut Road access drive. Turn lane sizing was calculated using the criteria from the *ODOT Location and Design Manual*. Turn lane sizing was performed for the northbound left turn lane only. The speed limit on Worthington Road is 45-mph. The calculated turn lane length is 175' (includes a 50' taper). However, the developer will be required to build a constant three-lane roadway section on Worthington Road between Big Walnut Road and St. George Avenue/Alpine Drive. The constant three-lane section is required to avoid an "hourglass" roadway between the proposed site driveway and St. George Avenue/Alpine Drive. No other roadway improvements are recommended.

Sincerely,

for Huguel

Jennifer Howdyshell, P.E. Traffic Engineer

N:\60\06768 - BigWalnut-Worthington\2017-07-06 Traffic Access Study.docx

ms consultants, inc.

BIG WALNUT ROAD

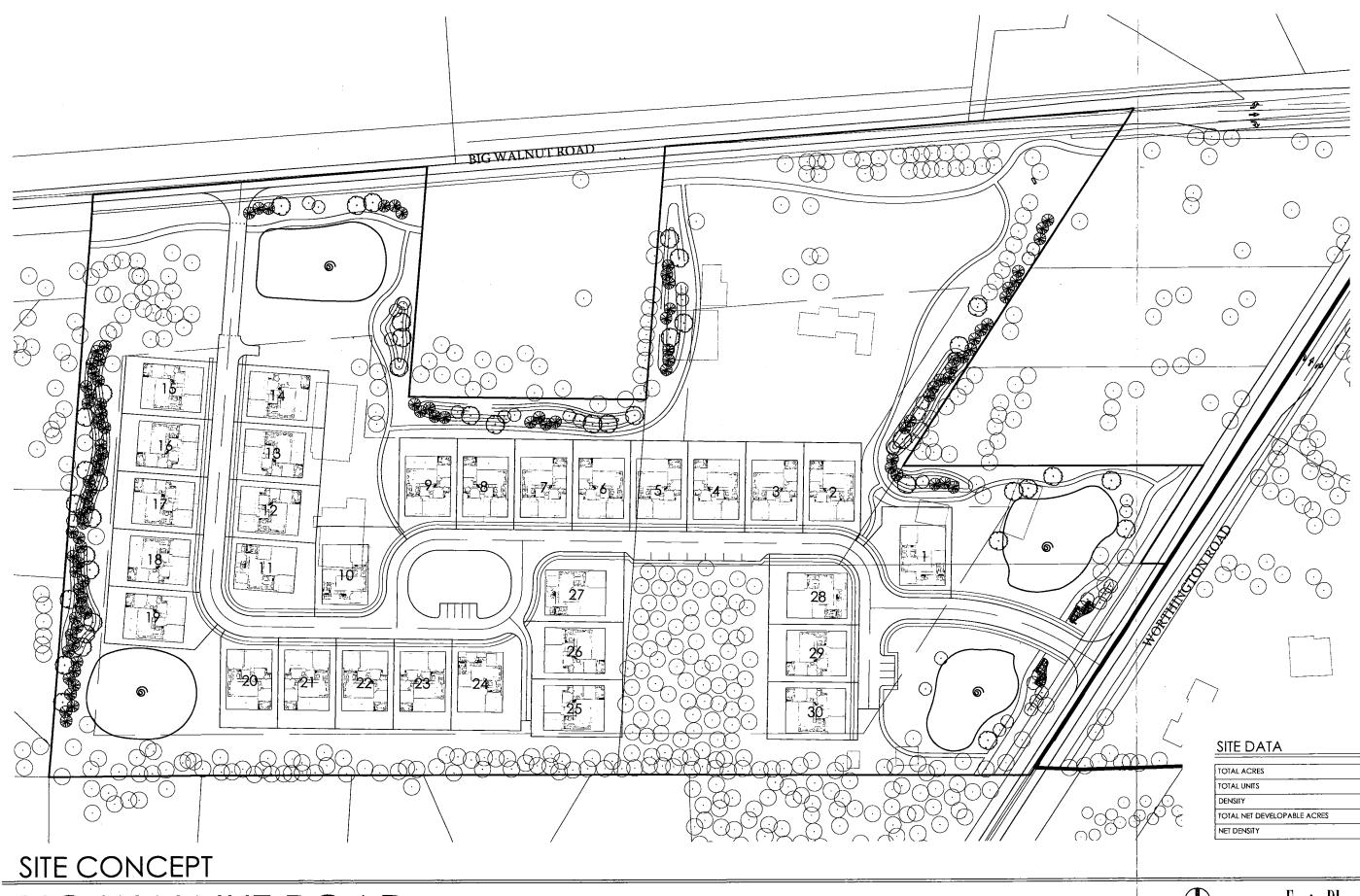
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Emergency Access Only

ms consultants, inc. engineers, architects, planners

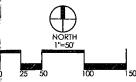
Figure 1: Study Area Map Big Walnut Road Development



BIG WALNUT ROAD PREPARED FOR NORTHGATE COMPANIES DATE: 6-21-17

Figure 2: Site Plan Big Walnut Development

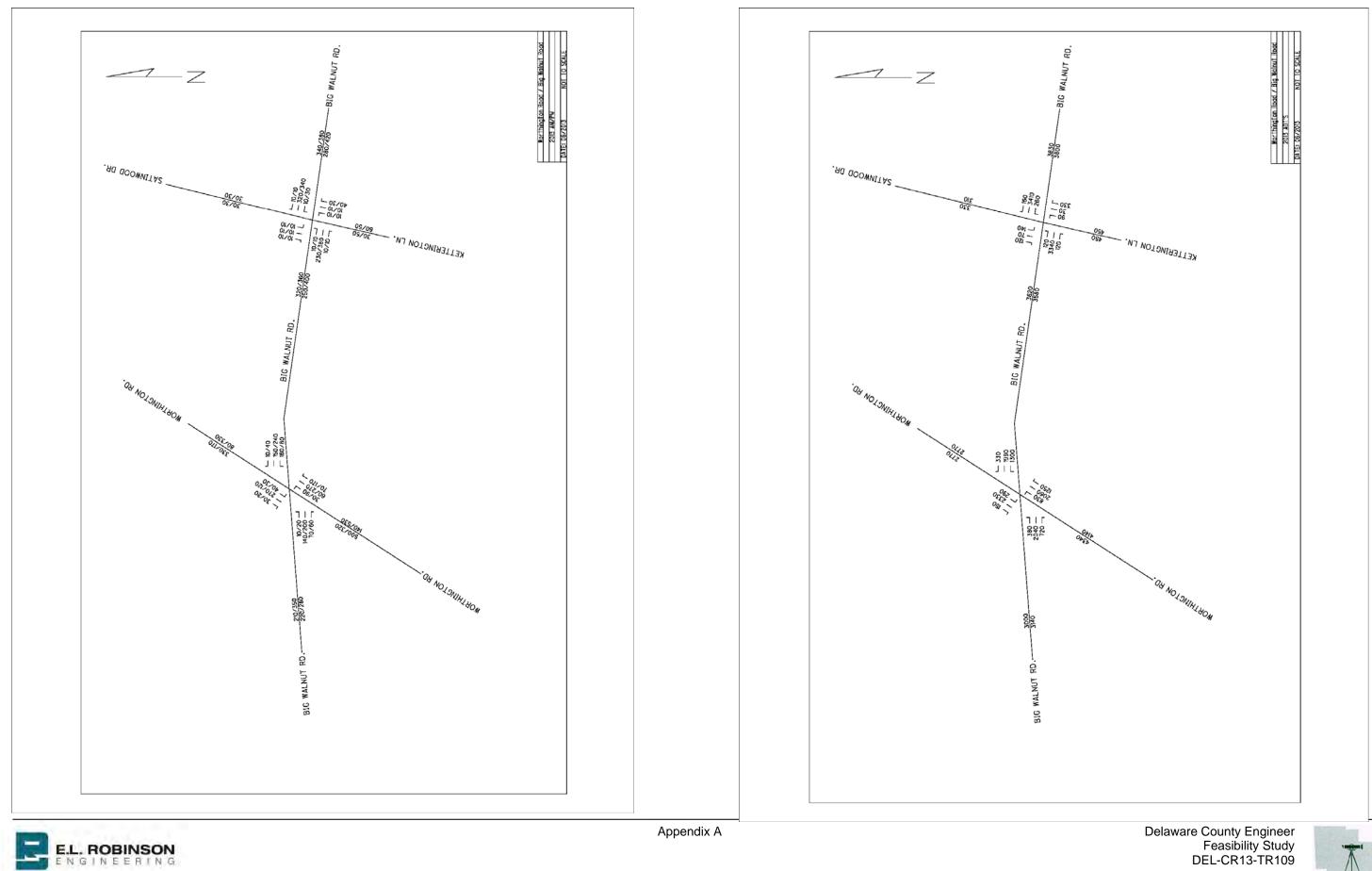
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DENSITY	±1.91 D.U./AC.



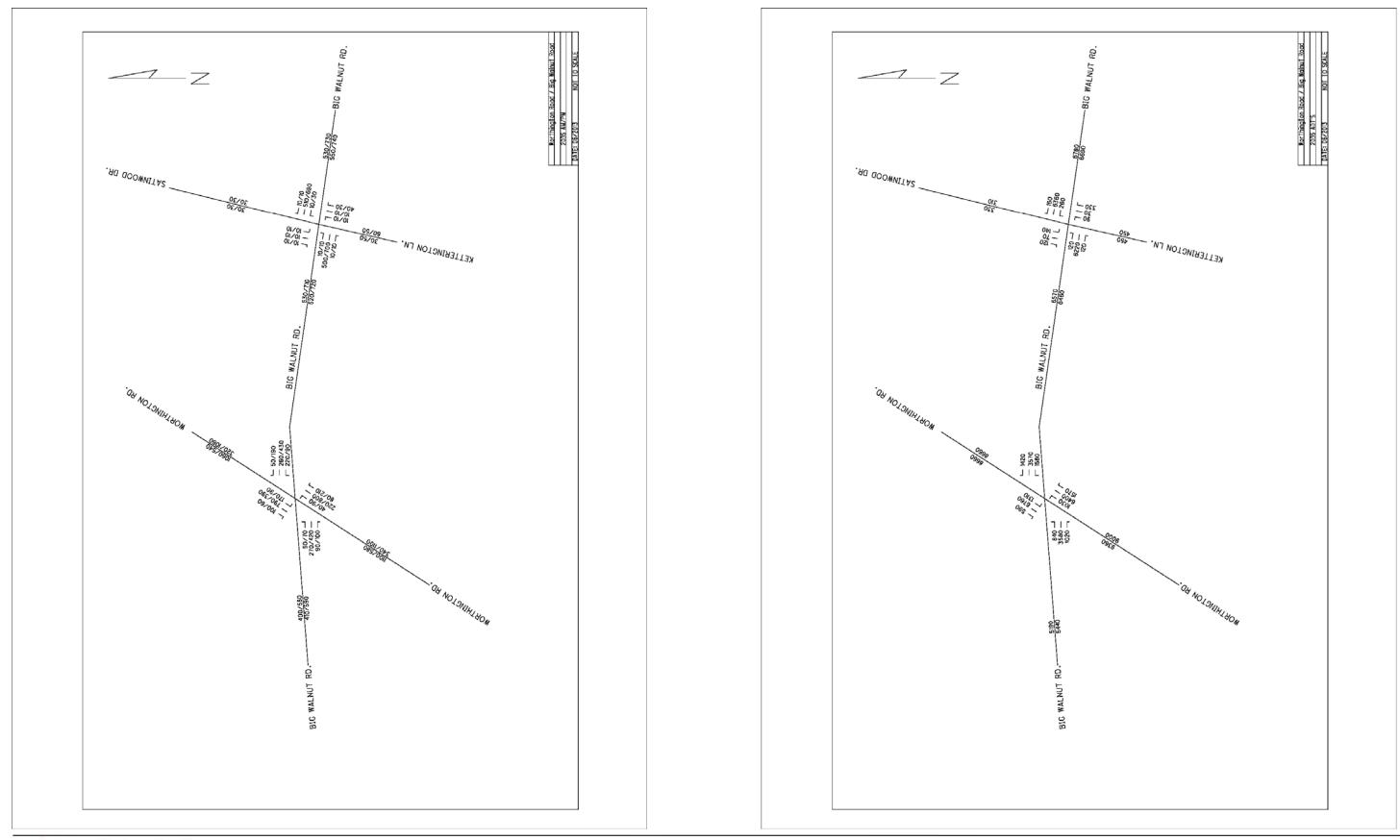
Faris Planning & Design LAND PL

243 N. 5th Stree

Columbus, OH 43215









Delaware County Engineer Feasibility Study DEL-CR13-TR109





Big Walnut Road Development ODOT L&D Manual Turn Lane Sizing Calculation Worksheet

7/6/2017

Worthington Road/Site Access

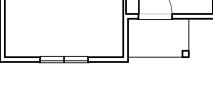
	NBLT	NBLT	
	AM Peak	PM Peak	
Intersection Control	Thru	Thru	
Design Speed (mph)	45	45	
Cycle Length (seconds)	60	60	
Number of Turn Lanes	1	1	
Turn Lane Volume (vph)	35	18	
Approach Volume (vph)	375	1,118	
Volume in Adjacent Thru Lane (vph)	340	1,100	
Turning Percentage	9%	2%	
Vehicles/Cycle	1	1	
Taper Length (feet)	50	50	
Deceleration Length (feet) (L1 if dual TLs)	125	125	
Total Storage Length (feet)	0	0	
Total Turn Lane Length (feet)	175	175	
No-Block Storage Length (feet)	N/A	N/A	

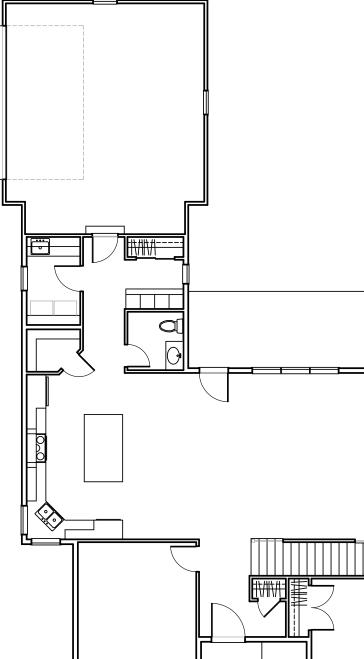
Intersection Control				
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Cycle Length (seconds)				
Number of Turn Lanes				
Turn Lane Volume (vph)				
Approach Volume (vph)				
Volume in Adjacent Thru Lane (vph)				
Turning Percentage				
Vehicles/Cycle				
Taper Length (feet)				
Deceleration Length (feet)				
Storage Length (feet)				
Total Turn Lane Length (feet)				
No-Block Storage Length (feet)				

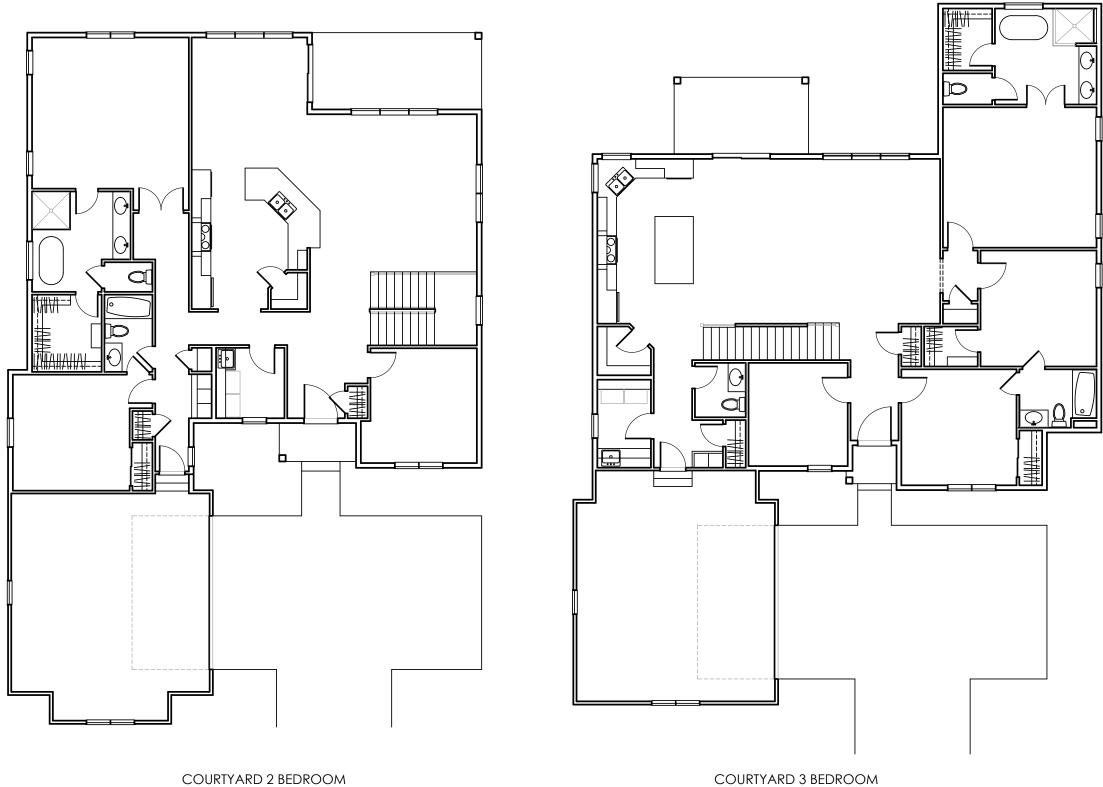


DATE: 8/25/17

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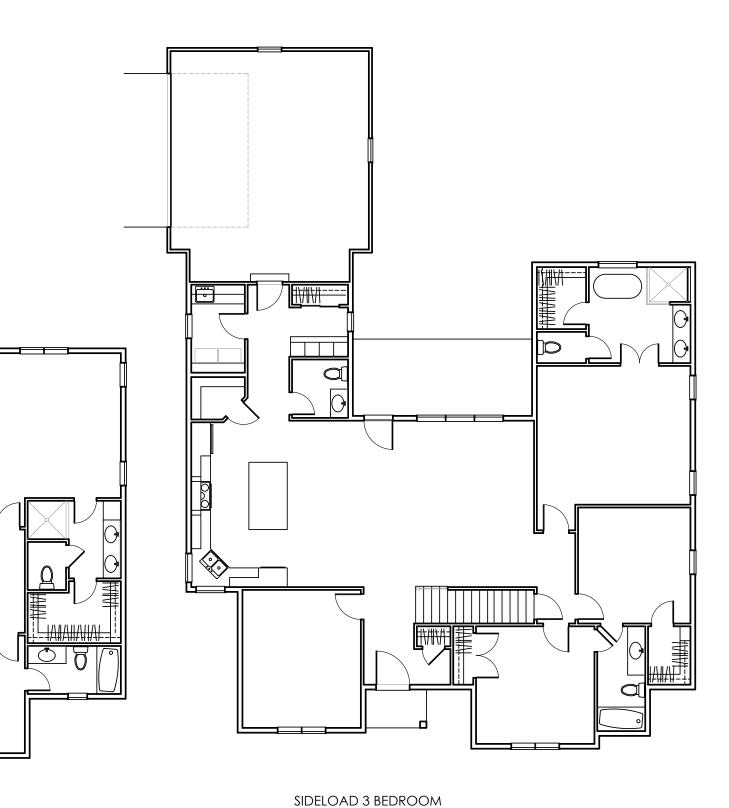






COURTYARD 2 BEDROOM

COURTYARD FLOORPLANS



SIDELOAD 2 BEDROOM

SIDE LOAD FLOOR PLANS

NOTE: NO BUILDING WITHIN THE DEVELOPMENT WILL EXCEED 35-FEET IN HEIGHT

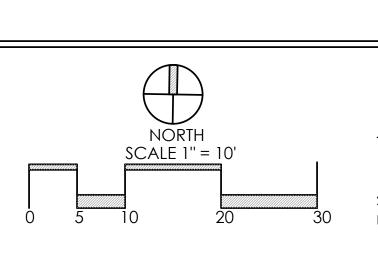


EXHIBIT H-1 Faris Planning & Design

LAND PLANNING

LANDSCAPE ARCHITECTURE

243 N. 5th Street p (614) 487-1964









DECLARATION AND BYLAWS CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311

FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

CERTIFICATE OF THE DELAWARE COUNTY, OHIO AUDITOR

September <u>17</u>, 2013

I certify that of a copy of the Declaration, Bylaws, and Drawings of Sorrento at Highland Lakes Condominium have been filed with the Delaware County, Ohio Auditor.

George Kaitsa TH

Delawar County Auditor

Prepared by: Christopher D. Adkinson, Esq. Attorney at Law Kephart Fisher LLC 207 North Fourth Street Columbus, Ohio 43215

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EXHIBIT I-1

DECLARATION CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR SORRENTO AT HIGHLAND LAKES CONDOMINIUM

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DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

This is the Declaration of the Sorrento at Highland Lakes Condominium made as of the 17^{μ} day of September, 2013, which submits property to the provisions of Ohio Revised Code Chapter 5311 (the "Condominium Act").

RECITALS

A. Romanelli and Hughes Building Company, an Ohio corporation ("Declarant"), is the owner in fee simple all of the real property hereinafter described, its improvements, and its appurtenances.

B. Declarant hereby submits this property to condominium ownership under the Condominium Act to establish a site of individually-owned residential units and commonly-owned areas and facilities.

DEFINITIONS

The terms used in this document shall have these meanings, unless the context requires otherwise:

1. "Additional Property" means the land, its improvements, and appurtenances that may, at a subsequent time, be added to the Condominium Property and become a part of the Condominium. A legal description of the "Additional Property" is attached as Exhibit B and made a part of this definition.

2. "Articles" and "Articles of Incorporation" mean the articles of incorporation, filed with the Secretary of State of Ohio, incorporating the Sorrento at Highland Lakes Condominium Association, Inc. as a not-for-profit corporation pursuant to the provisions of Ohio Revised Code Chapter 1702, as the same may be lawfully amended from time to time (the State of Ohio's not-for-profit corporation statutory act).

3. "Association" and "Sorrento at Highland Lakes Condominium Association, Inc." mean the nonprofit corporation created by the filing of the Articles, which are one and the same as the association created for the Condominium under the provisions of the Condominium Act.

4. "Board" and "Board of Directors" mean those Persons who, as a group, serve as the Board of Directors of the Association.

5. "Bylaws" mean the bylaws of the Association, as the same may be lawfully {00135256-3}

amended from time to time, created for the Condominium pursuant to the provisions of the Condominium Act, and which also serve as the code of regulations of the Association pursuant to the provisions of Ohio Revised Code Chapter 1702. A true copy of the Bylaws is attached as Exhibit G, made a part of this definition, and made part of this Declaration.

6. "Common Elements" means all of the Condominium Property, except that portion thereof described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "Common Elements" of the Condominium under the Condominium Act.

7. "Condominium" and "Sorrento at Highland Lakes Condominium" mean the entire condominium regime for the Condominium Property created under and pursuant to the Condominium Act.

8. "Condominium Act" means the statutory law of the State of Ohio regulating the creation and operations of condominiums and is presently Ohio Revised Code Chapter 5311.

9. "Condominium Instruments" means this Declaration, the Bylaws, the Drawings, any contracts pertaining to the management of the Condominium Property, the Condominium development disclosure statement provided pursuant to the Condominium Act, and, as provided therein, any other documents, contracts or instruments establishing ownership of or exerting control over a Condominium Property or Unit.

10. "Condominium Organizational Documents" means the Articles, the Bylaws, this Declaration, and the Drawings, as the same may be lawfully amended from time to time.

11. "Condominium Property" means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures, and improvements situated thereon, and all easements, rights, and appurtenances belonging thereto. A legal description of "Condominium Property" is attached as Exhibit A.

12. "Declarant" means Romanelli and Hughes Building Company, an Ohio corporation, and its successors, and its assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

13. "Declaration" means this instrument and all of its attachments, through which the Condominium Property is submitted to the provisions of the Condominium Act, as this instrument may be lawfully amended from time to time.

14. "Director" and "Directors" mean that person or those persons serving, at the time pertinent, as a Director or Directors of the Association.

{00135256-3}

15. "Drawings" means the drawings for the Condominium, as defined in and required by the Condominium Act, filed simultaneously herewith, as the same may be lawfully amended from time to time.

16. "Eligible Mortgagee" means any mortgagee holding a valid first mortgage on a Unit that delivers written notice to the Association setting forth the name and address of such mortgagee and the Unit on which such mortgagee holds a first mortgage.

17. "Limited Common Elements" means those Common Elements serving exclusively a particular Unit or particular Units, but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful occupants of that Unit or Units either in this Declaration, by the Board, or by any other allowed means, and is that portion of the Condominium Property constituting "Limited Common Elements" of the Condominium under the provisions of the Condominium Act. The reservation or allocation of enjoyment, use, or benefit of "Limited Common Elements" shall not be distinguished by whether the enjoyment, use, or benefit of the "Limited Common Elements" were allocated or granted through this Declaration, by the Board, or by any other allowed means.

18. "Occupant" means a person lawfully residing in a Unit, regardless of whether or not that Person is a Unit Owner.

19. "Person" means a natural individual, trustee, corporation, partnership, limited liability company, or any other legal entity capable of holding title to real property or residing in a Unit.

20. "Unit" and "Units" mean (a) that portion or portions of the Condominium Property described as a Unit or Units in this Declaration and designated by Unit designation on the Drawings and (b) that portion of the Condominium constituting a "unit" or "units" of the Condominium under the provisions of the Condominium Act.

21. "Unit Owner" and "Unit Owners" mean that Person or those Persons owning a fee simple interest in a Unit or Units, each of whom is also a "member" of the Association under Ohio Revised Code Chapter 1702.

THE PLAN

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for condominium ownership of the property described in this Declaration and/or exhibits hereto as the "Condominium Property" under and pursuant to the Condominium Act.

ARTICLE I. CONDOMINIUM PROPERTY

A legal description of the land constituting the Condominium Property, located in the Township of Genoa, Delaware County, Ohio, is attached hereto as Exhibit A and incorporated {00135256-3}

herein by this reference.

ARTICLE II. NAME

The name by which the Condominium shall be known is "Sorrento at Highland Lakes Condominium."

ARTICLE III. PURPOSES OF THE CONDOMINIUM PROPERTY

The Condominium is created (a) to establish separate individual parcels from the Condominium Property to which fee simple interests may be conveyed; (b) to establish an Association to administer the Condominium; (c) to create restrictions, covenants, and easements providing for, promoting, and preserving the values of Units and the Common Elements as well as the well-being of Unit Owners and Occupants; (d) to administer and enforce the covenants, easements, charges, and restrictions hereinafter set forth in this Declaration; and (e) to raise funds through assessments to accomplish these purposes.

ARTICLE IV. RESTRICTIONS ON USES OF CONDOMINIUM PROPERTY

The Condominium and the Condominium Property shall be benefited by and subject to the following restrictions, which shall run with the land as provided under the Condominium Act:

1. <u>Rules and Regulations</u>. In addition to adopting and enforcing rules and regulations in the instances specifically mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners and the Association, and to protect and preserve the nature of the Condominium and the Condominium Property. In so adopting and enforcing, the Board shall furnish copies of all rules and regulations to all Unit Owners before any rules or regulations shall become effective.

2. <u>Structural Integrity</u>. Nothing shall be done in any Unit, or in, on or to the Common Elements (including the Limited Common Elements), that might impair the structural integrity of any improvement.

3. <u>Offensive and Illegal Activities</u>. No noxious, offensive, or illegal activity shall be carried on in any Unit or upon the Common Elements (including Limited Common Elements). No Unit or Common Element (including Limited Common Elements) may be used in any way or for any purpose that might unreasonably disturb or endanger the health of any Occupant or Unit Owner.

4. <u>Discrimination/Handicapped Accommodation</u>. The Association and Board may not take any action that would discriminate against any Unit Owner in favor of another. Additionally, notwithstanding any provision of this Declaration or any rule or regulation of the

{00135256-3}

Board, reasonable accommodation, if necessary to afford a handicapped Person equal opportunity to use and enjoy the Condominium Property shall be allowed, provided, that nothing contained in this Declaration shall be construed to mean or imply that any such accommodation must be at Association cost.

5. <u>Animals</u>. No animals, livestock, or poultry of any kind shall be raised, bred, or kept in any Unit or on the Common Elements; except that household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (a) maintenance shall be subject to any rules and regulations as the Board may promulgate at any time, including, without limitation, the right to place limitations on the size, number, and type of such pets and the right to levy enforcement charges against Persons who do not clean up after their pets and (b) the right of an Occupant or Unit Owner to maintain an animal in a Unit shall be subject to termination if the Board, in its sole discretion, determines that maintenance of the particular animal constitutes a nuisance or creates a detrimental effect on the Condominium, other Units, or other Unit Owners or Occupants.

6. <u>Signs</u>. No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided those signs are approved by the Board; (b) on the interior side of a window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for sale or rent; and (c) on the Common Elements and model Units, signs advertising the sale and/or rental of Units by Declarant during the period of its sale and rental of Units. If these limitations on use and nature of signs, or any part of them, are determined to be unlawful, only the signs described in clause (a) immediately above shall be permitted after Declarant's period of sales and rental of Units.

7. <u>Exterior Areas of Units</u>. Except for signs allowed immediately above, nothing (a) shall be hung or displayed on windows (except inoffensive interior drapes, curtains, or louvered blinds), (b) placed on the outside walls of a Unit or its building, or (c) otherwise attached the outside of a Unit, or any part thereof unless authorized by the Board or required by law to be permitted, but then subject to the Board's rules and regulations. Further, no awning, canopy, dish, antenna (television, radio, satellite, citizens' band, short wave, or any other type of antenna or transmitter), or any other similar device or ornament, shall be affixed to or placed upon an exterior wall, roof, door, window, patio, porch, balcony, or any part of the same.

8. <u>Unit Uses</u>. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care, or treatment facility. Notwithstanding the foregoing, (a) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees, or invitees personally coming to the Unit),

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making professional telephone calls or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (b) it shall be permissible for Declarant to maintain, during the period of its sale or rental of Units, one or more Units, whether made a part of the Condominium within this Declaration, or added later, as sales and rental models and offices, for storage purposes, and for maintenance purposes.

9. <u>Architectural Control</u>. Except for improvements constructed by Declarant or its designee during the initial construction, no building, fence, wall, other structure, other improvement, or change to an exterior of an existing building, fence, wall, or other structure shall be made or begun until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same are submitted to and approved in writing by the Board or its designated representative or representatives, in its or their sole discretion.

10. <u>Conveyances</u>. Each Unit shall be conveyed or transferred (voluntarily or involuntarily) as a separately designated and legally described freehold estate subject to the terms, conditions, and provisions of the Condominium. The undivided interest of a Unit in the Common Elements shall be conveyed or encumbered with the Unit, even though that interest may not be expressly mentioned or described in the deed, mortgage, or other instrument of conveyance or encumbrance. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred to the same transferee in the same transaction. In any instrument conveying an interest in a Unit, creating an encumbrance to a Unit, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit and its interest in the Common Elements by referring to the Unit's designation in the Condominium and by referring to the appropriate recording references of this Declaration and the Drawings. The right of a Unit Owner to sell, transfer, or otherwise convey that Owner's Unit is not subject to any right of first refusal; any Unit Owner may transfer that Owner's Unit free of that limitation.

To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five days after an interest in that Unit Owner's Unit has been transferred to another Person. Additionally, each Unit Owner agrees to provide a copy of the Condominium Organizational Documents along with all effective rules and regulations to any purchaser of that Unit Owner's Unit.

11. <u>Renting and Leasing</u>. No Unit or part thereof, unless the same is owned by the Association, shall be rented or used for transient or hotel purposes, which is defined as: (a) rental under which Occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (b) rental to roomers or boarders, namely, rental to one or more persons of only a portion of a Unit. No lease may be of less than an entire Unit.

Any lease agreement shall be in writing, shall provide that the lease shall be subject in all

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respects to the provisions of this Declaration and to the rules and regulations promulgated by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium Instruments, all rules and regulations promulgated by the Board, and all other lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Board, in writing, of the names of all Occupants as well as the lease duration.

The Board may restrict or limit the number of Units in the Condominium that may be rented out, provided that no such rule shall limit or restrict the right of: (a) an institutional first mortgagee, insurer, or guarantor which takes title to a Unit by deed in lieu of foreclosure, a purchaser at a foreclosure sale, the immediate successor in title to the Unit of an institutional first mortgagee, insurer, guarantor, or purchaser, to rent the Unit(s) so acquired; or (b) Declarant to rent a Unit or Units owned by Declarant.

Any Unit Owner who is renting out that Unit Owner's Unit when the Board decides to limit or restrict renting may continue to rent out that Unit for the remainder of the term of the current lease, up to one year beyond the Board's decision. However, if the Board's restriction or limitation on renting is for purpose (a) below, then the Board need not grandfather any Units under its restriction. Any restriction or limitation on the right to rent out Units shall not discriminate against any Unit Owner over any other. The Board's right to restrict or limit the ability to rent out Units shall be limited to the purpose of either: (a) assuring that the Condominium meets the requirements of institutional first mortgagees and institutional and governmental agency guarantors and mortgage insurers necessary to qualify buyers and owners and/or the Condominium for owner-occupant residential financing; or (b) to maintain the character of the Condominium as primarily being a housing community for owner-occupants.

12. <u>Common Element Uses</u>. The Common Elements (except the Limited Common Elements) shall be used in common by all Unit Owners and Occupants and their agents, servants, customers, invitees, and licensees in accordance with the purposes for which they are intended, reasonably suited, capable, and as may be required for the purposes of access, ingress, egress, use, occupancy, and enjoyment of all Units, provided, however, that unless expressly provide otherwise herein, no Common Elements shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation, or enjoyment of Unit Owners and Occupants and their licensees and invitees, subject to such rules and regulations as may from time to time be promulgated by the Board.

13. <u>Limited Common Elements Uses</u>. Except as specifically provide otherwise herein, those portions of the Common Elements described in this Declaration or shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, subject to the restrictions on use of Common Elements and Limited Common Elements set forth in this Declaration and such rules and regulations as may from time to time be promulgated by the Board.

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Non-original items may be hung, placed, displayed, or maintained in Limited Common Elements only when either (a) approved, in writing, by the Board or its designated representative or representatives, in its or their sole discretion or unless (b) that action is authorized by existing rule or regulation adopted by the Board. Notwithstanding any repair or maintenance provision contained in this Declaration to the contrary, the Board may require, as a condition to approval, that the responsibility for repairing and maintaining any addition or improvement shall be the responsibility of the requesting Unit Owner and all future owners of that Unit.

Subject to the rules and regulations adopted by the Board of Directors pursuant to the Condominium Act, the Board may authorize the use of Limited Common Elements for the construction of open, unenclosed patios, hedges, decks, fences, or similar improvements, provided that the improvements are maintained and insured by the Unit Owner of the Unit to which the Limited Common Elements are appurtenant.

14. <u>Construction in Easements</u>. No structure, planting, or other material shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may: (a) damage or interfere with the installation and maintenance of utility lines; (b) change the direction of the flow of drainage channels in the easements; or (c) obstruct or retard the flow of water through drainage channels in the easement areas. The Association may maintain utility facilities within the easement areas and delegate that right of maintenance to a public authority or utility.

15. <u>Vehicles</u>. The Board may restrict or prohibit the parking of automobiles, vans, buses, inoperable vehicles, trucks, trailers, boats, and recreational vehicles on the Common Elements (including the Limited Common Elements), or parts thereof, and may enforce its restriction or prohibition by levying enforcement charges, having such vehicles towed away, or taking such other lawful actions as the Board, in its sole discretion, deems appropriate.

16. <u>Replacements</u>. Any building erected to replace an existing building containing Units shall be newly constructed, be of comparable structure type, size, design, and construction to that replaced, and shall contain a similar number of Units of comparable size to the Units in the building replaced.

ARTICLE V. IMPROVEMENT DESCRIPTIONS

1. <u>Residential Buildings</u>. At present there is one (1) residential building. Each residential building constitutes a Unit, and consists of a custom built, single family, ranch-style, stand-alone Unit with a basement, constructed of wood frame construction on poured concrete foundations, with exteriors of a combination of cultured stone, stucco and (sometimes) brick accents, and dimensional asphalt shingle roof. Each Unit has an attached two or three-car garage, an exterior porch or stoop, a basement (some with walk-out access, and either full or partial views), an exterior patio area or deck (or space reserved for the same), some Units may have a loft area which may or may not contain an additional bedroom and bathroom. The residential buildings are located as shown on the Drawings. {00135256-3}

2. <u>Other Improvements</u>. In addition, the Condominium contains private roadways, driveways, exterior parking areas, drainage retention areas, green and landscaped areas and possibly other ancillary amenities, together with an adjoining private drive leading directly to Highland Lakes Avenue.

ARTICLE VI. UNITS

1. <u>Unit Designations</u>. Each Unit is legally designated on the Drawings by a number corresponding with the numerical portion of the Unit's street mailing address. The Drawings show the location and designation of each Unit within the Condominium Property. Information concerning the Units, with a listing of proper Unit designations, is shown on the attached Exhibit D. A general description of the composition and approximate interior area of each Unit is set forth on the attached Exhibit E. The location, dimensions, and composition of each Unit are also shown on the Drawings. Each Unit has direct access to the Common Elements, which lead directly to perpetual non-exclusive easements over Sorrento Boulevard, Via Alvito Drive, and Sorrento Court, private streets owned by the Association, which in turn lead directly to Highland Lakes Avenue, a public roadway.

2. <u>Unit Compositions</u>. Each Unit consists of the building, (including, without limitation, all interior space and exterior surfaces) designated by that Unit's designation on the Drawings and all improvements therein, as constructed or as reconstructed in substantial accordance with the original Drawings.

Without limiting the generality of the foregoing, or, as appropriate, in addition to the foregoing, each Unit includes:

(a) all walls (including doors, windows and skylights) the roof, foundation and structural and mechanical components of the Unit (including, without limitation, the exterior porch or stoop and any exterior patio area or deck, and improvements constructed within the patio area or deck, attached garage, and basement) and all interior and exterior surfaces thereof;

(b) all fixtures, equipment and appliances installed for the exclusive use of that Unit, or Limited Common Elements appurtenant to that Unit, whether located inside or outside of the Unit, and all control knobs, switches, thermostats, and electrical outlets exclusively serving the Unit or the foregoing fixtures, equipment and appliances, or installed for the exclusive use of the Limited Common Elements appurtenant to the Unit; and

(c) all plumbing, electrical, heating, cooling, and other utility or service lines, pipes, wires, ducts, conduits, or other systems, which serve that Unit or the fixtures, equipment and appliances which are a part of that Unit, or install for the

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exclusive use of the Limited Common Elements appurtenant to the Unit; all from the point of connection with service lines serving other Units;

excluding therefrom, however, all of the following items, whether or not located within the bounds of that Unit, (i) all plumbing, (ii) electric, heating, cooling and other utility or service lines, (iii) pipes and accessories thereto, and (iv) wires, ducts and conduits which are not located immediately adjacent to the Unit, or which serve any other Unit.

3. <u>Units Are Not Convertible</u>. No Units are convertible units, as defined and provided in Section 5311.01(Q) of the Condominium Act, and no Unit may be converted into one or more Units or Common Elements, as provided in Section 5311.033 of the Condominium Act.

ARTICLE VII. COMMON ELEMENTS

1. <u>Common Elements Description</u>. Common Elements include all of the Condominium Property, including all of the land, its improvements, and its appurtenances, except those portions labeled or described herein or on the Drawings as a part of a Unit. Except for easements and rights for maintaining sales and marketing facilities, for repairing and completing improvements in the Condominium, and for access and utility service to the Additional Property, and except in its capacity as a Unit Owner of unsold Units, the Declarant shall not retain any interest in, or have any other right to, any portion of the Common Elements.

2. <u>Limited Common Elements Description</u>. Limited Common Elements include those portions of the Common Elements that are labeled or designated "limited common elements", "limited common areas", or "limited common areas and facilities" on the Drawings or so described in this Declaration, generally including, but not limited to: yard areas adjacent to that Unit and the improvements within those areas, a driveway area in front of each Unit's garage, a sidewalk leading from the driveway or the street to the front door of each Unit, all as further depicted in the Drawings.

Each Limited Common Element is reserved for the exclusive use of the Owners and Occupants of the Unit or Units it is described, designed, or designated herein, or on the Drawings, or on Exhibits hereto, to serve.

3. <u>Undivided Interests</u>. The undivided interest in the Common Elements of each Unit is shown on the attached Exhibit D and, in each case, is based on each Unit having an equal par value of one (1.00) and thus results in each Unit having an equal undivided interest in the Common Elements. The undivided interest in the Common Elements of each Unit shall at all times be calculated by using a fraction, the numerator of which shall be 1, and the denominator of which shall be the total number of Units from time to time in the Condominium. As Additional Property is added to the Condominium as contemplated herein, the undivided interest in the Common Elements for each Unit shall be uniformly reallocated as above provided.

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The Unit Owners shall own the Common Elements as tenants in common, and that ownership shall remain undivided. No Unit Owner may waive or release any rights in the Common Elements. Further, the undivided interest in the Common Elements of a Unit shall not be separated from the Unit to which it appertains. Any attempted conveyance, encumbrance, judicial sale or other transfer of a Unit Owner's fee interest in Common Elements will be void unless the Unit to which such interest is allocated is also transferred.

The equal nature of the interests in the Common Elements shall not be altered. However, the exact percentage of voting power of any particular Unit may change in conjunction with and as the result of the adding of any or all of the Additional Property to the Condominium if, at a later time, the Condominium is expanded, as hereinafter provided.

ARTICLE VIII. UNIT OWNERS' ASSOCIATION

1. <u>Establishment of Unit Owners' Association</u>. The Association has been formed to be and to serve as the Unit Owners' association of the Condominium. The Declarant is presently the sole member of the Association.

2. <u>Membership</u>. Membership in the Association shall be limited to the Unit Owners, and every Person who is or becomes a record owner of a fee or undivided fee simple interest in a Unit is a Unit Owner and shall be a member of the Association. Membership does not include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and transfer of any Unit shall automatically transfer membership to the transferee of that Unit.

3. <u>Voting Rights</u>. Voting rights of members are as set forth in the Bylaws.

4. <u>Board of Directors</u>. The number, composition, authority, rights, and responsibilities of the Board shall be as provided in the Bylaws. Any rights of Declarant related to the Board's composition are governed by the Bylaws, and those rights are integrated herein by virtue of this reference to the Bylaws, which are attached hereto as Exhibit G.

5. <u>Association Activities</u>. The Association may, at any time, engage in other activities designed to maintain or improve the Condominium. However, the Association is not and shall not have any specific responsibility unless provided by law, in this Declaration, in the Bylaws, or in the Articles. Specifically, the Association shall not be held liable for any loss, cost, or damage arising by failure of the Association to provide security or the effectiveness of security measures it undertakes, if any. The obligation to provide security lies solely with each Unit Owner and Occupant individually.

6. <u>Other Associations</u>. In addition to being a member of the Association, each Unit owner, by virtue of his or her acceptance of a deed for a Unit, will also automatically become a member of the Highland Lakes Association, an Ohio not-for-profit corporation ("Highland Lakes") whose members are the owners of homes and condominium units contained in the {00135256-3}

various residential developments and condominium communities located directly to the south and west of the Condominium and that make up what is known generally as the Highland Lakes development. Each Unit Owner will be bound by the formative documents of Highland Lakes, which generally consist of the deed restrictions, articles of incorporation, a code of regulations and bylaws which is of record at Volume 1036, Page 2202, Recorder's Office, Delaware County, Ohio (the "Highland Lakes Declaration"), as well as any and all procedures, rules, regulations or policies that are, or may be, adopted by Highland Lakes from time to time, including, without limitation, the obligation to pay an annual assessment to Highland Lakes. The Highland Lakes annual assessment is currently \$200 per year, payable every January 1 (the "Highland Lakes Annual Assessment").

ARTICLE IX. AGENT FOR SERVICE

The name of the Person to receive service of process for the Association is the Association's "Statutory Agent", and that Person's place of business is:

Vincent Romanelli 148 West Schrock Road Westerville, Ohio 43081

If, for any reason, the aforementioned ceases to be registered with the Secretary of State of Ohio as Statutory Agent for the Association, the Person so registered with the Secretary of the State of Ohio shall be the Person to receive service of process for the Association.

ARTICLE X. MAINTENANCE AND REPAIR

1. Association Opportunities/Responsibilities. The Association, in the Board's sole discretion, may allocate funds to maintain, repair, and replace all improvements constituting a part of the Common Elements, including, without limitation, the Limited Common Elements, and including, but not limited to, walkways and utility facilities serving more than one Unit, utility lines which serve one Unit but which are not within that Unit or the Limited Common Elements appurtenant to that Unit, lawns, shrubs, trees, drives and parking areas, entry features, the pond, gazebo and walking path, the irrigation system, and all improvements which are a part of the Common Elements, including the Limited Common Elements, and that do not constitute part of a Unit, provided that the Association shall not be responsible for the cleaning, housekeeping, or irrigation of Limited Common Elements or components thereof, nor for the care or replacement of plantings or other improvements installed by Unit Owners within Limited Common Elements, all of which shall be at the sole cost of the Unit Owner or Owners to which the improvement is appurtenant. To the extent funds are so allocated, the Association shall repair and maintain the Common Elements to the extent not prohibited by Ohio law. The Association shall not be responsible for the cleaning and housekeeping of any Limited Common Elements or components thereof.

The Association shall maintain an adequate reserve fund for the periodic maintenance, {00135256-3}

repair, and replacement of improvements to the Common Elements, including the Limited Common Elements. Except to the extent, if any, that a loss is covered by insurance maintained by the Association, and then only to the extent the net proceeds after deductibles are available for that purpose, the Association shall not have any responsibility to pay the cost of repair or maintenance of any Unit or its components, or the cost of repairs, maintenance or replacement of personal property within a Unit, or improvements made by Unit Owners hereafter.

2. <u>Unit Owner Responsibility</u>. Each Unit Owner shall repair and maintain each respective Unit, all its components, any exterior lights directed toward or attached to Limited Common Elements appurtenant to that particular Unit, and improvements made by the Unit Owner. Each Unit Owner shall perform all cleaning and housekeeping on all Limited Common Elements appurtenant to that Unit Owner's Unit. Without limiting the generality of the foregoing, the repair and maintenance responsibility of a Unit Owner shall include repair and maintenance of all structural (foundation, roof, exteriors, etc.) mechanical and electrical systems, and replacement of all windows, screens, and doors, including the frames, sashes, jambs, thresholds, and the hardware therefore.

In the event (a) a Unit Owner shall fail to repair or perform maintenance as required of that Unit Owner, (b) the need for maintenance or repair of any part of any Unit or part of any of the Common Elements or Limited Common Elements is caused by the negligent or intentional act of any Unit Owner or Occupant, (c) the need for maintenance or repair of any part of the Condominium Property results from the failure of any Unit Owner or his, her, or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Association may perform the same. If the cost of any such repair or maintenance is not covered by insurance, whether because of a deductible or otherwise, its cost, plus any other fees and penalties assessed pursuant to the rules and regulations of the Board in connection therewith, shall constitute a special individual Unit assessment on the Unit owned by that Unit Owner and on that Unit Owner. The determination that a particular maintenance or repair is necessary or has been caused in the prescribed manner, shall be made by the Board in its sole discretion.

ARTICLE XI. UTILITY SERVICES

Each Unit Owner, by acceptance of a deed to a Unit, agrees to pay for utility services separately metered, sub-metered or separately charged by the utility company or the Association to that Unit, and to reimburse the Association for that Unit's share of any utility cost that the Association initially pays for or provides. All other utility costs shall be common expenses and paid by the Association. In the event any utility service is not separately metered, the cost thereof shall be a common expense and paid by the Association.

ARTICLE XII. INSURANCE AND LOSSES

1. <u>Unit Owner's Fire and Extended Coverage Insurance</u>. The Unit Owners shall bear the risk of loss of, and shall obtain and continuously maintain (and shall be responsible for {00135256-3}

providing the Association with evidence of currently effective) fire and extended coverage insurance with respect to, their respective Units and appurtenant Limited Common Elements. Such insurance shall cover all portions of the Units except personal property located therein, all against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "Special Form" (formerly known as "all risk") endorsement, where such is available in the locale of the Condominium Property. Such policies shall be written in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer with guaranteed replacement cost endorsement, and if there is a coinsurance provision, with agreed amount endorsement, and with a deductible not greater than the lesser of \$10,000 or 1% of the face amount of the policy. Unless the Board determines that any of the following is not available at reasonable rates, this insurance shall also:

> (a) provide for coverage for improvements, alterations, fixtures and equipment located within Units; interior walls, windows and doors, and the frames, sashes, jambs and hardware therefore, and any other items of personal property for which coverage is required by The Mortgage Corporation, Federal National Mortgage Association, Depart of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium;

> (b) provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, or against any designee of the foregoing, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage. The carrier's charter, by-laws or policy may not make loss payments contingent upon action by the carrier's board of directors, policyholders or members, nor may the policy include any limiting clause (other than insurance conditions) which could prevent any unit owner or holder, insurer or guarantor of a first mortgage on a unit, from collecting insurance proceeds.

> (c) be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class A/VIII, or better, as determined by the then latest edition of *Best's Insurance Reports*, or its successor guide, or comparable rating by a nationally recognized rating agency, or such higher rating as may, from time to time, be required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administrator, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium; or, if the

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insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has an A/VIII or comparable rating, or better rating;

(d) provide that its coverage is primary, and include the Association as a loss payee (as trustee for the use and benefit of the individual Unit Owners and their mortgage holders) or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders as their interests may appear.

(e) contain or have attached the standard mortgagee clause commonly accepted by institutional mortgage investors in the area in which the Condominium Property is located, naming the holder, insurer, guarantor or servicer (or their respective successors or assigns) of first mortgages on Units, which must provide that the insurance carrier shall notify the Association and all holders of first mortgages named at least ten (10) days in advance of the effective date of any reduction in, cancellation or lapse of, or substantial change in the policy, and which standard mortgagee clause must further be endorsed to include the Association as a loss payee (as trustee for the use and benefit of the individual Unit Owners and their mortgage holders) or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders as their interests may appear;

(f) contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Unit Owners, and the rights of the various parties to collect pursuant to such insurance shall not be prejudiced by the acts or failure to act of any Unit Owner, Director of Officer of the Association, or any person under the control of the Association; and

(g) contain such other endorsements and meet such other requirements as are standard for similar projects in the area, including, without limitation and where available without excessive cost, inflation guard endorsement, building ordinance and law endorsement, and boiler and machinery endorsement where applicable, and such other endorsements as are from time to time, required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium.

The cost of this insurance shall be paid by the respective Unit Owners. In the event that the Owners of a Unit fail to obtain such insurance, or fail to provide the Association with evidence of such continuing insurance prior to the expiration of any previous policy on their

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Unit, the Association may, but shall not be obligated to, obtain such insurance and charge the costs thereof (plus 10\$ as an administrative fee) against the individual Unit and the Owners of such Unit as a Special Individual Unit Assessment.

Association's Fire and Extended Coverage Insurance. The Board shall have the 2. authority to and shall obtain insurance for all buildings and structures and all supplies, machinery, fixtures and equipment and common personal property and supplies now or at any time hereafter constituting a part of the Common Elements or common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "Special Form" (formerly known as "all risk") endorsement, where such is available in the locate of the Condominium Property, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer, with guaranteed replacement cost endorsement or replacement cost endorsement and, if there is a co-insurance provision, with agreed amount endorsement, and with a deductible not greater than the lesser of \$10,000 or 1% of the face amount of the policy. Unless the Board determines that any of the following is not available at reasonable rates, this insurance:

> (a) shall provide coverage for improvements, alterations, fixtures and equipment located within Common Elements including any items for which coverage is required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium, which items are not required to be covered by the Unit Owner's policies pursuant to Section 1 of this Article XII;

> (b) shall provide that no assessment may be against a first mortgage lender, or its insurer or guarantor, or against any designee of the foregoing, and that any assessment under such policy made against others may not become a lien on a unit and its appurtenant interest superior to a first mortgage. The carrier's charter, by-laws or policy may not make loss payments contingent upon action by the carrier's board of directors, policyholders or members, nor may the policy include any limiting clause (other than insurance conditions) which could prevent any Unit Owner or holder, insurer or guarantor of a first mortgage on a Unit, from collecting insurance proceeds;

> (c) shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class A/VII or better,

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as determined by the then latest edition of *Best's Insurance Reports*, or its successor guide, or comparable rating by a nationally recognized rating agency, or such higher rating as may, from time to time, be required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium; or, if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has an A/VIII or comparable rating, or better rating;

(d) shall provide that its coverage is primary (even if a Unit Owner has other insurance that covers the same loss) and be written in the name of the Association (with the Association being a named insured and loss payee) for the use and benefit of the individual Unit Owners and their mortgage holders, or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders, as their interest may appear. Each Unit Owner and each Unit Owner's mortgagee, if any, shall be the beneficiaries of the policy in proportion to the undivided interest in Common Elements appurtenant to each respective Unit.

(e) shall contain or have attached the insurance industry's standard mortgagee clause (without contribution) commonly accepted by institutional mortgage investors in the area in which the Condominium Property is located, naming the holder, insurer, guarantor or servicer (or their respective successors or assigns) of first mortgages on Units, which must provide that the insurance carrier shall notify the Association and all holders of first mortgages named at least ten (10) days in advance of the effective date of any reduction in, cancellation or lapse of, or substantial change in the policy, and which standard mortgagee clause must further be endorsed to provide that any loss shall be paid to the Association (or its insurance trustee), as a trustee for each Unit Owner and each such Unit Owner's mortgagee, as their interests may appear;

(f) shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Unit Owners, and the rights of the various parties to collect pursuant to such insurance shall not be prejudiced by the acts or failure to act of any Unit Owner, Director or Officer of the Association, or any person under the control of the Association; and

(g) shall contain provisions recognizing any Insurance Trust Agreement and such other endorsements and meet such other requirements as are standard for similar projects in the area, including, without limitation and where available without excessive cost, inflation guard endorsement, building ordinance and law endorsement, and boiler and machinery endorsement where applicable, and such

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other endorsements as are, from time to time, required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium.

The cost of this insurance shall be a common expense, payable by the Association. Certificates of Insurance shall be issued to each Unit Owner and mortgagee upon request.

3. <u>Association's Liability Insurance</u>. The Association shall obtain and maintain a comprehensive commercial general liability insurance policy, written on a per-occurrence basis, covering all of the Common Elements and any other areas under the Association's supervision, insuring the Association, the Directors, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, and (b) One Million Dollars (\$1,000,000), for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence.

This insurance shall have the insurance industry's standard mortgagee clause, shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, or other Unit Owners and shall include such additional coverages commonly required by private mortgage investors for developments similar in construction, location, and uses including, without limitation, contractual liability, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements and arising out of lawsuits related to employment contracts of the Association, and such additional coverages as are required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium. Each such policy must provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days prior written notice to the Association, and any named mortgagee, and to each holder of a first mortgage lien upon any Unit.

4. <u>Fidelity Insurance</u>. After such time as Declarant no longer controls the Association, the Board may obtain and maintain, at the Association's cost and as a common expense, a fidelity bond or policy providing coverage for the Association against dishonest acts on the part of Directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity bond or policy shall name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event shall be less than the greater of (a) an amount equal to the Association's reserve funds plus three months' assessments on all Units or (b) the maximum amount that will be in the custody of the Association or its managing agent at any time while the bond or policy is in force. In connection with such coverage, an appropriate endorsement to the

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bond or policy to cover any persons who serve without compensation shall be added if the bond or policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association, any insurance trustee, and any servicer on behalf of any holder, guarantor, or insurer of any mortgage on a Unit who requires those rights. Any management agent who handles funds of the Association shall maintain a fidelity bond or policy providing coverage of no less than that required of the Association, which bond or policy names the Association as an additional oblige or obligee.

5. <u>Other Association Insurance</u>. In addition, the Board may purchase and maintain, at the Association's cost and as a common expense, contractual liability insurance, directors' and officers' liability insurance, and other insurance as the Board may, in its sole discretion, determine to purchase or maintain.

Insurance Representative: Power of Attorney. Under any insurance policy 6 obtained by the Association, the Association may name an authorized representative as the insured, including any trustee with whom the Association may enter into any insurance trust agreement, or any successor to such trustee, who shall have exclusive authority to negotiate losses under any such policy and to perform such other functions as are necessary to accomplish this purpose. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or such designated representative, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds of insurance; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or the designated representative, shall receive, hold, or otherwise properly dispose of any proceeds of insurance, in trust, for Unit Owners and their first mortgage holders, as their interests may appear. This power is for the benefit of the Association, the Condominium, each Unit Owner, and their respective first mortgage holders, runs with the land, and is coupled with an interest.

7. Unit Owners' Insurance. Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried by the Association. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired, or whose Occupant acquired, such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Directors, and all other Unit Owners and Occupants.

8. <u>Sufficient Insurance</u>. In the event the improvements forming a part of the {00135256-3}

Common Elements or any portion of the same shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and therefore payable shall be sufficient to pay the cost of repair, restoration, or reconstruction; then such repair, restoration, or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Board in payment therefor.

9. Insufficient Insurance. In the event the Common Elements or any portion of the same suffers damage or destruction from any cause or peril which is not insured against, or, if insured against and the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration, or reconstruction; then, unless the Unit Owners and Eligible Mortgagees (if they are entitled to do so pursuant to the provisions of this Declaration) shall elect within sixty (60) days after such damage or destruction not to make such repair, restoration, or reconstruction; the Association shall make repairs, restoration, or reconstruction of the Common Elements so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit Owners in proportion to their respective undivided interests in the Common Elements. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed against the Unit of such Unit Owner and that assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provide for the nonpayment of assessments.

10. <u>Lender Requirements</u>. Notwithstanding any provision to the contrary contained herein, the Association shall maintain such insurance coverage as is required to be obtained by any national, institutional holder, purchaser, guarantor, insurer or servicer of a first mortgage secured by a Unit in the Condominium.

ARTICLE XIII. DAMAGE; RESTORATION; REHABILITATION AND RENEWAL

1. Repair or Restoration of Damage to Units. In the event of damage or destruction to a Unit, the Owner of such Unit shall be solely responsible for the prompt repair and restoration of such Unit to a condition comparable to that which existed prior to such damage or destruction. Any insurance proceeds in excess of Ten Thousand Dollars (\$10,000) which come into the hands of the Unit Owners or their mortgagees shall be held in trust for, and promptly turned over to, the Association. The Association, or an insurance trustee selected by the Association, shall make any insurance proceeds which come into its possession, available for disbursement in connection with the repair and restoration of the Unit. Such funds shall be disbursed in proportion to the percentage of work completed in such repair and restoration. To the extent that such repair and restoration affects the exterior appearance of a Unit, all plans and specifications for the repair must be approved in accordance with the procedures established by Section 9 of Article IV, and all contractors selected for such repair and restoration are subject to the reasonable approval of the party (either the Declarant or the Board or its designated representative) exercising the right of architectural control.

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In the event that the Owners of a damaged or destroyed Unit do not promptly commence and diligently pursue the repair and restoration of the Unit to completion, the Association may do so and all costs incurred by the Association, after application of any insurance funds which come into its possession (including, without limitation, attorneys' fees to the extent not prohibited by Ohio law) shall be charged as an Special Individual Unit Assessment against the unrestored Unit and its Owners. Such Special Individual Unit Assessment may be based upon the Association's estimate of all costs which may be incurred by the Association in performing such repair and restoration, which estimate may be made and assessment levied prior to the commencement of any work, and if unpaid within thirty (30) days after assessment, may be secured by a lien against the Unit prior to the commencement of any repairs.

Notwithstanding any provision in this Section to the contrary, the foregoing requirements shall not apply to Units owned by the Declarant, which Units shall be restored by the Declarant without the necessity of depositing funds with the Association nor obtaining any approvals from any other party.

2. <u>Repair or Restoration of Damage to Common Elements</u>. In the event of damage to or destruction of Common Elements (excluding the Limited Common Elements) the Association may, with the prior written consent of Unit Owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners, including the consent of Owners other than the Declarant who hold a majority of the voting power of Units owned by Owners other than the Declarant (for the purposes of the foregoing, such consent with respect to a Unit owned by the Declarant shall not be valid unless prior written consent is obtained from the Eligible Mortgagee of such Unit), and the consent of Eligible Mortgagees of such Units to which at least seventy-five percent (75%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain, determine not to repair or restore such damage or destruction.

Notwithstanding any such election, and notwithstanding the provisions of Section 5311.14(b) of the Ohio Revised Code (the provisions of this Section being intended to provide otherwise than as provided in the Condominium Act), there shall be no dissolution of the Condominium unless the same is approved by all Unit Owners.

ARTICLE XIV. CONDEMNATION

1. <u>Standing</u>. Except as hereinafter provided, the Association (or its designated representative or authorized successor, as trustee) shall represent the Unit Owners in any condemnation or eminent domain proceedings and in negotiations, settlements, and agreements with the condemning authority for acquisition of all or any part of the Condominium Property.

Notwithstanding the foregoing, the Association shall not settle any loss with regard to the taking of a Unit or the Limited Common Elements appurtenant to a Unit, without the consent of the Owners of such Unit. With regard to the settlement of any loss of Common Elements outside {00135256-3}

of Limited Common Elements, the Association shall have the sole and exclusive right to settle the loss with the condemning authority.

2. <u>Payment Use of Proceeds</u>. The Association shall receive all proceeds from condemnation proceedings and settlements, and shall hold the same, after reduction for costs, if any, incurred in obtaining the same, for the use and benefit of the Unit Owners and their respective Eligible Mortgagees in accordance with the following provisions:

Common Elements (excluding Limited Common Elements Yard Areas). Where Common Elements (except for Limited Common Elements yard areas) have been taken, the award or proceeds shall, to the extent feasible, be applied first to the cost of restoring or replacing all damaged or taken improvements in accordance with the Drawings, or in accordance with any new plans and specifications therefor approved by Unit Owners exercising no less than seventyfive percent (75%) of the voting power of Unit Owners, and the Eligible Mortgagees of Units to which at least fifty-one percent (51%) of the votes of Units subject to the Eligible Mortgagees appertain. If the award or proceeds are insufficient for such purpose, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and distributed to the Unit Owners, and their Eligible Mortgagees, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Elements.

(b) Units or Limited Common Elements Yard Areas. Where Units or Limited Common Elements yard areas have been taken, the Board shall determine that amount of the award which is applicable to the Owners of each Unit suffering loss to such Unit or to the Limited Common Elements yard area appurtenant thereto. If said amount has been determined by the condemning or taking authority, and has been approved by the Owners of the Unit, then such amount shall be presumptively determined to be the amount of damage suffered by such Unit. In the event that the parties fail to agree, such amount shall be determined by arbitration following the rules of the American Arbitration Association. The award or proceeds shall be held by the Association in trust for the benefit of the respective Owners affected. The respective Owners shall be solely responsible for the restoring and replacing of all damaged or taken improvements or areas in accordance with the Drawings, or in accordance with any new plans and specifications approved by the Declarant or the Board in accordance with the procedures established in Section 9 Article IV, and all contractors selected for such repair and restoration are subject to the reasonable approval of the party

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(either the Declarant or the Board or its designated representative) exercising the right of architectural control. The funds held by the Association with respect to each Unit damages (and the Limited Common Elements yard area appurtenant thereto) shall be released to the Owners of each respective Unit as restoration proceeds, in proportion to the percentage of work completed in such repair and restoration, and the Owners shall pay any additional funds required for the restoration of their respective Units and Limited Common Elements yard areas. Any excess funds shall be distributed to the respective Unit Owners and their Eligible Mortgagees, as their interest may appear.

Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced, and his, her or its respective Eligible Mortgagee, as their interests may appear, such amount as it determined pursuant to the preceding paragraph, to be the portion of the award that is applicable to such Unit and its Limited Common Elements yard area. Thereupon, such Unit or Units, and the Owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Association, and liability for common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

3. <u>Power of Attorney</u>. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association, or its designated representative, or authorized successor, as that Unit Owner's attorney-in-fact to represent that Unit Owner, settle losses, receive and utilize the award or proceeds of settlement, and do all things necessary or desirable for such attorney-in-fact to exercise the rights and fulfill the responsibilities of the Association set forth in this Article with respect to condemnation or eminent domain proceedings. This power is for the benefit of each and every Unit Owner, each holder of a first mortgage on a Unit, the Association, and the real estate to which it is applicable; runs with land; is coupled with an interest; and is irrevocable.

ARTICLE XV. GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

Unless specifically limited otherwise, the following easements shall run with the land, pass with the title to the benefited properties, shall be appurtenant to the properties benefited, shall be enforceable by the owners of the properties benefited, and shall be perpetual. The easements and grants provided shall in no way affect any other recorded grant or easement.

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Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance, in any mortgage, or in any other evidence of obligation shall not defeat or constitute an intention not to reserve said rights or easements, but the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

1. Easements of Enjoyment; Limitations. Every Unit Owner shall have a right and easement of enjoyment in, over, and upon the Common Elements; an unrestricted right and easement for access to and from that Unit Owner's Unit, a right and easement for utilities serving that Unit; and a right and easement across the adjoining Owners yard area for the cleaning and maintenance of his, her or its windows and exterior portions of the Owner's Unit; which rights and easement shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Elements and the Limited Common Elements, provided that no such rule or regulation shall limit or prohibit the right to maintain such Owner's Unit, the right to utility services or the right of ingress and egress to a Unit, or any part thereof, or to that Unit's Limited Common Elements. Any Unit Owner may delegate that Unit Owner's right of enjoyment to the Common Elements and to ingress to and egress to the members of the Unit Owner's family and to Occupants.

2. Easements for Encroachments. The Condominium Property, including all Units and Common Elements, shall be subject to and benefited by easements for encroachments on or by any other Unit and upon the Common Elements created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements; or by reason of errors on the Drawings. Valid easements for these encroachments and for the maintenance of same, as long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. will be in substantial accord with the description of those boundaries that appears in this Declaration or on the Drawings, shall exist so long as the encroachments remain.

3. <u>Easements Reserved to Declarant</u>. Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Elements as follows:

(a) for two-years from the date of the closing of the first sale of a Unit to a bona fide purchaser, to access any part of the Condominium Property for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that other access is not otherwise reasonably available;

(b) for the periods provided for warranties in this Declaration or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit Owners;

 (c) for the initial sales and rental period, to maintain and utilize one or more Units along with its appurtenances, for sales offices, management offices, storage, {00135256-3}

maintenance, model Units, parking areas for sales and rental purposes, and advertising signs;

(d) for the maximum length of time allowed by law, no shorter time than the length of time that the Declarant, its successors and assigns, have the right to expand the Condominium, to extend and otherwise make available utilities from the Common Elements onto the Additional Property, and thereafter to service the same; and

(e) unless and until, if ever, the Condominium has been expanded to encompass any of the Additional Property, to Unit Owners and Occupants of all or any added part of the Additional Property, for pedestrian and vehicular access over the streets and walkways that may from time to time be a part of the Condominium Property, for ingress to and egress from the added Additional Property, and each added part. Additionally, the Association, at all times, shall maintain an unimpeded route of vehicular and pedestrian ingress and egress over and upon the Condominium Property to and from the added Additional Property and a public street.

The rights and easements reserved pursuant to the provisions of this Article shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Association and the rights of Unit Owners and Occupants.

Easements for Proper Operations. Easements to the Association shall exist upon, 4. over, and under all of the Condominium Property for ingress; egress; the road system; all walkways; the installation, replacing, repairing and maintaining of all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television; and for all other purposes necessary for the proper operation of the Condominium Property. The Association may grant to the appropriate public authorities and/or vendor companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across, and under the Condominium Property, so long as such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium Property. If any public authority or other companies who contemplate furnishing a service request a specific easement, permit, or license, the Association shall have the right to grant such easement, permit, or license without conflicting with these terms. In addition, in the event the Board determines that the grant of easement rights to others is in the best interests of the Association, the Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Condominium Property by Unit Owners and Occupants.

5. Easement for Support. Every portion of a building, utility line, or any

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improvement on any portion of the Condominium Property contributing to the support of another building, utility line, or improvement on another portion of the Condominium Property shall be burdened with an easement for support for the benefit of all other buildings, utility lines, improvements, and other portions of the Condominium Property.

6. <u>Easement for Services</u>. Non-exclusive easements are hereby granted to all police, firefighters, ambulance operators, United States Postal Service employees, delivery persons, garbage and trash removal personnel, all similar persons, local governmental authorities, and Association employees, but not to the general public, to enter upon the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish from time to time.

7. Entry for Repair, Maintenance, and Restoration. The Association shall have a right of necessary entry and access to, over, upon, and through all of the Condominium Property, including each Unit and the Limited Common Elements, to enable the Association to perform its obligations, rights, and duties with regard to maintenance, repair, restoration, and/or servicing of any items or areas of or in the Condominium Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Elements may be exercised without notice; otherwise, the Association shall give the Unit Owner or Occupants of a Unit no less than twenty-four (24) hours advance notice prior to entering a Unit or its appurtenant Limited Common Elements for the purpose of maintenance, repair, restoration, or service.

8. <u>Power of Attorney</u>. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association (or its designated representative) as that Unit Owner's attorney-in-fact, to execute, deliver, acknowledge, and record, for and in the name of such Unit Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board (or its authorized representative) to further establish or effectuate the foregoing easements and rights. This power is for the benefit of every Unit Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

9. <u>Access Easement</u>. A non-exclusive perpetual easement over and upon any property added from the Additional Property is reserved to each Unit Owner, their respective invitees and licensees, and the Occupants of each Unit for the purpose of effective Association management, if, only to the extent of, and only if the Declarant adds that property to the Condominium.

ARTICLE XVI. ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS

1. <u>Types of Assessment</u>. The Declarant covenants and agrees, and each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (a) operating assessments, (b) special assessments for capital improvements, and (c) special individual Unit assessments, all of which {00135256-3}

are established and collected as hereinafter provided.

2. <u>Purpose of Assessments</u>. The assessments levied by the Association shall be used exclusively to promote and provide for the health, safety, and welfare of Unit Owners and Occupants and the best interests of the Condominium Property.

- 3. Assessment Apportionment and Due Dates.
 - (a) <u>Operating Assessments</u>.
 - (i) The Board shall establish an estimate for the remainder of the Association's first fiscal year (and before the beginning of each subsequent fiscal year for that upcoming fiscal year) the common expenses of the Association consisting of the following:
 - (1) that period's estimated cost of the maintenance, repair, and other services to be provided by the Association;
 - (2) that period's estimated costs for insurance premiums to be provided and paid for by the Association;
 - that period's estimated costs for utility services not separately metered or charged to Unit Owners;
 - (4) the estimated amount required to be collected to maintain a working capital reserve fund, to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board, but in no event less than an amount equal to two months currently estimated assessments on all Units;
 - (5) an amount deemed adequate by the Board, in its sole discretion and without a vote of the Unit Owners, to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and
 - (6) that period's estimated costs for the operation, management, and administration of the Association, including, but not limited to fees for property management; fees for legal and accounting services; costs of mailing, postage, supplies, and materials for operating the

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Association; the salaries, wages, payroll charges and other costs to perform these services; and any other costs constituting common expenses not otherwise specifically excluded.

- (7) the Highland Lakes Annual Assessment as set forth herein in Section 6, Article VIII (which is subject to change by Highland Lakes from time to time).
- (ii) The Board shall then allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Elements, establishing the operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.
- (iii) Operating assessments shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semiannual, quarterly, or monthly increments. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly prorata share of the annual operating assessment for a Unit shall be due the first day of each month. The Association will not pay interest for pre-payment of assessments.
- (iv) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units and their Owners on the same basis as heretofore set forth.
- (v) If operating assessments collected during any period are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves or reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available for distribution to Unit Owners, except upon dissolution of the Association.
- (vi) As long as the Declarant controls the Association, Declarant shall not use any part of the working capital reserve fund to defray Declarant's expenses, reserve contributions, or construction costs, or to make up any budget deficits, and shall maintain the working capital reserve fund in a segregated account and transfer the same

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to the Association for deposit into a segregated account at or prior to the time Unit Owners other than Declarant control the Association. The Association may not have a deficiency in funds when the Unit Owners take control of the Association.

Each Unit's share of the working capital reserve fund shall be collected at the time the sale of the Unit is closed, without prejudice to Declarant's right to recover its contribution from purchasers of Units.

(b) <u>Special Assessments for Capital Improvements</u>.

- (i) In addition to the operating assessments, the Board may at any time, levy special assessments to construct, reconstruct, or replace capital improvements on the Common Elements to the extent that reserves are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply with applicable law or governmental regulation, or to correct any deficiency or defect creating a safety or health hazard to Occupants) shall not be constructed nor funds assessed if their cost in any fiscal year would exceed an amount equal to five percent (5%) or more of that fiscal year's budget, without the prior consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners and the consent of Eligible Mortgagees.
- (ii) Any special assessment for capital improvements shall be prorated among all Units and their Owners in proportion to the respective undivided interests of the Units in the Common Elements, and shall become due and payable on the date or dates the Board determines following written notice to all Unit Owners.

(c) <u>Special Individual Unit Assessments</u>. The Board may levy special assessments against an individual Unit, or Units, and its Unit Owner or Unit Owners, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable to a particular Unit (including, but not limited to, the cost of making repairs that were the responsibility of a Unit Owner, the cost of insurance premiums separately billed to a Unit Owner; the cost of cleaning debris from and the housekeeping of a Unit or that Unit's Limited Common Elements where, in the opinion of the Board, the Owner has allowed the same to become unsightly; costs incurred by the Association in repairing Units or Limited Common Elements where the Unit Owners fail to do so as required hereunder (less any insurance proceeds received by the Association in connection

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therewith); penalties and charges imposed pursuant to Rules and Regulations of the Board for violations of the Declaration, By-Laws and Rules and Regulations; and a Unit Owner's enforcement and arbitration charges including, without limitation, the costs and attorneys' fees involved in bringing actions to enforce the terms of the Declaration, By-Laws, Rules and Regulations. Any special individual unit assessment shall be due and payable on the date as the Board determines, as long as written notice from the Board precedes the due date.

Additionally, during the first five (5) years of the Condominium's existence or until such time as real estate taxes and assessments are split into separate tax bills for each Unit, whichever is earlier, the Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid when due, and assess respective Unit Owners that Unit's share of such real estate taxes and assessments as a special individual Unit assessment. The share of those particular taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Elements attributable to that Unit. The calculation by the Association of the Units' and its Unit Owners' shares of taxes and assessments shall be binding upon all Unit Owners.

4. <u>Effective Date of Assessment</u>. Any properly administered assessment shall be effective if written notice of its amount is sent by the Board to the Unit Owner subject to the assessment at least ten (10) days prior to the assessments due date, or if to be paid in installments, the due date of the first installment. Written notice mailed or delivered to a Unit Owner's or Unit Owners' Unit shall constitute notice to that or those Unit Owners, unless a Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address of a particular Unit Owner shall constitute notice to that Unit Owner.

5. Effect of Nonpayment of Assessment; Remedies of the Association.

(a) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the entire unpaid balance of the assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installment. The Association shall credit all payments received from a Unit Owner in the following priority: (1) to interest; (2) to administrative late fees; (3) to collection costs, attorney fees, and paralegal fees; and (4) to the principal amounts owed to the Association for common assessments, enforcement assessments, penalty assessments or any other charges owed to the Association.

(b) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the Board, at its option, and without demand or notice, may (1) charge interest on the entire unpaid

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balance (including the accelerated portion thereof) at such rate as the Board, from time to time, establishes by rule; or if the Board fails to establish a rate by rule, at the rate of eight percent (8%) per annum, (2) charge a reasonable, uniform late fee, as established from time to time by the Board, by rule, and (3) charge the cost of collection, including attorney fees and other out-of-pocket expenses.

(c) All assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge in favor of the Association upon the Unit against which each such assessment is made.

(d) At any time after any assessment, installment of an assessment, or portion of any installment of an assessment remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that assessment, including all future installments, interest, late fees, and costs, including attorney fees, may be filed with the Delaware County, Ohio Recorder, pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name or names of the record Unit Owner or Unit Owners, and the amount of the unpaid portion of the assessments and charges. The same shall be signed by the president or other designated representative of the Association. The lien amount may include all assessments chargeable against the Unit, interest, administrative late fees, enforcement assessments, collection costs, attorney fees, and paralegal fees.

(e) The aforementioned lien shall become effective from the time a certificate of lien or renewal certificate is duly filed, and shall continue for a period of five (5) years unless sooner released or satisfied in the manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(f) Any Unit Owner who believes that an assessment chargeable to that Unit Owner's Unit (for which a certificate of lien has been filed by the Association) has been improperly charged against that Unit, may bring an action in the Court of Common Pleas of Delaware County, Ohio for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit and its Unit Owner(s), the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

(g) Each assessment, together with interest, late fees and costs, including attorney fees, shall also be the joint and several personal obligation of the Unit Owner(s) who owned the Unit at the time when the assessment fell due. The

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obligation for delinquent assessments, interest, late charges, and costs shall not be the personal obligation of that or those Unit Owner(s)' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charges, and costs shall not be impaired or abridged by reason of the transfer, but shall continue unaffected, except as provided in Paragraph 6 of this Article.

(h) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees and costs, including attorney fees; bring or join in an action at law against the Unit Owner or Owners personally obligated to pay the same, and an action to foreclose a lien; or effect any one or more of these.

In any foreclosure action, the Unit Owner(s) affected shall be required to pay a reasonable rental for that Unit during the pendency of such action. In any foreclosure action involving Units, the Association shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including attorney fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

(i) No claim of the Association for assessments and charges shall be subject to setoffs, offsets, counterclaims or cross-claims, including, without limitation, that the Association has failed to provide the Unit Owner with any service, goods, work or materials, or failed in any other duty.

(j) No Unit Owner(s) may waive or otherwise escape liability for the assessments provided for in this Declaration by not using the Common Elements or any part of the same or by abandoning that Owner's Unit.

(k) Regardless of their procedural character, assessments run with the land and are necessary to continue the care, repair, and maintenance of Units and their undivided interests in the Condominium Property. Accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

6. <u>Subordination of the Lien to First Mortgages</u>. The lien of the assessments and charges provided for in this Declaration shall be subject to and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage that comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of assessments and charges against the mortgaged Unit which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all {00135256-3}

other cases, to the date legal title vested in the successor owner. The foregoing will not relieve any successor Unit Owner from the obligation to pay assessments accruing after gaining ownership.

7. <u>Certificate Regarding Assessments</u>. The Board shall, upon request, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary, or other designated representative of the Association, stating the payment status of assessments on a particular Unit. This certificate shall be conclusive evidence of payment of any assessment that the Certificate states to have been paid.

ARTICLE XVII. EXPANSIONS

1. <u>Reservation of Option to Expand</u>. Notwithstanding any provision in this Declaration to the contrary, the Declarant expressly reserves the option to expand the Condominium Property by amendment(s) to include all or part of the Additional Property (without any consent to such amendment being required by any other party) as provided in this Article.

2. <u>Limitations on Option to Expand</u>. There are no limitations on Declarant's option to expand the Condominium Property except as provided in this Article or elsewhere in this Declaration. Except as otherwise so expressly limited, Declarant has the exclusive right, power, and authority to expand the Condominium Property. Specifically, the consent of any Unit Owners or Owners is not required for Declarant to exercise its option to expand.

3. <u>Maximum Expansion Time</u>. Declarant's option to expand the Condominium Property shall expire and terminate at the end of seven (7) years from the date this Declaration is filed for record. Notwithstanding the foregoing, Declarant may extend its option to expand the Condominium Property for an additional seven (7) years if it exercises that right to extend within six months prior to the expiration of that initial seven (7) year period, with the consent of the majority of the Unit Owners other than Declarant. Declarant exercises its right to extend through a writing addressed to the Association.

Declarant shall have the right to waive its option to expand at any time in an unequivocal writing addressed to the Association dedicated solely to that waiver. There are no other circumstances that will terminate the option to expand prior to the expiration of the seven years.

4. <u>Description of the Additional Property</u>. A legal description, by metes and bounds, of all of the land that is part of the Additional Property, and that, through exercise of Declarant's option, may be submitted to the Condominium Act and thereby added to the Condominium Property is attached as Exhibit B hereto.

5. <u>Composition of Additional Property Portions Added</u>. Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor, if any of the Additional Property is added, shall it be required that a particular portion of the Additional {00135256-3}

Property must be added. This Article provides the exclusive method of adding any part or all of the Additional Property to the Condominium. All improvements to the Additional Property shall be added to the Condominium Property shall be substantially completed prior to the addition. There are no limitations fixing the boundaries of portions added or regulating the order in which portions are added.

6. <u>Time for Adding Portions</u>. Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, in any order selected by the Declarant. There are no limitations on the addition of Additional Property.

7. <u>Improvement Location Limitations</u>. There are no established or defined limits on the location of any improvements that may be made on any portion of the Additional Property added to the Condominium Property, outside those imposed by law.

8. <u>Maximum Number of Units</u>. The maximum, total number of Units that may be created on the Additional Property and added to the Condominium Property is forty-one (41), thereby permitting the Condominium to be expanded to include a maximum of forty-two (42) Units. The foregoing shall neither limit nor restrict the number of dwelling units or other improvements that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property.

There is no limit as to the maximum number of Units per acre that may be created on any portion of the Additional Property added to the Condominium Property, except that the total number of Units that may be constructed on the Additional Property and added to the Condominium may not exceed forty-one (41).

9. <u>Non-Residential Use</u>. All Units added to the Condominium on the Additional Property shall be residential.

10. <u>Compatibility of Structures</u>. All structures erected on all or any portion of the Additional Property and added to the Condominium Property will be consistent and reasonably compatible with, but need not be substantially identical to, the Units that are initially a part of the Condominium Property in terms of quality of construction, principal materials used, architectural style, and design and must meet the basic criteria for all Units set forth on Exhibit E attached hereto. Declarant has reserved the right to change the sizes, layouts and composition of all future Units, provided that architectural style and quality of all such future Units must be compatible to that in the initial phase. In addition, it is anticipated that subsequent phases will add additional private roadways, driveways, exterior parking areas, drainage retention areas, green and landscaped areas and possibly other amenities.

11. <u>Improvements Other than Structures</u>. If all or a portion of the Additional Property is added to the Condominium Property, no particular non-structural improvements need be included. However, if non-structural improvements are included, they shall be of substantially the same kind, style, design, and quality as those improvements then on the {00135256-3}

Condominium Property.

12. <u>Types of Units</u>. With respect to those Units that may be constructed on the Additional Property and added to the Condominium Property after the Units then on the Condominium Property there are no limitations as to what types of Units may be created on the Additional Property, provided that the architectural style, design and quality are reasonably compatible to that of the Units then on the Condominium Property.

13. <u>Limited Common Elements</u>. Declarant reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Elements of substantially the same type and size as those areas now so designated as Limited Common Elements. The Declarant may designate any areas in the Additional Property as Common Elements that may later be designated Limited Common Elements.

14. <u>Supplementary Drawings</u>. Attached as Exhibit F is a sketch drawing showing the general location and physical relationship between the Condominium Property and the Additional Property. When Declarant adds all or any portion of the Additional Property to the Condominium Property, Declarant shall file drawings with respect to the Additional Property as required by the Condominium Act.

15. <u>Procedures for Expansion</u>. Adding all or any part of the Additional Property shall be accomplished by the Declarant's filing of amendment(s) to the Declaration that contains the information and drawings with respect to the Additional Property and its improvements added, along with any other requirements provided by the Condominium Act.

16. <u>Effects of Expansion</u>. Upon the filing, consistent with the Condominium Act, of any amendment to the Declaration adding all or any portion of the Additional Property to the Condominium Property:

the added portion shall be subject to and benefited by all of the terms and (a) provisions of this Declaration, to the same extent and with the same effect as if that added portion had previously constituted part of the Condominium Property. Specifically, the rights, easements, covenants, restrictions, and assessment plan set forth in this Declaration shall run with, bind, and benefit the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property. Additionally, nonexclusive easements are reserved to Declarant over and upon the Common Elements and Limited Common Elements in property added to the Condominium (1) for a two year period of time from the date of the closing by Declarant of the first sale of a Unit in that property added to a bona fide purchaser, for access to and for the purpose of completing any improvements in that portion added, (2) for the periods provided for warranties, or by law, for purposes of making repairs required pursuant to warranties, and (3) for the initial sales and rental period for Units in that property added, to maintain and utilize one or more of those Units

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and its appurtenances for sales offices, management offices, storage, maintenance, model Units, parking areas for sales and rental purposes, and advertising signs;

(b) the Unit Owners in the added portion shall become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other Unit Owners, including, without limiting the generality of the foregoing, one vote for each Unit owned by that Unit Owner or those Unit Owners in the Association;

(c) the undivided interests of Units in the Common Elements, as so expanded, shall be reallocated on the basis of one Unit equals one vote among all Units in the Condominium, including those added by any expansion;

(d) with respect to Units added, annual operating assessments shall commence the later of (1) the first day of the calendar month immediately after the date the documents adding the Units were duly recorded or (2) the date established by the Association for the commencement of any operating assessment, with proration based on the number of full calendar months remaining in the year for which the operating assessments were levied; and

(e) in all other respects, all of the provisions of this Declaration shall include and apply to the added portions, and to the Unit Owners, mortgagees, and lessees of those added portions, with equal meaning and of identical force and effect.

17. <u>New Taxes, Assessments, etc.</u> Declarant shall pay or otherwise satisfactorily provide for all taxes and assessments then due and owing, mechanics' liens, and other charges affecting the Additional Property before the same is made a part of the Condominium.

18. <u>Successor Owners Not Liable for Actions of Declarant</u>. A successor owner of the Condominium Property and/or Additional Property who is not an affiliate of Declarant or "developer," as defined in the Condominium Act, and who is a bona fide purchaser of any portion of the Condominium Property for value, or a purchaser who acquires any portion of the Condominium Property at a sheriff's sale or by deed in a lieu of a foreclosure, is not liable in damages for harm caused by an act or omission of the Declarant or developer or a breach of an obligation by the Declarant or developer, all as further provided in Section 5311.05(C)(15) of the Condominium Act.

ARTICLE XVIII: NOTICES TO AND VOTING RIGHTS OF ELIGIBLE MORTGAGEES

1. <u>Notices</u>. Any Eligible Mortgagee, upon written request to the Association, (which request states the name and address of such Eligible Mortgagee and sufficiently designate and describe the applicable Unit) shall be entitled to timely written notice by the Association of:

(a) any proposed addition to, change in, or amendment of the Condominium

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Organizational Documents of a material nature, including any addition to, change in, or amendment of any provision establishing, providing for, governing, or regulating: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of Common Elements; (4) responsibility for maintenance and repairs; (5) reallocation of interests in the Common Elements (specifically including the Limited Common Elements), or rights to their use; (6) redefinition of boundaries of any Unit; (7) convertibility of Units into Common Elements or vice versa; (8) expansion or contraction of the Condominium or the addition, annexation, or withdrawal of property to or from the Condominium; (9) hazard or fidelity insurance requirements or coverage; (10) imposition of any restrictions on the leasing of Units, (11) imposition of any restrictions on a Unit Owner's right to sell or transfer that Unit Owner's Unit; (12) a decision by the Association to establish self-management if professional management had been required previously by the Condominium Organizational Documents or by an Eligible Mortgagee; (13) restoration or repair of the Condominium Property after damage or partial condemnation in a manner other than specified in the Condominium Organizational Documents; (14) termination of the legal status of the Condominium after substantial destruction or condemnation; or (15) benefits to mortgage holders, insurers, or guarantors. No addition to, change in, or amendment of the Condominium Organizational Documents shall be considered material if it is for the purpose of correcting technical errors or for clarification only;

(b) any proposed decision or action that: (1) terminates professional management and establishes self-management when professional management has been required previously by an Eligible Mortgagee; (2) causes restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Organizational Documents; (3) substantial damage or destruction not be restored; (4) the Condominium Property be renewed or rehabilitated; (5) significant new capital improvements not replacing existing improvements be constructed; or (6) would, without addition to, change in, or amendment of the Condominium Organizational Documents, make any change with respect to the items described in subparagraph (a) of Section 1 of this Article; and

(c) (1) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (2) any delinquency for sixty (60) days in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage; (3) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (4) any proposed action that requires the consent of a specified percentage of

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Eligible Mortgagees. A holder, insurer, or guarantor of a first mortgage lien on a Unit which has sent a written request to the Association stating both its name and address and the Unit Designation or address of the Unit on which it holds, insures, or guarantees the mortgage shall be entitled to timely written notices of the events described in this subsection (c) for the particular Unit so designated.

2. Voting Rights. No action with respect to which Eligible Mortgagees are entitled to notice, as provided in subparagraphs (a) or (b) of Section 1 of this Article, may be taken without the consent of Eligible Mortgagees of Units to which not less than fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain, provided, further, that no action to terminate the Condominium or that would have that effect, other than by reason of substantial destruction or condemnation of the Condominium Property, shall be taken without the consent of Eligible Mortgagees of Units to which not less than seventy-five percent (75%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain.

3. <u>Approval Rights</u>. Notwithstanding any other provision, if a federal or other nationally broad-based institutional mortgagee, guarantor, or insurer of residential home loans:

(a) holds, insures, or guarantees payment of all or part of a mortgage secured loan on one or more Units in the Condominium;

(b) has not approved a particular plan of expansion of the Condominium to which a proposed addition to the Condominium conforms; and

(c) requires approval of proposed additions to the Condominium;

neither the Additional Property, nor any part thereof, may be added to the Condominium without the prior written consent of such holder, insurer, or guarantor.

4. <u>Approval by Veterans Administration During Developer Control.</u> Notwithstanding any other provision in this Declaration, if the Condominium has been approved by the Department of Veterans Affairs, and while the Declarant is in control of the Association, any amendment (except those aiding the expanding of the condominium in accordance with the provisions of Article XVII of this Declaration) must be approved by the Secretary of the Department of Veterans Affairs.

ARTICLE XIX. AMENDMENTS

1. <u>Power to Amend</u>. Except as otherwise specifically provided in this Article, additions to, changes in, or amendment of this Declaration (or the other Condominium Organizational Documents) or the taking of any of the actions which require the consent of Eligible Mortgagees exercising not less than fifty-one percent (51%) of the Voting Power of Units subject to mortgages held by Eligible Mortgagees, as provided elsewhere herein, shall, in {00135256-3}

addition to such consents of Eligible Mortgagees, require the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners.

Notwithstanding the foregoing:

(a) the consent of all Unit Owners shall be required for any amendment effecting a change in:

- (i) the boundaries of any Unit;
- the undivided interest in the Common Elements appertaining to a Unit or the liability for common expenses appertaining thereto;
- (iii) the number of votes in the Association appertaining to any Unit; or
- (iv) the fundamental purposes to which any Unit or the Common Elements are restricted;

(b) the consent of Unit Owners exercising not less than one hundred percent (100%) of the voting power of Unit Owners shall be required to terminate the Condominium;

(c) in any event, subject to the provisions of Section 5311.05(E) of the Condominium Act granting the Board of Directors certain rights to amend the Declaration, each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant a power of attorney, which right and power is coupled with an interest and runs with the title to the respective Unit and is irrevocable:

- (i) to Declarant, for so long as Declarant owns any Unit, to amend the Condominium Organizational Documents, to the extent necessary to (i) conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere) of Eligible Mortgagees is obtained (if required) or (ii) correct typographical, factual, or obvious errors or omissions, the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor, provided, further, that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant and
- (ii) the Association, through its Board, from and after such time as Declarant no longer owns any Unit, the right and power, and each

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Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to the Association, through the Board, a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by the Board), to amend the Condominium Organizational Documents to the extent necessary to correct typographical, errors, factual errors, or omissions, the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor.

(iii) In addition to the foregoing, the Board, without a vote of the Unit Owners, may amend the Declaration in any manner necessary for any of the following purposes: (i) to meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, or the requirements of insurance underwriters; (ii) to bring the Declaration into compliance with requirements of the Condominium Act; (iii) to correct clerical or typographical errors or obvious factual errors in this Declaration or an exhibit or amendment hereto; and (iv) to designate a successor to the Person name to receive service of process for the Association, provided, that the naming of a successor need not be by amendment hereto if the change of statutory agent is appropriately filed with the Ohio Secretary of State.

An Eligible Mortgagee of a Unit who receives a written request to approve changes, additions, or amendments sent by certified or registered mail, return receipt requested, and who does not deliver or post to the requesting party a response within sixty (60) days after receipt of the same, shall be deemed to have approved such request.

2. <u>Limitation on Right to Amend</u>. Any provision of this Declaration granting any rights, duties, obligations, opportunities, or otherwise affecting Declarant shall not be amended without written consent of Declarant unless Declarant no longer retains any right to expand the Condominium.

3. <u>Method to Amend</u>. An amendment to this Declaration (or the Drawings or the Bylaws), adopted with the consents of Unit Owners and Eligible Mortgagees as may be required, shall be duly executed by the Secretary (or the Secretary's proxy as assigned by the Board) and one other officer of the Association and shall contain their certification that such amendment was duly adopted in accordance with the appropriate provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant shall be duly executed with the same formalities as were required for this Declaration and shall certify that the amendment is made pursuant to authority vested in Declarant or a duly empowered successor Declarant. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Delaware County, Ohio Auditor and Recorder.

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ARTICLE XX. MISCELLANEOUS PROVISIONS

1. <u>Covenants Run with the Land</u>. The covenants, conditions, restrictions, easements, reservations, powers of attorney, liens, and charges created in this Declaration shall run with and bind the land and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in to all or any part of the Condominium Property, the Association, and their respective heirs, executors, administrators, successors, and assigns.

2. <u>Enforcement</u>. In addition to any other remedies provided in this Declaration, Declarant (only with respect to those rights directly benefiting the Declarant), the Association, and each Unit Owner, shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges set forth in this Declaration, the Bylaws, or the Board's rules and regulations. Failure by Declarant, the Association or any Unit Owner to enforce any right, restriction, condition, covenant, easement, reservation, lien or charge shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such right, restriction, condition, covenant, reservation, easement, lien or charge.

The Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Organizational Documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted under the same; provided, the Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration, including, without limitation, attorneys' fees and costs; and provided, further, that neither the Association nor its Directors, officers, or other representatives, shall be liable to any Unit Owner or Occupant, or their invitees, for damage to any Unit or any part thereof, or any personal property of such Unit Owner, Occupant, or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or intentional tortious act of the Association, Director, officer, or other representative. In addition to all other remedies available by law, the Association may use summary abatement or similar means to enforce any provisions in this Declaration or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

The foregoing notwithstanding, the Association may not commence a legal proceeding or action without the affirmative vote of Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners. This limitation shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens and the collection of Assessments), the Bylaws, and reasonable rules and regulations adopted by the Board; (ii) the imposition and collection of Assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims or

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cross-claims brought by the Association in proceedings instituted against it; or (v) actions to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Unit Owners in order to preserve the status quo. The Board, on behalf of the Association and without the consent of Unit Owners, is hereby authorized to negotiate settlement agreements and a waiver or release of claims.

3. <u>Severability</u>. Invalidation of any one or more of these covenants, conditions, restrictions, or easements by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act or any other Ohio or federal law; the Condominium Act, Ohio law, or federal law shall prevail; and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall not affect any other provisions of this Declaration, provisions shall otherwise remain in full force and effect.

4. <u>Limited Warranties</u>. Declarant provides to each purchaser of a Unit from Declarant certain limited warranties which are described in a condominium development disclosure statement provided to each of those purchasers at or prior to the time the purchaser enters into a contract to purchase a Unit from Declarant. Declarant specifically disclaims any and all warranties, express or implied, other than as set forth in Declarant's limited warranty and as required by Chapter 5311 of the Ohio Revised Code and specifically disclaims any implied warranty of habitability, fitness for a particular purpose, or construction in a workmanlike manner. The Declarant hereby assigns to the Association all warranties received by the Declarant with regard to the Common Elements. In addition, all warranties received by the Declarant with regard to the Common Elements added by any expansion shall automatically be assigned to the Association upon the recording of an amendment to the Declaration expanding the Condominium to include those Common Elements.

5. <u>Numbers and Grammar</u>. The singular used in this Declaration shall be construed to mean the plural when applicable and vice versa. The grammatical changes required to make the provisions of this Declaration apply either to corporations, partnerships, trusts, limited liability companies, other entities, men, or women, shall in all cases be assumed as though in such case fully expressed.

6. <u>Captions</u>. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

NOTICE TO UNIT OWNERS: THIS DECLARATION PROVIDES FOR MANDATORY MEMBERSHIP IN SORRENTO AT HIGHLAND LAKES CONDOMINIUM ASSOCIATION, INC., AN OHIO NOT-FOR-PROFIT CORPORATION WHICH ADMINISTERS THE CONDOMINIUM, AND INCLUDES THE OBLIGATION TO PAY VARIOUS ASSESSMENTS TO SUCH ASSOCIATION. THE FAILURE TO ABIDE BY THE CONDITIONS AND RESTRICTIONS CONTAINED HEREIN, INCLUDING THE

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PAYMENT OF ASSESSMENTS, MAY RESULT IN LEGAL ACTION, FINES, PENALTIES, INTEREST AND INCREASED COSTS, INCLUDING THE OBLIGATION TO PAY THE ASSOCIATION'S LEGAL FEES AND COSTS.

[Remainder of Page Intentionally Left Blank] Signature Page Follows

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The undersigned has executed and delivered this Declaration on behalf of Declarant this day of September, 2013.

ROMANELLI AND HUGHES BUILDING COMPANY, an Ohio Corporation

Cur By:

Vincent Romanelli Vice President

STATE OF OHIO

COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me by Vincent Romanelli, the Vice President of Romanelli and Hughes Building Company, an Ohio corporation, on behalf of the corporation, this 17^{\pm} day of September, 2013.



Jeffrey Rush Notary Public, State of Ohio My Commission Expires 08-22-16

Public

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EXHIBIT A

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

[Legal Description by metes and bounds of Condominium Property]

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ASSOCIATES Transportation Design

Shaffer Pomerov Ltd.

Civil Engineering & Surveying Since 1961

Pomero

599 Scherers Court Worthington, Ohio 43085 Phone (614) 885-2498

Fax (614) 885-2886 Web www.pomeroyassoc.com

Sorrento at Highland Lakes Condominium 0.779 Acre

Situated in the State of Ohio, County of Delaware, Township of Genoa, located in Quarter Township 3, Township 3, Range 17, United States Military Lands and being 0.779 acres, being out of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company in Volume 805, page 920 and being more particularly described as follows;

Commencing, for reference, at a railroad spike found in the centerline of Worthington Road (County Road 13) at the southwesterly corner of said 30.207 acre tract;

Thence, North 34° 15' 00" East, along the centerline of said Worthington Road and the westerly line of said 30.207 acre tract, a distance of 496.27 feet to a P.K. nail found at the southwesterly corner of a 1.101 acre tract conveyed to James M. Hassey in Official Record 859, page 316;

Thence, South 86° 22' 35" East, along the southerly line of said 1.101 acre tract, a distance of 409.09 feet to an iron pin found at the southeasterly corner of said 1.101 acre tract;

Thence, North 03° 37' 25" East, along the easterly line of said 1.101 acre tract, a distance of 129.27 feet to an iron pin found at the northeasterly corner of said 1.101 acre tract, being the southerly line of a 0.783 acre tract conveyed to Sarah E. Butterfield in Official Record 13, page 2194;

Thence, South 86° 22' 35" East, along the southerly line of said 0.783 acre tract and the northerly line of said 30.207 acre tract, a distance of 491.89 feet to a point, said point being THE TRUE PLACE OF BEGINNING of the here described 0.779 acre tract;

Thence, from said TRUE PLACE OF BEGINNING, South 86° 22' 35" East, continuing along the northerly line of said 30.207 acre tract and the southerly line of said 0.783 acre tract, a distance of 184.87 feet to a point;

Thence, South 03° 37' 25" West, through said 30.207 acre tract, a distance of 212.19 feet to a point;

Thence, South 52° 55' 52" West, continuing through said 30.207 acre tract, a distance of 58.70 feet to a point;

Thence, North 37° 04' 08" West, continuing through said 30.207 acre tract, a distance of 213.04 feet to a point;

Thence, North 02° 40' 50" East, continuing through said 30.207 acre tract, a distance of 88.95 feet to THE PLACE OF BEGINNING.

Containing 0.779 acres of land, more or less.

Subject to all easements, restrictions and rights-of-way of record.

This description is based on a field survey performed by Pomeroy & Associates, Ltd. in September of 2013.

Bearings are based on the bearing of S 86°22'35" E. for the northerly line of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company of record in Volume 805, page 920, Recorder's Office, Delaware County, Ohio.

All references are to records of the Delaware County Recorder's Office, Delaware County, Ohio.



9/16/2013 May David B. McCoy

Registered Professional Surveyor No. 7632

EXHIBIT B

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DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

[Legal Description of Additional Property]

{00135256-3}B-1

Romeroy Shaffer Pomeroy Ltd. Associates Transportation Design

Civil Engineering & Surveying Since 1961

599 Scherers Court Worthington, Ohio 43085

Phone (614) 885-2498 Fax (614) 885-2886 Web www.pomeroyassoc.com

Sorrento at Highland Lakes Condominium Additional Property 29.428 Acre

Situated in the State of Ohio, County of Delaware, Township of Genoa, located in Quarter Township 3, Township 3, Range 17, United States Military Lands and being 29.428 acres, being out of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company in Volume 805, page 920 and being more particularly described as follows;

Beginning at a railroad spike found in the centerline of Worthington Road (County Road 13) at the southwesterly corner of said 30.207 acre tract;

Thence, North 34° 15' 00" East, along the centerline of said Worthington Road and the westerly line of said 30.207 acre tract, a distance of 496.27 feet to a P.K. nail found at the southwesterly corner of a 1.101 acre tract conveyed to James M. Hassey in Official Record 859, page 316;

Thence, South 86° 22' 35" East, along the southerly line of said 1.101 acre tract, a distance of 409.09 feet to an iron pin found at the southeasterly corner of said 1.101 acre tract;

Thence, North 03° 37' 25" East, along the easterly line of said 1.101 acre tract, a distance of 129.27 feet to an iron pin found at the northeasterly corner of said 1.101 acre tract, being the southerly line of a 0.783 acre tract conveyed to Sarah E. Butterfield in Official Record 13, page 2194;

Thence, South 86° 22' 35" East, along the southerly line of said 0.783 acre tract and the northerly line of said 30.207 acre tract, a distance of 491.89 feet to a point;

Thence, South 02° 40' 50" West, through said 30.207 acre tract, a distance of 88.95 feet to a point;

Thence, South 37° 04' 08" East, continuing through said 30.207 acre tract, a distance of 213.04 feet to a point;

Thence, North 52° 55' 52" east, continuing through said 30.207 acre tract, a distance of 58.70 feet to a point;

Thence, North 03° 37' 25" East, continuing through said 30.207 acre tract, a distance of 212.19 feet to a point in the northerly line of said 30.207 acre tract and the southerly line of said 0.783 acre tract;

Thence, South 86° 22' 35" East, continuing along the northerly line of said 30.207 acre tract, the southerly line of said 0.783 acre tract and the southerly line of a 17.720 acre tract conveyed to Sarah E. Butterfield in Deed Book 647, page 810, a distance of 1315.96 feet to an iron pin found at the northeasterly corner of said 30.207 acre tract, the southeasterly corner of said 17.720 acre tract, in the westerly line of Maple Run Section 1 of record in Plat Book 24, page 71 and in the line common to Farm Lots 17 and 32;

Thence, South 03° 15' 08" West, along said common Farm Lot line, the westerly line of said Maple Run Section 1 and the westerly line of Highland Lakes East, Section 10, Part 1 of record in Plat Cabinet 1, slide 777, a distance of 539.43 feet to an iron pin found at the southeasterly corner of said 30.207 acre tract, the northeasterly corner of a 0.145 acre tract conveyed to Highland Lakes Homeowners Association in Official Record 517, page 1 and the southeasterly corner of said Farm Lot 32, being the northeasterly corner of Farm Lot 31;

Thence, North 86° 44' 26" West, along the line common to said Farm Lots 31 and 32, the northerly line of said 0.145 acre tract, the northerly line of a 88.32 acre tract conveyed to the City of Westerville in Deed Book 287, page 566 and the northerly line of Highland Lakes, Section 1 of record in Plat Book 23, page 37, a distance of 2658.19 feet to THE PLACE OF BEGINNING.

Containing 29.428 acres of land, more or less.

Subject to all easements, restrictions and rights-of-way of record.

This description is based on instruments of record.

Bearings are based on the bearing of S 86°22'35" E. for the northerly line of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company of record in Volume 805, page 920, Recorder's Office, Delaware County, Ohio.

All references are to records of the Delaware County Recorder's Office, Delaware County, Ohio.



9/17/2013 B. My

David B. McCoy Registered Professional Surveyor No. 7632

EXHIBIT C

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

[Drawings - See recording information on initial page hereof.]

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EXHIBIT D

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DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

Unit Information

Unit <u>Designation</u>	Unit <u>Address</u>	Unit <u>Value</u>	Undivided <u>Interest</u>
5443	5443 Via Alvito Drive	1	. 1/1 st
		1	<u>100%</u>

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EXHIBIT E

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

Basic Criteria for All Units

Description

Ranch-style Units ranging from 2 to 4 bedrooms, with 2 to 3.5 bathrooms, and ranging in size from approximately 1,800 to 3,000 first floor interior square feet of space

Wood frame construction

Built on 8" poured concrete wall foundations

With a combination of stucco, cultured stone and (sometimes) brick accented exteriors and having dimensional asphalt shingle roofs

Each Unit will have a basement (some with walk-out access, and some with full or partial views) and an attached two or three car garage

Some Units will have an second floor loft area ranging in size from approximately 335 to 630 square feet of space, and some such lofts may contain the option of an additional bedroom and bathroom in the loft

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EXHIBIT F

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR

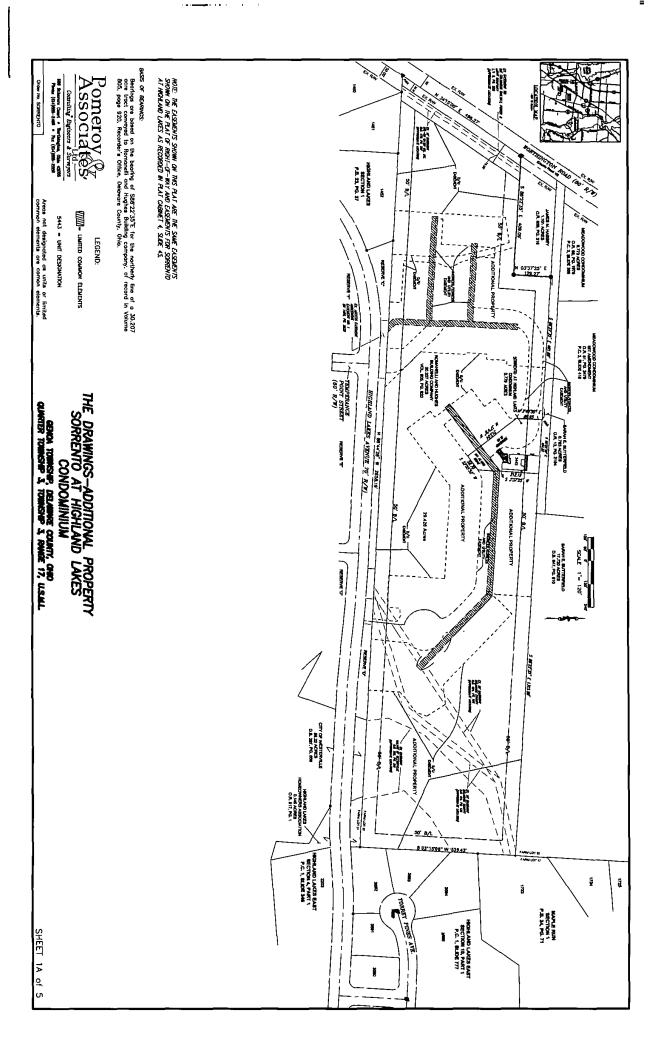
SORRENTO AT HIGHLAND LAKES CONDOMINIUM

[Sketch of Condominium Property and Additional Property

showing physical relationship between the two]

{00135256-3}F-1

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EXHIBIT G

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BYLAWS (CODE OF REGULATIONS) OF SORRENTO AT HIGHLAND LAKES CONDOMINIUM ASSOCIATION, INC.

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<u>BYLAWS</u> <u>(CODE OF REGULATIONS)</u> OF <u>SORRENTO AT HIGHLAND LAKES CONDOMINIUM ASSOCIATION, INC.</u>

SECTION I: NAME AND LOCATION

The name of the Association is Sorrento at Highland Lakes Condominium Association, Inc. (the "Association"), which as a nonprofit corporation, is created pursuant to the provisions of Ohio Revised Code Chapter 1702 and is also created pursuant to the provisions of Ohio Revised Code Chapter 5311 as the unit owners' association for Sorrento at Highland Lakes Condominium.

The principal office of the Association shall be as set forth in its Articles of Incorporation (the "Articles") filed with the Secretary of State of Ohio, and the place of meetings of Unit Owners (members) and of the Directors (Board of Directors) of the Association shall be anywhere in Ohio as the Board of Directors (the "Board") may designate.

SECTION II: DEFINITIONS

All of the terms used herein that are not otherwise defined shall have the same meanings as set forth in the Declaration Establishing A Plan For Condominium Ownership Under Ohio Revised Code Chapter 5311 for Sorrento at Highland Lakes Condominium (the "Declaration"), recorded simultaneously with these Bylaws with the Recorder of Delaware County, Ohio.

SECTION III: UNIT OWNERS (MEMBERS)

1. <u>Composition</u>. Each Unit Owner, as defined in the Declaration, is a member of the Association.

2. <u>Annual Meetings of the Unit Owners</u>. Regular annual meetings of the Unit Owners shall be held in the second calendar quarter of each year, on a date and at an hour established by the Board, provided, that, in any event, there shall be no more than fourteen (14) months between annual meetings of the members.

3. <u>Special Meetings of the Unit Owners</u>. Special meetings of the Unit Owners may be called at any time by the president, by the Board, upon written request of Unit Owners entitled to exercise one-fourth (1/4) or more of the voting power of Unit Owners, or when required by the Condominium Act.

4. Notice of Meeting of Unit Owners. The secretary or person authorized to call the meeting will provide for written notice of each meeting of Unit Owners by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Unit Owner entitled to vote at such meeting. Alternatively, personal delivery of a copy of that notice to the appropriate address at least five (5) days before the meeting is acceptable service of the notice. The notice shall be addressed to the Unit Owner's address either (a) last appearing on the books of the Association or (b) last supplied by that Unit Owner to the Association for the purpose of

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notice, whichever is most recent. The notice shall specify the date, place, and hour of the meeting. Additionally, for special meetings, the notice shall indicate the specific purposes of the meeting, and, in the case of special meetings called by the petition and written request of Unit Owners, the specific motion or motions (other than procedural) to be voted upon must be indicated in the notice.

5. <u>Conduct of Meetings of Unit Owners</u>. The Board shall conduct all meetings of the Unit Owners, and the president of the Association shall preside over the same, unless otherwise directed by the Board.

6. <u>Quorum</u>. The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of the Association, shall constitute a sufficient quorum for that meeting.

7. Voting Rights. One vote on matters upon which Unit Owners are entitled to vote shall be allocated to each Unit, exercisable as the Unit Owners of the undivided fee simple interest in that Unit determine. Any owner of a fee simple interest of a Unit may cast the entire vote with respect to that Unit on any given matter, unless that vote is contested by a co-owner of that Unit. If the Owners of the fee simple interest in a Unit are unable to agree among themselves as to the vote to be cast with respect to that Unit on that particular matter. The Board may temporarily suspend a Unit's vote if any assessment, assessment installment, or portion of the same is overdue. Likewise, the Board may temporarily suspend a Unit's vote if that Unit's Occupants or Unit Owners have failed to observe any term of the Declaration, these Bylaws, or rules and regulations duly adopted by the Board, subject to the parameters set forth herein.

8. <u>Voting Power</u>. Except as otherwise provided in the Condominium Organizational Documents or by law, a simple majority of the voting power of Unit Owners entitled to vote on any matter that may be determined by the Unit Owners at any duly noticed and conducted meeting shall be sufficient to determine the matter voted upon.

9. Proxies. At any meeting of Unit Owners, a Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to the meeting. A telegram or facsimile appearing to have been transmitted by a Unit Owner or a photographic, photocopy, or equivalent reproduction of a writing is sufficient to appoint a proxy. An electronic mail notice of proxy appointment, delivered to the secretary, shall be sufficient notice of proxy if that Unit Owner previously provided the Association a personally-signed document verifying that the electronic mail address from which the proxy notice was received is, in fact, the Unit Owner's. Every proxy shall be revocable and shall automatically cease upon conveyance of that Unit Owner's fee simple interest in that Unit. Every proxy shall cease to be valid after the expiration of eleven months after its making unless the proxy specifies a specific date on which it is to expire or a specific length of time it is to continue in force.

10. <u>Participation at Meetings</u>. Meetings of the Unit Owners shall be open to all Unit Owners unless specified by direction of the Board otherwise in the notice of meeting. The Board, in its sole discretion, may exclude from attendance at a meeting of the Unit Owners, Unit Owners and their agents and representatives (other than Declarant and its successors and assigns

so long as Declarant owns a Unit or Units in the Condominium or has the right to expand the Condominium) in these instances:

(a) A determination by the Board that the Unit Owner has a threatened or pending adverse interest to the interests of the Association, or the Board, or any member of the Board, or any officer, employee, committee member, or agent of the Association, in such Person's capacity as such, if a subject of the meeting will be a discussion of a vote with regard to such adverse interest; or

for any other reason deemed by the Board, from the standpoint of the Association's best interests, to be of sufficient merit that attendance and participation at a meeting by such Unit Owner would not be in the Association's best interests; provided, that nothing contained in this Section shall preclude or exclude a Unit Owner from voting by proxy, on any matter properly voted upon at that meeting by Unit Owners.

11. <u>Unit Owner Action in Writing Without Meeting</u>. Any action that could be taken by Unit Owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Unit Owners or their proxies having not less than seventyfive percent (75%) of the voting power of all Unit Owners, or such greater proportion of the voting power as may be required by the Condominium Organizational Documents or by law.

SECTION IV: BOARD OF DIRECTORS

1. <u>Initial Directors and Replacements</u>. The initial Directors shall be three (3) persons named by the Declarant as the initial Directors in a separate action. The Declarant reserves the right, at any time, to have the Unit Owners elect any or all Directors and for Declarant to turn over the functions or operation of the Association to the elected Directors.

Successor Directors. No later than sixty (60) days after the sale and conveyance by the Declarant of Units to which twenty-five percent (25%) of the undivided interests in the Common Elements appertain, the Unit Owners shall meet, and the Unit Owners other than the Declarant shall elect one Director at that meeting to replace one Director Declarant designates to be replaced. The term of such Director shall be three (3) years. Within sixty (60) days after the earlier of (a) five (5) years from the date of the establishment of the Association, and (b) the sale and conveyance, to purchasers in good faith and for value, of Units to which seventy-five percent (75%) of the undivided interests in the Common Elements appertain, the Association shall meet and all Unit Owners, including the Declarant, shall elect the three (3) new Directors (at which time control of the Association shall be considered to be "turned over to the Unit Owners"). The persons so elected shall take office at the end of the meeting during which they are elected and shall, as soon as reasonably possible, appoint officers. The terms of the new Directors shall be staggered so that the terms of at least one-third (1/3) (one in number) of the Directors will expire and successors be elected at each annual meeting of the Association. Thereafter, at such annual meetings, successors to the Directors whose terms then expire shall be elected to serve three-year terms. (By way of example, at this meeting one Director could be given a one-year term, one (1) Director a two-year term, and one (1) Director a three-year term. As a result, at every annual meeting only one new Director will be elected.)

For purposes of computing undivided interests pursuant to the foregoing, those interests shall be computed by comparing the number of Units sold and conveyed to the maximum number of Units (forty-two (42)) that may be in the Condominium. Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more Directors or to vote in an election of Directors.

3. <u>Removal</u>. Excepting only Directors named in the Articles or selected or designated by Declarant, any Director may be removed from the Board with or without cause, by the holders of not less than seventy-five percent (75%) of the voting power of Unit Owners. In the event of the death, resignation, or removal of a Director other than one named in the Articles or a substitute to the same selected by the Declarant, that Director's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Unit Owners, when a Director shall be elected to complete the term of such deceased, resigned, or removed Director.

In the event all Directors are removed, the Unit Owners shall, at the meeting at which all Directors are removed, elect Directors to complete the terms of the removed Directors. As long as Declarant controls the Condominium, Declarant shall have the sole right to remove, with or without cause, any Director designated in the Articles, or a substitute selected by the Declarant. Likewise, the Declarant may select the successor of any Declarant-selected Directors by all of the Unit Owners, as provided in the Declaration.

4. <u>Qualification</u>. To qualify for nomination, election, or appointment as a Director (other than being selected by the Declarant), the prospect must be an individual who is a Unit Owner or co-owner of a Unit, the spouse of a Unit Owner or co-owner of a Unit, or a designated officer or principal of an entity that is a Unit Owner. Further, that Unit Owner or co-owner of a Unit or the Unit Owner of such spouse must not then be delinquent in the payment of any obligation to the Association or be an adverse party to the Association, its Board, or any member of the Board (in that member's capacity as a Board member) in any litigation.

5. <u>Nomination</u>. Nominations for the election of Directors to be elected by the Unit Owners shall be made by a nominating committee appointed by the Board, or, if the Board fails to appoint a nominating committee, by the Board itself. Nominations may also be made from the floor at a meeting. The nominating committee, or Board, shall make as many nominations for election to the Board as it shall, in its sole discretion, determine, but no fewer than the number of vacancies that are to be filled.

6. <u>Election</u>. Unless there are no more nominees than vacancies, election to the Board by the Unit Owners shall be by secret written ballot. At the elections, the Unit Owners or their proxies may cast, in respect to each vacancy, the number of votes as they are entitled to under the provisions of the Declaration. The Persons receiving the largest number of votes shall be elected, and, likewise, those receiving the largest number of votes shall be elected to the longest terms, if applicable. In cases of ties, the winner shall be determined by lot. Cumulative voting is not permitted.

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7. <u>Compensation</u>. Unless otherwise determined by the Unit Owners at a meeting duly called and noticed for such purpose, no Director shall receive compensation for any service rendered to the Association as a Director. However, any Director may be reimbursed actual expenses incurred in the performance of duties as a Director.

8. <u>Regular Meetings</u>. Regular meetings of the Board shall be held on such dates and at such places and times as may be fixed from time to time by resolution of the Board, but not less than quarterly.

9. <u>Special Meetings</u>. Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Directors, after not less than three (3) days notice to each Director.

10. <u>Quorum</u>. The presence at any duly called and noticed meeting of Directors of Directors consisting of a simple majority, in person, by proxy, and/or by participation by any method of communication, including electronic, telephonic, by computer, or otherwise, as long as each member of the Board can hear, participate, and respond, shall constitute a quorum for such meeting.

11. <u>Voting Power</u>. Each Director shall be entitled to a single vote, and, except as otherwise provided in the Condominium Organizational Documents or by law, vote of a simple majority of the Directors voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present, shall be sufficient to determine that matter.

12. <u>Action in Writing Without Meeting</u>. Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of all of the Directors.

13. <u>Powers and Authority</u>. The Board shall exercise all powers and have all authority, under law, and under the provisions of the Condominium Organizational Documents, that are not specifically and exclusively reserved to the Unit Owners by the Condominium Organizational Documents or by law, and without limiting the generality of the foregoing, the Board shall have the right, power, and authority to:

(a) take all actions deemed necessary or desirable to comply with or to cause compliance with all requirements of law and the Condominium Organizational Documents;

(b) obtain insurance coverage and bonds in amounts no less than that required pursuant to the Declaration;

(c) enforce the covenants, conditions, and restrictions set forth in the Declaration;

(d) repair, maintain, and improve the Common Elements;

(e) establish, enforce, levy, and collect: assessments, late fees, delinquent

interest and such other charges as are provided for in the Declaration and adopt, publish, and enforce rules and regulations concerning the same;

(f) adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of Unit Owners, Occupants, and their guests on the same;

(g) suspend the voting rights of a Unit Owner during any period in which the Unit Owner shall be in default in the payment of any assessment (such rights may be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium Organizational Documents);

(h) declare the office of a member of the Board to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board;

(i) subject to such approvals, if any, as may be required pursuant to the provisions of the Condominium Organizational Documents, authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association, including, without limitation: management agreements, purchase agreements, and loan documents, all on such terms and conditions as the Board in its sole discretion may determine, subject to the Declaration;

(j) cause excess funds of the Association to be invested in such reasonable investments as the Board may from time to time determine;

(k) borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan; and

(1) do all things and take all actions permitted to be taken by the Association by law or the Condominium Organizational Documents not specifically reserved to others.

14. <u>Duties</u>. It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs, including correct and complete books and records of account that specify receipts and expenditures relating to Common Elements and other common receipts and expenses, records showing the allocation, distribution, and collection of common profits, losses, and expenses among and from Unit Owners, minutes of meetings of the members and meetings of the Board, and records of the names and addresses of Unit Owners and their respective undivided interests in the Common Elements;

(b) present the latest available financial statement of the Association to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when requested in writing by Unit Owners representing a majority of the voting

power of Unit Owners;

(c) cause to be enforced the legal requirement that each Person who obtains a fee simple interest in a Unit provide to the Association, in writing, within thirty (30) days after acquiring such interest:

- the home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants of the Unit; and
- the name, business address, and business telephone number of any Person who manages the Owner's Unit as an agent of that Owner;

and the requirement that such Unit Owner notify the Association in writing of any change in the foregoing information within thirty (30) days of the charge.

(d) supervise all officers, agents, and employees of the Association and verify that their duties are properly performed;

(e) prepare or cause an annual budget to be prepared;

(f) as more fully provided in the Declaration; establish, levy, enforce, and collect assessments;

(g) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate of assessment payment status;

(h) procure and maintain insurance and bonds, as provided in the Declaration and as the Board deems advisable;

(i) maintain the Condominium Property, subject to the Association's jurisdiction, within the scope of authority provided in the Declaration;

(j) cause the restrictions created by the Declaration to be enforced;

(k) take all other actions required to comply with all requirements of law and the Condominium Organizational Documents; and

(l) Prior to imposing a charge for damages or an enforcement assessment as permitted by the Act, as amended, the Board of Directors shall give the Unit Owner or Owners written notice that includes:

(i) a statement of the facts giving rise to the proposed charge or enforcement assessments, including, if applicable, a description of the property, damage, or the violation of the restriction, rule or regulation allegedly violated;

(ii) the amount of the proposed charge or enforcement assessment;

(iii) a statement that the Unit Owner has a right to a hearing before the Board to contest the proposed charge or enforcement assessment by delivering to the Board a written notice requesting a hearing within ten days after the Unit Owner receives written notice of the proposed charge or enforcement assessment; and

(iv) in the case of a charge for violation of a restriction, rule or regulation, a reasonable date by which the Unit Owner must cure the alleged violation to avoid the proposed charge or enforcement assessment.

The notice by the Board given pursuant to the foregoing may be delivered personally to the Unit Owner to whom a charge or enforcement assessment is proposed to be charged, or an Occupant of that Owner's Unit, by certified mail, return receipt requested, or by regular mail. In the event that, after such hearing, the Board determines to levy the charge or enforcement assessment proposed, the Board shall deliver to the Unit Owner written notice thereof within thirty (30) days of the date of that hearing.

15. Delegation of Authority; Management; Contracts. The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense; provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days written notice; shall be terminable by either party without cause and without penalty, on written notice of ninety (90) days or less; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing, provided that, in the case of any professional management contract entered into before control of the Association is vested in Unit Owners other than Declarant, the contract must give the Association the right to terminate it without cause and without penalty at any time after control of the Association has been transferred to or assumed by Unit Owners other than Declarant.

Subject to the foregoing, nothing contained in these Bylaws shall preclude Declarant or any, other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases, insures, or guarantees first mortgages for goods, services, or for any other thing, including, but not limited to contracts for maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners. In any case, no management contract or agreement by the Association executed prior to the assumption of control of the Association by Unit Owners other than Declarant shall extend subsequent to that assumption of control unless renewed by the Board pursuant to the provisions of these Bylaws.

SECTION V: OFFICERS

1. <u>Enumeration of Officers</u>. The officers of this Association shall be a president, a vice president, a secretary, a treasurer, and any other officers as the Board may from time to time

determine. No officer need be a Unit Owner or Director of the Association. The same person may hold more than one office.

2. <u>Selection and Term</u>. Except as otherwise specifically provided in the Declaration or by law, the officers of the Association shall be appointed by the Board to serve until the Board appoints their successors. There is no set term for any officer.

3. <u>Special Appointments</u>. The Board may appoint any other officers as the affairs of the Association may require; each of whom shall hold office for the period, have the authority, and perform the duties determined by the Board.

4. <u>Resignation and Removal</u>. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect when the notice is received or at any later time specified in the notice. The acceptance of a resignation shall not be necessary to make it effective.

5. <u>Duties</u>. The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

a. <u>President</u>. The president shall preside at all meetings of the Board, have the authority to see that orders and resolutions of the Board are carried out, and sign all legal instruments on behalf of the Association.

b. <u>Secretary</u>. The secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Unit Owners. Further, the secretary shall serve notice of meetings of the Board and of the Unit Owners and keep appropriate current records showing the names of Unit Owners of the Association together with their addresses.

c. <u>Treasurer</u>. The treasurer shall receive, deposit (in bank accounts and investment of funds in other vehicles as the Board directs), and disburse funds as directed by the Board. Further, the treasurer shall keep proper books of account, prepare a proposed annual budget, and finalize statements of income and expenditures to be presented to the Unit Owners at annual meetings.

SECTION VI: COMMITTEES

The Board shall appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

SECTION VII: BOOKS AND RECORDS

The books, records, and financial statements of the Association, including current copies of the Declaration, Bylaws, Articles and effective rules and regulations, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Unit Owners, lenders, and the holders, insurers, and guarantors of first mortgages on Units, pursuant to reasonable standards established from time to time by the Board by rule, including, but not limited to, standards governing the type of documents that are subject

to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents; provided, further, that the Board shall not be required to permit the examination and copying of materials and information permitted to be excluded from examination and copying under the Condominium Act or the disclosure of which is prohibited by the laws of the State of Ohio or of the United States of America. Likewise, during normal business hours or under other reasonable circumstances, the Association shall make available to prospective purchasers current copies of the Declaration, Bylaws, Articles, effective rules and regulations, and the most recent annual audited financial statement, if such is prepared.

Within thirty (30) days after a Unit Owner obtains a Unit, the Owner shall provide the Board with the home address, home and business mailing addresses, and home and business telephone numbers of the Unit Owner and all Occupants of the Unit, as well as the name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner. In addition, within thirty (30) days after a change in any of the above information, a Unit Owner shall notify the Association, through the Board, in writing of such change. When the Board requests, a Unit Owner shall verify or update the information listed in this paragraph.

SECTION VIII: AUDITS

The Board shall cause the preparation and furnishing of an audited financial statement of the Association for the immediately preceding fiscal year, in the following circumstances:

1. to each requesting Unit Owner, at the expense of the Association, upon the affirmative vote of Unit Owners exercising a majority of the votes of Unit Owners within a reasonable time after request;

2. to each holder, insurer, or guarantor of a first mortgage on a Unit who requests the same, in writing, within a reasonable time, provided the audit, if an audited statement is not already available, shall be prepared at the expense of such requesting party;

3. during such time, if ever, that the Condominium contains fifty (50) or more Units, to each holder, insurer, or guarantor of a first mortgage on a Unit who makes written request therefor, within one hundred twenty (120) days of the Association's fiscal year end, at the expense of the Association; and

4. as otherwise required by law.

SECTION IX: FISCAL YEAR

Unless otherwise changed by the Board, each fiscal year of the Association shall begin on the first day of January and terminate at the end of the 31st day of December of that year, except that the first fiscal year shall begin on the date of incorporation of this Association and terminate at the end of the next following 31st day of December.

SECTION X: COMMON EXPENSES

Common expenses shall be allocated and assessed as directed in the Declaration.

SECTION XI: COMMON PROFITS

Common profits shall be handled and/or disbursed as directed in the Declaration.

SECTION XII: INDEMNIFICATION

1. Third Party Actions. The Association shall indemnify any individual who is or was a party or is threatened to be made a party to any threatened, pending, or completed civil, criminal, administrative or investigative action, suit, or proceeding, including all appeals, other than an action, suit or proceeding by or in the right of the Association, by reason of the fact that the individual is or was a director, officer, employee, or volunteer of the Association, against expenses (including attorney's fees), judgments, fines, penalties, and amounts paid in settlement actually and reasonably incurred by that individual in connection with such action, suit or proceeding, if that individual acted in good faith and in a manner that individual reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, if that individual had no reasonable cause to believe that individual's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not create, of itself, a presumption that the individual did not act in good faith and in a manner which that individual reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, a presumption that the individual had reasonable cause to believe that the individual's conduct was unlawful.

2. Derivative Actions. The Association shall indemnify any individual who is or was a party, or threatened to be made a party, to any threatened, pending, or completed action or suit, including all appeals, by or in the right of the Association to procure a judgment in its favor, by reason of the fact that the individual is or was a director, officer, employee, or volunteer of the Association, against expenses or settlement of such action or suit, if the individual acted in good faith, and in a manner that individual reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of (a) any claim, issue, or matter as to which such individual is finally adjudged to be liable for negligence or misconduct in the performance of that individual's duty to the Association unless, and only to the extent that, the court of common pleas or the court in which such action or suit was brought determines, upon application, that, despite the adjudication of liability but in view of all the circumstances of the case, such individual is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court considers proper, or (b) any action or suit in which a Director is found liable only pursuant to the provisions of Section 1702.55 of the Ohio Revised Code.

3. <u>Other Determinations of Rights</u>. Unless ordered by a court, any indemnification under paragraphs 1 and 2 of this Section shall be made by the Association only as authorized in the specific case, upon a determination that indemnification of the director, officer, employee or volunteer is proper under the circumstances because that individual has met the applicable standard of conduct set forth in paragraphs 1 and 2 of this Section. Such determination shall be made in any one of the following manners: (a) by a majority vote of a quorum consisting of

Directors who were not and are not parties to or threatened with the action, suit or proceeding referred to in paragraphs 1 and 2 of this Section, or (b) by the members by majority vote.

4. Indemnification of Agents and Others. The Association may, from time to time, and in its sole discretion, indemnify any individual who is or was an agent, or other authorized representative of the Association, other than those described under paragraphs 1 and 2 of this Section who may be indemnified, or is or was serving at the request of the Association as director, officer, or employee of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against any liability asserted against that individual or incurred by that individual in any such capacity or arising out of that individual's status as such, in the same manner and to the same extent as provided herein for Directors, officers, employees, and volunteers of the Association.

5. <u>Advances of Expenses</u>. Expenses of each individual indemnified herein incurred in defending a civil, criminal, administrative, or investigative action, suit, or proceeding (including all appeals), or threat thereof, may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Directors, whether a disinterested quorum exists or not, upon receipt of an undertaking by or on behalf of such individual, to repay such amount, if it is ultimately determined that that individual is not entitled to be indemnified by the Association.

6. <u>Nonexclusiveness: Heirs</u>. The foregoing rights of indemnification are not exclusive, shall be in addition to any other rights granted to those seeking indemnification as a matter of law, or under the provisions hereof, any lawful rules or regulations, any agreement, vote of members or disinterested Directors, or otherwise, both as to actions in their official capacities and as to actions in another capacity while holding their offices or positions, shall continue as to an individual who has ceased to be a Director, officer, employee, member, agent, or volunteer, and shall inure to the benefit of the heirs, executors, and administrators of such an individual.

7. Purchase of Insurance. The Association may purchase and maintain insurance, or furnish similar protection, including, but not limited to, trust funds, letters of credit, or self-insurance, for or on behalf of any individual who is or was a Director, officer, agent, employee, or volunteer of the Association, or is or was serving at the request of the Association as a director, officer, employee, member, manager, agent or volunteer of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against any liability asserted against that individual or incurred by that individual in any such capacity, or arising out of that individual's status as such, whether or not the Association would have the power to indemnify that individual against such liability under the provisions of this Section or of the Ohio nonprofit corporation law.

SECTION XIII: AMENDMENTS

Any modification or amendment of these Bylaws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals, terms, and conditions set forth in the Declaration. Those amendments shall be effective from the time a certificate

setting forth such modification or amendment is delivered for filing with the Delaware County, Ohio Auditor and recording with the Delaware County, Ohio Recorder.