PURCHASER INFORMATION BOOKLET

ORCHARD VILLAS

A Condominium Project
in the
Village of Beverly Hills, Oakland County, Michigan

Developed by:

Jahn Construction, L.L.C.
32800 Lahser Road
Beverly Hills, Michigan 48025

PURCHASER INFORMATION BOOKLET

FOR

ORCHARD VILLAS

TABLE OF CONTENTS

MASTER DEED

ARTICLE I	TITLE AND NATURE	1
ARTICLE II	LEGAL DESCRIPTION	2
ARTICLE III	DEFINITIONS	2
	Section 1. Act	3
	Section 2. Association	3
	Section 3. Bylaws	3
	Section 4. Common Elements	3
	Section 5. Condominium Documents	3
	Section 6. Condominium Premises	3
	Section 7. Condominium Project, Condominium or Project	3
	Section 8. Condominium Subdivision Plan	3
	Section 9. Consolidating Master Deed	3
	Section 10. Owner or Co-Owner	4
	Section 11. Developer	4
	Section 12. Development and Sales Period	4
	Section 13. First Annual Meeting	4
	Section 14. Transitional Control Date	4
	Section 15. Unit, Condominium Unit, Homesite	4
	Section 16. Village	4
ARTICLE IV	COMMON ELEMENTS	5
	Section 1. General Common Elements	5
	Section 2. Limited Common Elements	6
	Section 3. Responsibilities	6
	Section 4. Utility Systems	7
	Section 5. Use of Units and Common Elements	8
	Section 6. Establishment and Maintenance of Units, Improvements and Common Elements	8

ARTICLE V	UNIT DESCRIPTIONS AND PERCENTAGES OF VALUE	8
	Section 1. Description of Units	8
	Section 2. Percentage of Value	8
ARTICLE VI	CONVERTIBLE AREAS	8
	Section 1. Designation of Convertible Areas	8
	Section 2. The Developer's Right to Modify Units and Common Elements	9
	Section 3. Exercise and Assignment by Developer	9
ARTICLE VII	OPERATIVE PROVISIONS	10
	Section 1. Amendment of Master Deed	10
	Section 2. Redefinition of Common Elements	10
	Section 3. Consolidating Master Deed	10
	Section 4. Consent of Interested Persons	10
ARTICLE VIII	SUBDIVISION, CONSOLIDATION AND OTHER MODIFICATIONS OF UNITS	11
	Section 1. By Developer	11
	Section 2. Subdivision By Others Prohibited	12
ARTICLE IX	EASEMENTS AND RESTRICTIONS	12
	Section 1. Easements for Maintenance of Encroachments	12
	Section 2. Easements Retained by Developer	12
	Section 3. General Easements for Utilities	13
	Section 4. Grant of Easements by Association	13
	Section 5. Association, Developer and Utility Easements for Development, Construction, Maintenance, Decoration, Repair and Replacement	13
	Section 6. Telecommunications Agreements	14
	Section 7. Emergency and Public Service Vehicle Access Easements	14
	Section 8. Rights-of-Way Dedication	15
	Section 9. Easements for Certain Utilities	15
	Section 10. Water and Sanitary Service Lead Line Easements	15
	Section 11. Access Easement and Easement and Maintenance Agreement	15
ARTICLE X	AMENDMENT	16
	Section 1. Modification of Units or Common Elements	16
	Section 2. Mortgagee Consent	16
	Section 3. By Developer	16

	Section 4.	Change in Percentage of Value	16
	Section 5.	Termination, Vacation, Revocation or Abandonment	16
	Section 6.	Developer Approval	16
	Section 7.	Village Approval	16
ARTICLE XI	ASSIGNMENT		17

BYLAWS

ARTICLE I	ASSOCIATION OF OWNERS		1
ARTICLE II	ASSESSMENTS		1
	Section 1.	Assessments for Common Elements	1
	Section 2.	Determination of Assessments	2
	Section 3.	Developer's Responsibility for Assessments	3
	Section 4.	Penalties for Default	4
	Section 5.	Liens for Unpaid Assessments	4
	Section 6.	Waiver of Use or Abandonment of Unit	4
	Section 7.	Enforcement	4
	Section 8.	Statement as to Unpaid Assessments	6
	Section 9.	Liability of Mortgagee	6
	Section 10.	Property Taxes and Special Assessments	6
	Section 11.	Personal Property Tax Assessment of Association Property	6
	Section 12.	Construction Lien	6
ARTICLE III	ARBITRATION		7
	Section 1.	Scope and Election	7
	Section 2.	Judicial Relief	7
	Section 3.	Election of Remedies	7
ARTICLE IV	INSURANCE		7
	Section 1.	Extent of Coverage	7
	Section 2.	Authority of Association to Settle Insurance Claims	8
	Section 3.	Responsibilities of Co-owners	8
	Section 4.	Waiver of Right of Subrogation	9
	Section 5.	Indemnification	9

ARTICLE V	RECONSTRUCTION OR REPAIR		9
	Section 1.	Responsibility for Reconstruction or Repair	9
	Section 2.	Repair in Accordance with Master Deed, Etc.	10
	Section 3.	Association Responsibility for Repair	10
	Section 4.	Timely Reconstruction and Repair	10
	Section 5.	Eminent Domain	10
	Section 6.	Notification of FHLMC and FNMA	11
	Section 7.	Priority of Mortgagee Interests	11
ARTICLE VI	RESTRICTIONS		11
	Section 1.	Residential Use	12
	Section 2.	Leasing and Rental	12
	Section 3.	Architectural Control	12
	Section 4.	Alterations and Modifications of Common Elements	13
	Section 5.	Activities	13
	Section 6.	Pets and Other Animals	13
	Section 7.	Aesthetics	14
	Section 8.	Vehicles	14
	Section 9.	Advertising	14
	Section 10.	Driveways and Garages	15
	Section 11.	Swimming Pools	15
	Section 12.	Transmission Devices	15
	Section 13.	Dog Runs/Animal Shelters	15
	Section 14.	Walls and Fences	15
	Section 15.	Trees and Other Vegetation	15
	Section 16.	Rules and Regulations	15
	Section 17.	Common Element Maintenance	15
	Section 18.	Owner Maintenance	16
	Section 19.	Right of Access of Association	16
	Section 20.	Reserved Rights of Developer	16
	Section 21.	General Common Element Areas	17
	Section 22.	Temporary Structures	17
	Section 23.	General	17
ARTICLE VII	MORTGAGES		18
	Section 1.	Notice to Association	18
	Section 2.	Insurance	18
	Section 3.	Notification of Meetings	18
ARTICLE VIII	VOTING		18
	Section 1.	Vote	18
	Section 2.	Eligibility to Vote	18

	Section 3.	Designation of Voting Representative	19
	Section 4.	Quorum	19
	Section 5.	Voting	19
	Section 6.	Majority	19
ARTICLE IX	MEETINGS		19
	Section 1.	Place of Meeting	19
	Section 2.	First Annual Meeting	20
	Section 3.	Annual Meetings	20
	Section 4.	Special Meetings	20
	Section 5.	Notice of Meetings	20
	Section 6.	Adjournment	20
	Section 7.	Order of Business	20
	Section 8.	Action Without Meeting	21
	Section 9.	Consent of Absentees	21
	Section 10.	Minutes; Presumption of Notice	21
ARTICLE X	ADVISORY COMMITTEE		21
ARTICLE XI	BOARD OF DIRECTORS		22
	Section 1.	Number and Qualification of Directors	22
	Section 2.	Election of Directors	22
	Section 3.	Powers and Duties	23
	Section 4.	Other Duties	24
	Section 5.	Management Agent	24
	Section 6.	Investigation and Assertion of Claims	25
	Section 7.	Vacancies	25
	Section 8.	Removal	25
	Section 9.	First Meeting	26
	Section 10.	Regular Meetings	26
	Section 11.	Special Meetings	26
	Section 12.	Waiver of Notice	26
	Section 13.	Quorum	26
	Section 14.	First Board of Directors	26
	Section 15.	Fidelity Bonds	27
ARTICLE XII	OFFICERS		27
	Section 1.	Officers	27
	Section 2.	Election	28
	Section 3.	Removal	28
	Section 4.	Duties	28

ARTICLE XIII	SEAL	28
ARTICLE XIV	FINANCE	28
	Section 1. Records	28
	Section 2. Fiscal Year	28
	Section 3. Bank	29
ARTICLE XV	LIMITATION OF OFFICERS AND DIRECTORS	29
ARTICLE XVI	AMENDMENTS	29
	Section 1. Proposal	29
	Section 2. Meeting	30
	Section 3. Voting	30
	Section 4. By Developer	30
	Section 5. When Effective	30
	Section 6. Binding	30
ARTICLE XVII	COMPLIANCE	30
ARTICLE XVIII	DEFINITIONS	30
ARTICLE XIX	REMEDIES FOR DEFAULT	31
	Section 1. Legal Action	31
	Section 2. Recovery of Costs	31
	Section 3. Removal and Abatement	31
	Section 4. Assessment of Fines	31
	Section 5. Non-Waiver of Right	31
	Section 6. Cumulative Rights, Remedies and Privileges	31
	Section 7. Enforcement of Provisions of Condominium Documents	32
ARTICLE XX	ASSESSMENT OF FINES	32
	Section 1. General	32
	Section 2. Procedures	32
	Section 3. Amounts	32
	Section 4. Collection	33
ARTICLE XXI	RIGHTS RESERVED TO DEVELOPER	33
ARTICLE XXII	SEVERABILITY	33

CONDOMINIUM SUBDIVISION PLAN

EASEMENT AND MAINTENANCE AGREEMENT RECORDED IN LIBER 32424, PAGE 29

AMENDED AND RESTATED GRANT OF EASEMENT RECORDED IN LIBER 28317, PAGE 616

ORCHARD VILLAS HOMEOWNERS ASSOCIATION ARTICLES OF INCORPORATION AND FILING ENDORSEMENT

ESCROW AGREEMENT

CONDOMINIUM BUYERS HANDBOOK

CONDOMINIUM DISCLOSURE STATEMENT CONTAINING 1ST YEAR BUDGET

OAKLAND COUNTY TREASURER'S CERTIFICATE
I HEREBY CERTIFY that there are no TAX LIENS or TITLES held by the state or any individual against the within description and all TAXES on same are paid for five years previous to the date of this instrument as appears by the records in the office except as stated.
PATRICK M. DOHANY
PATRICK M. DOHANY, County Treasurer
Sec. 135, Act 206, 1893 as amended
370-04
004763

126288
LIBER 32439 PAGE 678
$175.00 DEED - COMBINED
$4.00 REMONUMENTATION
03/10/2004 02:39:48 P.M. RECEIPT# 30794
PAID RECORDED - OAKLAND COUNTY
G.WILLIAM CADDELL, CLERK/REGISTER OF DEEDS

MASTER DEED

ORCHARD VILLAS

This Master Deed is made and executed on this 4th day of March, 2004, by Jahn Construction, L.L.C., a Michigan limited liability company (hereinafter referred to as "Developer"), the address of which is 195 Charrington Court, Beverly Hills, Michigan 48025, in pursuance of the provisions of the Michigan Condominium Act (being Act 59 of the Public Acts of 1978, as amended), hereinafter referred to as the "Act."

WHEREAS, the Developer desires by recording this Master Deed, together with the Bylaws attached hereto as Exhibit A and together with the Condominium Subdivision Plan attached hereto as Exhibit B (both of which are hereby incorporated herein by reference and made a part hereof), to establish the real property described in Article II below, together with the improvements located and to be located thereon, and the appurtenances thereto, as a residential cluster Condominium Project under the provisions of the Act and pursuant to the One-Family Clustering Option provisions of the ordinances of the Village of Beverly Hills.

NOW, THEREFORE, the Developer does, upon the recording hereof, establish Orchard Villas as a Condominium Project under the Act and does declare that Orchard Villas (hereinafter referred to as the "Condominium," "Project" or the "Condominium Project") shall, after such establishment, be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved, or in any other manner utilized, subject to the provisions of the Act, and to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Master Deed and Exhibits "A" and "B" hereto, all of which shall be deemed to run with the land and shall be a burden and a benefit to the Developer, its successors and assigns, and any persons acquiring or owning an interest in the Condominium Premises, and their successors and assigns. In furtherance of the establishment of the Condominium Project, it is provided as follows:

ARTICLE I

TITLE AND NATURE

The Condominium Project shall be known as Orchard Villas, Oakland County Condominium Subdivision Plan No. 1611. The Condominium Project is established in accordance with the Act. The Units contained in the Condominium, including the number, boundaries, dimensions and area of each, are set forth completely in the Condominium Subdivision Plan attached as Exhibit "B"

O.K. - LG

hereto. Each Unit is capable of individual utilization on account of having its own entrance from and exit to a Common Element of the Condominium Project. Each Owner in the Condominium Project shall have an exclusive right to his Unit and shall have undivided and inseparable rights to share with other Owners the Common Elements of the Condominium Project.

ARTICLE II

LEGAL DESCRIPTION

The land which is submitted to the Condominium Project established by this Master Deed is described as follows:

> Part of the Northeast 1/4 of Section 4, Town 1 North, Range 10 East, Village of Beverly Hills, Oakland County, Michigan, being described as: Beginning at a point on the East line of said Section 4, distant S. 03°14'15" E., 1093.48 feet from the Northeast corner of said Section 4, said line also being the centerline of Lahser Road (66.00 feet wide); thence continuing along said East line of Section 4, S. 03°14'15" E., 225.44 feet to a point on the North line of Village Pines Condominium (Condominium Subdivision Plan No. 402); thence S. 88°42'36" W., 695.43 feet along said North line of Village Pines Condominium; thence N. 03°14'15" W., 225.39 feet to a point on the South line of Valley Woods No. 2 Subdivision, as recorded in Liber 120 of Plats, Page 25, Oakland County Records; thence N. 88°42'22" E., 695.42 feet along said South line of Valley Woods No. 2 Subdivision to the point of beginning. Containing 156,668 square feet or 3.59 acres.

Tax Parcel Identification Number: 24-04-276-081

ARTICLE III

DEFINITIONS

Certain terms are utilized not only in this Master Deed and Exhibits A and B hereto, but are or may be used in various other instruments such as, by way of example and not limitation, the Articles of Incorporation and rules and regulations of the Orchard Villas Homeowners Association, a Michigan non-profit corporation, and deeds, mortgages, liens, land contracts, easements and other instruments affecting the establishment of, or transfer of, interests in Orchard Villas as a condominium. Wherever used in such documents or any other pertinent instruments, the terms set forth below shall be defined as follows:

Section 1. **Act.** The "Act" means the Michigan Condominium Act, being Act 59 of the Public Acts of 1978, as amended.

Section 2. **Association.** "Association" means Orchard Villas Homeowners Association, which is the non-profit corporation organized under Michigan law of which all Owners shall be members, which corporation shall administer, operate, manage and maintain the Condominium.

Section 3. **Bylaws.** "Bylaws" means Exhibit "A" hereto, being the Bylaws setting forth the substantive rights and obligations of the Owners and required by Section 3(9) of the Act to be recorded as part of the Master Deed. The Bylaws shall also constitute the corporate bylaws of the Association as provided for under the Michigan Nonprofit Corporation Act.

Section 4. **Common Elements.** "Common Elements", where used without modification, means both the General and Limited Common Elements referenced in Article IV hereof.

Section 5. **Condominium Documents.** "Condominium Documents" means and includes this Master Deed and Exhibits "A" and "B" hereto, the Articles of Incorporation, Bylaws and rules and regulations, if any, of the Association, as all of the same may be amended from time to time.

Section 6. **Condominium Premises.** "Condominium Premises" means and includes the land described in Article II above, all improvements and structures thereon, and all easements, rights and appurtenances belonging to Orchard Villas as described above.

Section 7. **Condominium Project, Condominium or Project.** "Condominium Project," "Condominium" or "Project" means Orchard Villas, as a Condominium Project established in conformity with the Act.

Section 8. **Condominium Subdivision Plan.** "Condominium Subdivision Plan" means Exhibit "B" hereto.

Section 9. **Consolidating Master Deed.** "Consolidating Master Deed" means the final amended Master Deed which shall describe Orchard Villas as a completed Condominium Project and shall reflect the entire land area in the Condominium Project and all Units and Common Elements therein as may be reconfigured, and which shall express percentages of value pertinent to each Unit as finally readjusted. Such Consolidating Master Deed, when recorded in the office of the Oakland County Register of Deeds, shall supersede the previously recorded Master Deed for the Condominium and all amendments thereto. In the event the Units and Common Elements in the Condominium are established in substantial conformance with the proposed Condominium Subdivision Plan attached as Exhibit "B" to the Master Deed, the Developer shall be able to satisfy the foregoing obligation by filing a certificate in the office of the Oakland County Register of Deeds confirming that the Units and Common Elements "as built" are in substantial conformity with the proposed Condominium Subdivision Plan and that no Consolidating Master Deed need be recorded.

Section 10. **Owner or Co-owner.** "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns one or more Unit(s) in the Condominium Project. The term "Owner," wherever used, shall be synonymous with the term "Co-owner."

Section 11. **Developer.** "Developer" means Jahn Construction, L.L.C., a Michigan limited liability company, which has made and executed this Master Deed, and its successors and assigns. Both successors and assigns shall always be deemed to be included within the term "Developer" whenever, however and wherever such terms are used in the Condominium Documents.

Section 12. **Development and Sales Period.** "Development and Sales Period," for purposes of the Condominium Documents and the rights reserved to Developer thereunder, means the period during which Developer continues to own any Unit in the Project.

Section 13. **First Annual Meeting.** "First Annual Meeting" means the initial meeting at which non-developer Owners are permitted to vote for the election of all Directors and upon all other matters which properly may be brought before the meeting. Such meeting is to be held (a) in the Developer's sole discretion after 50% of the Units are sold, or (b) mandatorily within (i) 54 months from the date of the first Unit conveyance, or (ii) 120 days after 75% of the Units are sold, whichever first occurs.

Section 14. **Transitional Control Date.** "Transitional Control Date" means the date on which a Board of Directors of the Association takes office pursuant to an election in which the votes which may be cast by eligible Owners unaffiliated with the Developer exceed the votes which may be cast by the Developer.

Section 15. **Unit, Condominium Unit, Homesite.** "Unit," "Homesite" or "Condominium Unit" each mean a single residential building site in Orchard Villas, as described in Article V, Section 1 hereof and on Exhibit "B" hereto, and shall have the same meaning as the term "Condominium Unit" as defined in the Act. All structures and improvements now or hereafter located within the boundaries of a Unit shall be owned in their entirety by the Owner of the Unit within which they are located and shall not, unless otherwise expressly provided in the Condominium Documents, constitute Common Elements.

Section 16. **Village.** "Village" means the Village of Beverly Hills, a Michigan municipal corporation.

Whenever any reference herein is made to one gender, the same shall include a reference to any and all genders where the same would be appropriate; similarly, whenever a reference is made herein to the singular, a reference shall also be included to the plural where the same would be appropriate and vice versa.

ARTICLE IV

COMMON ELEMENTS

The Common Elements of the Project, and the respective responsibilities for maintenance, decoration, repair or replacement thereof, are as follows:

Section 1. **General Common Elements.** The General Common Elements are:

(a) **Land**. The land described in Article II hereof including landscaped common areas, if any, but excluding the portion of the land described in Article V, Section 1 below and in the Condominium Subdivision Plan as constituting the Condominium Units.

(b) **Road**. Orchard Place, the private internal road and road rights of way designated on the Condominium Subdivision Plan; also the ingress/egress easement for the Condominium referred to as the Access Easement in Article IX, Section 11 of this Master Deed.

(c) **Certain Landscaping Areas**. All landscaping areas lying within the General Common Elements and such portions of the Units as the Developer and the Association may determine to be landscaping areas within the jurisdiction of the Association and also including any landscaping lying between Lahser Road and the Condominium.

(d) **Common Signage**. The signage located at the entrance of the Project and all other signage identifying the Project or any aspect thereof that may hereinafter be installed by the Developer or the Association.

(e) **Electrical**. The electrical transmission mains throughout the Project up to the point of entry to each dwelling within a Unit, together with any common lighting which Developer may elect to install for the Project, and any other commonly metered electrical fixtures.

(f) **Telephone**. The telephone transmission mains throughout the Project up to the point of entry to each dwelling within a Unit.

(g) **Gas**. The gas distribution mains throughout the Project, up to the point of entry to each dwelling within a Unit.

(h) **Water**. The water main distribution system throughout the Project, up to the point of entry to each dwelling within a Unit together with any sprinkling system which may be installed for purposes of irrigating the landscaping areas referenced in subsection 1(c) above.

(i) **Telecommunications**. The telecommunications system, if and when installed, up to the point of entry within a Unit.

(j) **Storm Drainage System**. The entire storm water drainage system throughout the Project including the storm water Detention Pond which is created within the Condominium.

(k) **Sanitary Sewer**. The sanitary sewer system throughout the Project up to the point of entry to each dwelling within a Unit.

(l) **Beneficial Easements**. All easements now existing or hereafter created which benefit the Condominium as a whole including, without limitation, the easements specifically referenced in Article IX, Section 11 of this Master Deed.

(m) **Other**. Such other elements of the Project not herein designated as Common Elements which are not enclosed within the boundaries of a Unit, and which are intended for common use or are necessary to the existence, upkeep, appearance, utility or safety of the Project.

Section 2. Limited Common Elements. The only Limited Common Elements in Orchard Villas at the time of recording this Master Deed are individual Unit mailboxes within the mailbox kiosk as depicted on the Condominium Subdivision Plan which shall be limited in use to the Units to which they are respectively assigned by the Association. Other Limited Common Elements may be created, in Developer's discretion, pursuant to the provisions of Article VI hereof in which event they will be depicted on "as-built" plans recorded in accordance with said Article VI.

Section 3. Responsibilities. The respective responsibilities for the maintenance, decoration, repair and replacement of the Units and Common Elements are as follows:

(a) **Certain Association Responsibilities with Respect to Homesites**. The Association shall be responsible in the first instance for performing certain maintenance functions within all Homesites including lawn mowing, landscaping maintenance, tree maintenance and irrigation and fertilization within the areas determined to be landscaping areas by the Developer and the Association; also, snow plowing and/or snow shoveling of garage driveways and Unit walkways. No other maintenance, repair, replacement or decoration responsibilities with respect to dwellings and their appurtenances located within the Homesites are being initially undertaken by the Association. Nevertheless, in order to provide for flexibility, harmony and reasonable uniformity in administering the Condominium, the Association, acting through its Board of Directors, may undertake such other regularly recurring, reasonably uniform, periodic exterior maintenance functions with respect to dwellings, appurtenances and improvements constructed or installed within any Homesite boundaries as it may deem appropriate. Correspondingly, it may, by Board action, reduce the level of such services provided by the Association and require that some or all of the same shall be and become the responsibilities of the individual Co-owners.

Nothing herein contained, however, shall compel the Association to permanently undertake any or all of the foregoing described responsibilities or any other particular

responsibilities. Any such responsibilities undertaken by the Association shall be charged to all Co-owners on a uniform basis and collected in accordance with the assessment procedures established under Article II of the Bylaws. The Developer, in the initial maintenance budget for the Association (and the Association, after the Transitional Control Date), shall be entitled to determine the precise nature and extent of any such services which may be provided by the Association and thereafter may add to, modify or reduce any such services, in its discretion, from time to time. Reasonable rules and regulations may be promulgated in connection therewith from time to time. In the event that a Co-owner seeks approval from the Developer or the Association for installation of a structural or landscaping improvement, the care of which will add an abnormal expense to the Association's maintenance budget, the Developer or the Association, as the case may be, shall be entitled to require payment of the abnormal expense by such Co-owner in addition to such Co-owner's ordinary maintenance assessment as a condition of plan approval.

(b) **Co-owner Responsibility for Homesites and their Appurtenant Improvements**. It is anticipated that separate residential dwellings will be constructed within the respective Homesites on Exhibit B hereto. Dwellings (except for decks, patios, air conditioner compressors or other appurtenances which may extend into areas respectively adjacent to Homesites as also depicted on Exhibit B) shall not extend beyond the perimeters of Homesites without approval of the Developer and the Village. As set forth in the immediately preceding Section 3(a) of this Article IV, the responsibility for and costs of certain Homesite maintenance functions shall be initially borne by the Association as expenses of administration. The responsibility for, and costs of all other maintenance, decoration, repair and replacement of any Homesite and the dwelling, driveways, walkways and other appurtenances to each dwelling which are not itemized in Article IV, Section 3(a) and which are not otherwise specifically undertaken by the Association shall be borne by the Co-owner of the Homesite within which the same are located. The exterior appearance of each Homesite, and its dwelling, appurtenances, improvements, colors, materials and decorations, to the extent visible from any other Homesite or Common Element in the Project, shall be subject at all times to the jurisdiction and approval of the Association.

(c) **General Common Elements**. The cost of maintenance, repair and replacement of all General Common Elements shall be borne by the Association, subject to any provision of the Condominium Documents expressly to the contrary.

Section 4. Utility Systems. Some or all of the utility lines, systems (including mains and service leads) and equipment described above may be owned by the local public authority or by the company that is providing the pertinent service. Accordingly, such utility lines, systems and equipment shall be Common Elements only to the extent of the Owners' interest therein, if any, and Developer makes no warranty whatsoever with respect to the nature or extent of such interest, if any. The extent of the Developer's and Association's responsibility will be to see to it that telephone, electric, water, natural gas, cable television, and sanitary sewer mains and leads are installed to each dwelling and each Unit Owner will be responsible for paying all metered and measured costs of operation thereof.

Section 5. **Use of Units and Common Elements.** No Owner shall use his Unit or the Common Elements in any manner inconsistent with the purposes of the Project or in any manner which will interfere with or impair the rights of any other Owner in the use and enjoyment of his Unit or the Common Elements.

Section 6. **Establishment and Maintenance of Units, Improvements and Common Elements.** All Units and Common Elements shall be established and continuously maintained in accordance with the requirements of the Village's Single-Family Residential Cluster Option Ordinance. Each residence shall be constructed within the boundaries of a Unit as depicted on the Condominium Subdivision Plan, all of which Units are co-extensive with the building envelopes as set forth on the final site plan for Orchard Villas as approved by the Village. No material changes in or improvements to the Common Elements as depicted in the Condominium Subdivision Plan and the approved site plan shall be made without the approval of the Village. Likewise, there shall be no exceptions to or amendments of this Section without the approval of the Village.

ARTICLE V

UNIT DESCRIPTIONS AND PERCENTAGES OF VALUE

Section 1. **Description of Units.** There are six (6) residential building site Units in Orchard Villas. Each Unit in the Condominium Project is described in this paragraph with reference to the Condominium Subdivision Plan of Orchard Villas as prepared by Nowak & Fraus, PLLC, Civil Engineers and Land Surveyors, as attached hereto as Exhibit "B." Each Unit shall consist of the land located within Unit boundaries as delineated on Exhibit "B" hereto together with all appurtenances thereto.

Section 2. **Percentage of Value.** The percentage of value assigned to each of the six (6) Units is equal. The determination that percentages of value should be equal was made after reviewing the comparative characteristics of each Unit in the Project and concluding that there are not material differences among the Units insofar as the allocation of percentages of value is concerned. The percentage of value assigned to each Unit shall be determinative of each Owner's respective share of the Common Elements of the Condominium Project, the proportionate share of each respective Owner in the proceeds and expenses of administration and the value of such Owner's vote at meetings of the Association of Owners. The total value of the Project is 100%.

ARTICLE VI

CONVERTIBLE AREAS

Section 1. **Designation of Convertible Areas.** All Units and General and Limited Common Element areas are hereby declared to be Convertible Areas within which the Units and Common Elements may be modified as provided herein.

Section 2. **The Developer's Right to Modify Units and Common Elements.** The Developer reserves the right in its sole discretion, from time to time, during a period ending six years from the date of recording this Master Deed, to take action as follows within the Convertible Areas, provided, however, that none of the modifications described below shall be undertaken without approval of the Village (and no Unit owned by someone other than Developer may be materially modified without such Owner's consent).

(a) **Modify Units and Common Elements.** The Developer reserves the right to modify the size, location, design or elevation of Units and/or Limited and General Common Elements geographically proximate to such Units (including, without limitation, the locations of Unit driveways), and to enlarge, extend, add or reduce the number of Units within any portion or portions of the Convertible Areas. The Developer may utilize this provision to permit the installation of driveways and mailboxes and the extension of decks, patios, courtyards, privacy areas, air conditioner compressors and their pads into the General Common Element areas adjoining each Unit. The precise number, nature, size and location of Unit and/or Limited Common Element additions, enlargements, modifications and extensions or other modifications which may be established shall be determined by Developer in its sole judgment. Any such modification may be assigned by the Developer as a Limited Common Element appurtenant to an individual Unit in future amendments to this Master Deed. In the context of any such modification, the Developer may add or delete any Unit or Common Element so long as the same is approved to any necessary extent by the Village and to such extent Orchard Villas shall be deemed to be an expandable or contractable Condominium Project.

(b) **Construct Additional Amenities**. The Developer may, in its sole discretion, construct various amenities including, but not limited to, pedestrian paths, recreational features, park areas, signage, landscaping features and walls, walks, gazebos or other related amenities (hereinafter called the "Amenities") and hereby reserves the right to do so anywhere within the General Common Element areas described on the Condominium Subdivision Plan. Developer shall pay the costs of such amenities, if constructed, unless otherwise approved by a two-thirds majority of non-developer Co-owners. Upon inclusion of the same in the Condominium, all Co-owners and all future Co-owners in Orchard Villas shall thereafter contribute to the maintenance, repair and replacement of the Amenities as an expense of administration of the Condominium (and as a cost of construction if approved by a two-thirds majority of non-Developer Co-owners). Developer has no obligation to construct any particular Amenities or any Amenities whatsoever or include the same in the Condominium except pursuant to its discretionary election to do so. Final determination of the design, layout and location of such Amenities, if and when constructed, will be at the sole discretion of the Developer.

Section 3. **Exercise and Assignment by Developer.** No person other than the Developer (including the Association and any Co-owner) shall exercise the rights reserved to Developer in this Article VI unless such rights or some portion thereof have been specifically assigned to such person by Developer in a recordable written instrument. Further, such rights shall not be exercised by Developer or any other person except as may be permitted in accordance with

the applicable ordinances of the Village of Beverly Hills and such specific approvals of the Village, including issuance of building permits, as may be required by law.

ARTICLE VII

OPERATIVE PROVISIONS

Any exercise of convertibility rights in the Project pursuant to Article VI above shall be governed by the provisions set forth below.

Section 1. **Amendment of Master Deed.** Such exercise of convertibility rights of this Condominium Project shall be given effect by appropriate amendments to this Master Deed in the manner provided by law, which amendments shall be prepared by and at the discretion of the Developer. In any such amendment, the percentages of value set forth in Article V hereof shall be readjusted if appropriate in order to preserve a total value of 100% for the entire Project resulting from such amendments to this Master Deed. All readjustments in percentages of value shall be made so as to provide for equal percentages for all Units.

Section 2. **Redefinition of Common Elements.** Such amendment(s) to the Master Deed shall also contain such further definitions and redefinitions of General or Limited Common Elements as may be necessary to adequately describe, serve and provide access to the areas of the Project being modified by such amendment(s). In connection with any such amendment(s), the Developer shall have the right to change the nature of any Common Element previously included in the Project for any purpose reasonably necessary to achieve the purposes of Article VI.

Section 3. **Consolidating Master Deed.** A Consolidating Master Deed shall, if necessary, be recorded pursuant to the Act when the Project is finally concluded as determined by the Developer in accordance with Article III, Section 9, hereof in order to incorporate into one set of instruments all successive stages or modifications of development. The Consolidating Master Deed, if and when recorded, shall supersede this previously recorded Master Deed and all amendments hereto.

Section 4. **Consent of Interested Persons.** All of the Owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendments to this Master Deed as may be proposed by the Developer to effectuate the purposes of Article VI above. All such interested persons irrevocably appoint the Developer as agent and attorney for the purpose of execution of such amendments to the Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of rerecording the entire Master Deed or the Exhibits hereto and may incorporate by reference all or any pertinent portions of this Master Deed and the Exhibits hereto. **Provided, however**, that any change or modification to this Master Deed which results in a change or modification in the size, location or configuration of any of the Units or the Common Elements shall be subject to the prior approval of the Village of Beverly Hills.

ARTICLE VIII

SUBDIVISION, CONSOLIDATION AND OTHER MODIFICATIONS OF UNITS

Notwithstanding any other provision of the Master Deed or the Bylaws, Units and adjoining Common Element areas in the Condominium may be subdivided, consolidated, modified and the boundaries relocated, by the Developer in accordance with Sections 48 and 49 of the Act, applicable zoning laws and regulations in effect in the Village of Beverly Hills at the time, and this Article. Such changes in the affected Unit or Units and any adjoining Common Elements shall be promptly reflected in a duly recorded amendment or amendments to this Master Deed.

Section 1. **By Developer.** Developer reserves the sole right during the Development and Sales Period and without the consent of any other Owner or any mortgagee of any Unit to take the following action:

(a) **Subdivide or Consolidate Units**. Subdivide, resubdivide or consolidate any Units which it owns together with adjoining Common Element areas and in connection therewith to install utility conduits and connections and any other improvements reasonably necessary to effect such subdivision(s) and/or consolidation(s), any or all of which may be designated and redefined by the Developer as Units and/or General or Limited Common Elements. Any such installations shall not disturb any utility connections serving other Units other than temporarily. Such subdivision or resubdivision of Units and adjoining Common Elements shall be given effect by an appropriate amendment or amendments to this Master Deed in the manner provided by law, which amendment or amendments shall be prepared by and at the sole discretion of Developer, its successors or assigns.

(b) **Relocate Boundaries**. Relocate any boundaries between adjacent Units and adjacent Common Element areas not necessary for the reasonable use of Units other than those subject to the relocation. The relocation of such boundaries shall be given effect by an appropriate amendment or amendments to this Master Deed in the manner provided by law, which amendment or amendments shall be prepared by and at the sole discretion of the Developer, its successors or assigns.

(c) **Amend to Effectuate Modifications**. In any amendment or amendments resulting from the exercise of the rights reserved to Developer above, each portion of the Unit or Units resulting from such subdivision or relocation of boundaries shall be separately identified by number. Such amendment or amendments to the Master Deed shall also contain such further definitions of General or Limited Common Elements as may be necessary to adequately describe and serve the Units in the Condominium Project as so modified. All of the Owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments of this Master Deed to effectuate the foregoing and to any proportionate reallocation of percentages of value of Units which Developer or its successors may determine necessary (while retaining equal percentages for all Units) in conjunction with such amendment or amendments. All such interested persons

irrevocably appoint Developer or its successors as agent and attorney for the purpose of execution of such amendment or amendments to the Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of rerecording an entire Master Deed or the Exhibits hereto.

Section 2. **Subdivision by Others Prohibited.** No one other than the Developer may subdivide, consolidate or relocate the boundaries of any Unit.

ARTICLE IX

EASEMENTS AND RESTRICTIONS

Section 1. **Easements for Maintenance of Encroachments.** In the event of any encroachments due to survey errors, or construction deviations, easements shall exist for the maintenance of such encroachments for so long as such encroachments exist, and for maintenance thereof after rebuilding in the event of any destruction.

Section 2. **Easements Retained by Developer.**

(a) **Access Easements**. The Developer reserves for the benefit of itself, its successors and assigns, easements for the unrestricted use of all roads, sidewalks and other Common Elements in the Condominium for purposes of ingress and egress to and from all or any portion of the Units and Common Elements of any sort. It is intended hereby to enable the Developer to have all access of any sort that it may need in order to fully develop, construct, market and operate the Condominium and all Units, Common Elements and dwellings constructed within the Condominium to the fullest extent necessary or desirable throughout the Development and Sales Period. Further, these easements shall continue for as long after the end of the Development and Sales Period as may be necessary or desirable to enable the Developer to perform any and all acts of service, maintenance or repair with respect to Units, Common Elements or dwellings as it may elect to perform.

(b) **Utility Easements**. The Developer also hereby reserves for the benefit of itself, its successors and assigns, perpetual easements to utilize, tap, tie into, extend and enlarge all utility mains located in the Condominium, including, but not limited to, water, electric, gas, cable television, storm and sanitary sewer mains. In the event Developer, its successors or assigns, utilizes, taps, ties into, extends or enlarges any utilities located in the Condominium, it shall be obligated to pay all of the expenses reasonably necessary to restore the Condominium Premises to their state immediately prior to such utilization, tapping, tying-in, extension or enlargement. The Developer also reserves the right to extend, by separate recorded instrument executed in its sole discretion, the foregoing easements to any other lands adjoining the Condominium. To the extent of any such extension, all expenses of maintenance, repair and replacement of any utility mains referred to in this Section shall be shared by this Condominium and any other developed lands to which such utilities may be extended and which are served by such mains. The Owners of this Condominium shall be responsible from time to time for payment of a proportionate share of said expenses

which share shall be determined by multiplying such expenses times a fraction, the numerator of which is the number of Units in this Condominium, and the denominator of which is comprised of the numerator plus all other Units in any other lands which may be serviced by such mains, as so extended.

The Developer reserves the right at any time during the Development and Sales Period to grant easements for utilities over, under and across the Condominium to appropriate governmental agencies or public utility companies and to transfer title of utilities to governmental agencies or to utility companies. Any such easement or transfer of title may be conveyed by the Developer without the consent of any Owner, mortgagee or other person and shall be evidenced by an appropriate amendment to this Master Deed and to Exhibit "B" hereto, recorded in the Oakland County Records. All of the Owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendments to this Master Deed as may be required to effectuate the foregoing grant of easements or transfers of title.

Section 3. **General Easements for Utilities.** There shall be easements to, through and over those portions of the land (including all Units) and improvements in the Condominium for the continuing maintenance, repair, replacement, extension and/or enlargement of any General Common Element utilities in the Condominium as depicted on the Condominium Subdivision Plan as the same may be amended from time to time and/or as installed by or at the direction of the Developer.

Section 4. **Grant of Easements by Association.** The Association, acting through its lawfully constituted Board of Directors (including any Board of Directors acting prior to the Transitional Control Date) shall be empowered and obligated to grant such easements, licenses, rights-of-entry and rights-of-way over, under and across the Condominium Premises for utility purposes, access purposes or other lawful purposes as may be necessary for the benefit of the Condominium subject, however, to the approval of the Developer so long as the Development and Sales Period has not expired.

Section 5. **Association, Developer and Utility Easements for Development, Construction, Maintenance, Decoration, Repair and Replacement.** The Developer, the Association and all public or private utility companies shall have such easements over, under, across and through the Condominium Premises, including all Units and Common Elements, as may be necessary to exercise any developmental, marketing, construction or operational rights and/or to fulfill any responsibilities of maintenance, repair, decoration, replacement or upkeep which they or any of them are required or permitted to perform under the Condominium Documents or by law or to respond to any emergency or common need of the Condominium. While it is intended that each Owner shall be solely responsible for the performance and costs of all maintenance, repair and replacement of and decoration of the residence and all other appurtenances and improvements constructed or otherwise located within his Unit (except as set forth in Article IV, Section 3(a) hereof), it is nevertheless a matter of concern that an Owner may fail to properly maintain the exterior of his Unit in a proper manner and in accordance with the standards set forth in this Master Deed, the Bylaws and any rules and regulations promulgated by the Association. Therefore, in the event an Owner fails, as required by this Master Deed, the Bylaws or any rules and regulations

promulgated by the Association, to properly and adequately maintain, decorate, repair, replace or otherwise keep his Unit or any improvements or appurtenances located therein, the Association (and/or the Developer during the Development and Sales Period) shall have the right, and all necessary easements in furtherance thereof, (but not the obligation) to take whatever action or actions it deems desirable to so maintain, decorate, repair or replace the residence located within the Unit, its appurtenances or any of its Limited Common Elements, all at the expense of the Owner of the Unit. Neither the Developer nor the Association shall be liable to the Owner of any Unit or any other person, in trespass or in any other form of action, for the exercise of rights pursuant to the provisions of this Section or any other provision of the Condominium Documents which grant such easements, rights-of-entry or other means of access. Failure of the Association (or the Developer) to take any such action shall not be deemed a waiver of the Association's (or the Developer's) right to take any such action at a future time. All costs incurred by the Association or the Developer in performing any responsibilities which are required, in the first instance, to be borne by any Owner shall be assessed against such Owner and shall be due and payable with his periodic regular assessment next falling due; further, the lien for nonpayment shall attach as in all cases of regular assessments and such assessments may be enforced by the use of all means available to the Association under the Condominium Documents and by law for the collection of regular assessments including, without limitation, legal action, foreclosure of the lien securing payment and imposition of fines.

Section 6. **Telecommunications Agreements.** The Association, acting through its duly constituted Board of Directors and subject to the Developer's approval during the Development and Sales Period, shall have the power to grant such easements, licenses and other rights of entry, use and access and to enter into any contract or agreement, including wiring agreements, right-of-way agreements, access agreements and multi-unit agreements and, to the extent allowed by law, contracts for sharing of any installation or periodic subscriber service fees as may be necessary, convenient or desirable to provide for telecommunications, videotext, broad band cable, satellite dish, earth antenna and similar services (collectively "Telecommunications") to the Project or any Unit therein. Notwithstanding the foregoing, in no event shall the Board of Directors enter into any contract or agreement or grant any easement, license or right-of-entry or do any other act or thing which will violate any provision of any federal, state or local law or ordinance. Any and all sums paid by any Telecommunications or other company or entity in connection with such service, including fees, if any, for the privilege of installing same or sharing periodic subscriber service fees, shall be receipts affecting the administration of the Condominium Project within the meaning of the Act and shall be paid over to and shall be the property of the Association.

Section 7. **Emergency and Public Service Vehicle Access Easements.** There shall exist for the benefit of the Village of Beverly Hills or any emergency or public service agency, an easement over all Common Element roads in the Project for use by the Village of Beverly Hills and/or emergency and public service vehicles. Said easement shall be for purposes of ingress and egress to provide, without limitation, fire and police protection, ambulance and rescue services, school bus and postal service and other lawful governmental or private emergency services or public services to the Condominium Project and Owners thereof. This grant of easement shall in no way be construed as a dedication of any streets, roads or driveways to the public until and unless formal dedication occurs.

Section 8. **Rights-of-Way Dedication.** The Developer reserves the right at any time to dedicate to the public rights-of-way of such width as may be required by the governmental agency having jurisdiction. Any such right-of-way dedication may be made by the Developer during the Development and Sales Period and by the Association thereafter without the consent of any Co-owner, mortgagee or other person and shall be evidenced by an appropriate amendment to this Master Deed and to the Condominium Subdivision Plan hereto, recorded in the Oakland County Records. Such dedication shall be made upon request therefor by the governmental agency having jurisdiction. This Condominium shall be deemed a contractable condominium project under the Act for purposes of enabling withdrawal and dedication of any rights-of-way pursuant to this Section. All of the Co-owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments of this Master Deed to effectuate the foregoing right-of-way dedication.

Section 9. **Easements for Certain Utilities.** There shall exist easements in favor of the Association, the Village and all public and private utility companies over certain portions of the Units for purposes of providing storm and sanitary sewers and other utilities as designated on the Condominium Subdivision Plan. Easements over such Units shall also exist in such reasonable locations as may be necessary in favor of the Association, the Village and all public and private companies for purposes of access to sewers and utilities in order to inspect, maintain and repair the same. No Co-owner shall disturb the grade or otherwise modify the areas within such easements in any way so that the utilities designed for the Condominium Premises shall be unimpaired.

Section 10. **Water and Sanitary Service Lead Line Easements.** There shall exist a permanent easement for the benefit of Unit 1, the Association and the Village over Unit 2 for the purpose of providing a General Common Element sanitary sewer service lead as designated on the Condominium Subdivision Plan. There shall likewise exist permanent easements in favor of Unit 6, the Association and the Village for the purpose of providing General Common Element sanitary sewer service and potable water service leads as designated on the Condominium Subdivision Plan. Such easements shall be for the purpose of enabling access to the water and sewer lines located within the easements as may be necessary in order to inspect, maintain, repair and replace the same. The Co-owners of Units 2 and 5 shall not disturb the grade or otherwise modify the areas within such water and sewer lines are located so that the water and sanitary service designed for the Units 1 and 6 shall be unimpaired. Although the Association shall be responsible for maintenance, repair and replacement of water and sewer lines as set forth in Article IV, Section 3(c), any Co-owner who installs an improvement over any of said easements without the consent of the Developer or the Association shall be responsible for the costs of repair or replacement of any such improvement which result from obtaining necessary access to said water and sewer leads.

Section 11. **Access Easement and Easement and Maintenance Agreement.** The Developer and Village Pine Condominium Association have entered into an Amended and Restated Grant of Easement (the "Access Easement") dated as of November 19, 2002, recorded in Liber 28317, Page 616, Oakland County Records, which Access Easement provides the basis for ingress and egress to and from the Condominium to and from Lahser Road. In addition, The Developer, the Association and the Village of Beverly Hills have entered into an Easement and Maintenance Agreement dated August 18, 2003, which Agreement will be recorded soon hereafter in Oakland

County Records, and which Agreement sets forth certain rights and obligations on the part of the Association with respect to the use, maintenance, repair and replacement of the Common Elements of the Condominium.

ARTICLE X

AMENDMENT

This Master Deed and the Condominium Subdivision Plan may be amended with the consent of 66-2/3%, except as hereinafter set forth:

Section 1. **Modification of Units or Common Elements.** No Unit dimension may be modified in any material way without the consent of the Owner and mortgagee of such Unit and the Village of Beverly Hills nor may the nature or extent of Limited Common Elements or the responsibility for maintenance, repair or replacement thereof be modified in any material way without the written consent of the Owner and mortgagee of any Unit to which the same are appurtenant, except as otherwise expressly provided above to the contrary.

Section 2. **Mortgagee Consent.** A proposed amendment to this Master Deed shall require approval of mortgagees only if and to the extent required under Section 90 of the Act.

Section 3. **By Developer.** Prior to two years after expiration of the Development and Sales Period, the Developer may, without the consent of any Owner or any other person, amend this Master Deed and the Condominium Subdivision Plan attached as Exhibit B in order to correct survey or other errors made in such documents and to make such other amendments to such instruments and to the Bylaws attached hereto as Exhibit A as do not materially affect any rights of any Owners or mortgagees in the Project.

Section 4. **Change in Percentage of Value.** The value of the vote of any Owner and the corresponding proportion of common expenses assessed against such Owner shall not be modified without the written consent of such Owner and his mortgagee, nor shall the percentage of value assigned to any Unit be modified without like consent.

Section 5. **Termination, Vacation, Revocation or Abandonment.** The Condominium Project may not be terminated, vacated, revoked or abandoned without the written consent of the Developer and 100% of non-Developer Owners and their first mortgagees.

Section 6. **Developer Approval.** During the Development and Sales Period, this Master Deed and Exhibits "A" and "B" hereto shall not be amended nor shall the provisions thereof be modified in any way without the written consent of the Developer.

Section 7. **Village Approval.** No amendments may be made to the Condominium Documents which would cause or enable the Condominium to be in violation of any ordinances of the Village.

Amendments pursuant to this Article shall be effected utilizing the same procedures as applicable in amendments to the Bylaws pursuant to Article XVI thereof.

ARTICLE XI

ASSIGNMENT

Any or all of the rights and powers granted or reserved to the Developer in the Condominium Documents or by law, including the power to approve or disapprove any act, use or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing duly recorded in the office of the Oakland County Register of Deeds.

[Signature and acknowledgment appear on the following page]

IN WITNESS WHEREOF, the Developer has caused this Master Deed to be executed on its behalf as of the 4th day of March, 2004.

JAHN CONSTRUCTION, L.L.C.
a Michigan limited liability company,

By: _____
James C. Merritt, Member

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing Master Deed of Orchard Villas was acknowledged before me this 4th day of March, 2004, by James C. Merritt, a Member of Jahn Construction, L.L.C., a Michigan limited liability company, on behalf of the company.

_____
William T. Myers
Notary Public, Oakland County, Michigan
My commission expires: August 29, 2004

Master Deed drafted by:

William T. Myers of MYERS NELSON DILLON & SHIERK, PLLC
40701 Woodward Avenue, Suite 235
Bloomfield Hills, Michigan 48304

When recorded, return to drafter

ORCHARD VILLAS

EXHIBIT "A"

BYLAWS

ARTICLE I

ASSOCIATION OF OWNERS

Orchard Villas, a residential Condominium Project located in the Village of Beverly Hills, Oakland County, Michigan, shall be administered by an Association of Owners which shall be a non-profit corporation, hereinafter called the "Association," organized under the applicable laws of the State of Michigan, and responsible for the management, maintenance, operation and administration of the Common Elements, easements and affairs of the Condominium Project in accordance with the Condominium Documents and the laws of the State of Michigan. These Bylaws shall constitute both the Bylaws referred to in the Master Deed and required by Section 3(9) of the Act and the Bylaws provided for under the Michigan Nonprofit Corporation Act. Each Owner shall be entitled to membership and no other person or entity shall be entitled to membership. The share of an Owner in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to his Unit. The Association shall keep current copies of the Master Deed, all amendments to the Master Deed, and other Condominium Documents for the Condominium Project available at reasonable hours to Owners, prospective purchasers and prospective mortgagees of Units in the Condominium Project. All Owners in the Condominium Project and all persons using or entering upon or acquiring any interest in any Unit therein or the Common Elements thereof shall be subject to the provisions and terms set forth in the Condominium Documents.

ARTICLE II

ASSESSMENTS

All expenses arising from the management, administration and operation of the Association in pursuance of its authorizations and responsibilities as set forth in the Condominium Documents and the Act shall be levied by the Association against the Units and the Owners thereof in accordance with the following provisions:

Section 1. **Assessments for Common Elements.** All costs incurred by the Association in satisfaction of any liability arising within, caused by, or connected with the Common Elements or the administration of the Condominium Project shall constitute expenditures affecting the administration of the Project, and all sums received as the proceeds of, or pursuant to, any policy of insurance securing the interest of the Owners against liabilities or losses arising within, caused

by, or connected with the Common Elements or the administration of the Condominium Project shall constitute receipts affecting the administration of the Condominium Project, within the meaning of Section 54(4) of the Act.

Section 2. **Determination of Assessments.** Assessments shall be determined in accordance with the following provisions:

(a) **Budget; Regular Assessments.** The Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium Project, including a reasonable allowance for contingencies and reserves. An adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis shall be established in the budget and must be funded by regular payments as set forth in Section 2(c) below rather than by special assessments. At a minimum, the reserve fund shall be equal to ten (10%) percent of the Association's current annual budget on a noncumulative basis. Since the minimum standard required by this subsection may prove to be inadequate for this particular project, the Association of Owners should carefully analyze the Condominium Project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes from time to time. Upon adoption of an annual budget by the Association, copies of the budget shall be delivered to each Owner and the assessment for said year shall be established based upon said budget. The annual assessments as so determined and levied shall constitute a lien against all Units as of the first day of the fiscal year to which the assessments relate. Failure to deliver a copy of the budget to each Owner shall not affect or in any way diminish such lien or the liability of any Owner for any existing or future assessments. Should the Association at any time decide, in its sole discretion: (1) that the assessments levied are or may prove to be insufficient (a) to pay the costs of operation and management of the Condominium, (b) to provide replacements of existing Common Elements, (c) to provide additions to the Common Elements not exceeding $2,500.00 annually for the entire Condominium Project, or (2) that an emergency exists, the Association shall have the authority to increase the general assessment or to levy such additional assessment or assessments as it shall deem to be necessary. The Association also shall have the authority, without Owner consent, to levy assessments pursuant to the provisions of Article V hereof. The discretionary authority of the Association to levy assessments pursuant to this subsection shall rest solely with the Association for the benefit of the members thereof, and shall not be enforceable by any creditors of the Association or of the members thereof.

(b) **Special Assessments**. Special assessments, in addition to those required in subsection (a) above, may be made by the Association from time to time and approved by the Owners as hereinafter provided to meet other requirements of the Association, including, but not limited to: (1) assessments for additions to the Common Elements of a cost exceeding $2,500.00 for the entire Condominium Project per year, (2) assessments to purchase a Unit upon foreclosure of the lien for assessments described in Section 5 hereof, or (3)

assessments for any other appropriate purpose not elsewhere herein described. Special assessments referred to in this subsection (b) (but not including those assessments referred to in subsection 2(a) above, which shall be levied in the sole discretion of the Association) shall not be levied without the prior approval of more than 60% of all Owners. The authority to levy assessments pursuant to this subsection is solely for the benefit of the Association and the members thereof and shall not be enforceable by any creditors of the Association or of the members thereof.

(c) **Apportionment of Assessments**. All assessments levied against the Owners to cover expenses of administration shall be apportioned among and paid by the Owners in accordance with each Owner's proportionate share of the expenses of administration as provided in Article V, Section 2 of the Master Deed and without increase or decrease for the existence of any rights to the use of Limited Common Elements appurtenant to a Unit except as otherwise specifically provided in the Master Deed. Annual assessments as determined in accordance with Article II, Section 2(a) above shall be payable by Owners in equal installments, monthly or whatever other period as determined by the Association, commencing with acceptance of a deed to or a land contract vendee's interest in a Unit, or with the acquisition of fee simple title to a Unit by any other means.

(d) **Limitations on Assessments for Litigation.** The Board of Directors shall not have authority under this Article II, Section 2, or any other provision of these Bylaws or the Master Deed, to levy any assessment, or to incur any expense or legal fees with respect to any litigation, without the prior approval, by affirmative vote, of not less than 66-2/3% of all Co-owners. This subsection shall not apply to any litigation commenced by the Association to enforce collection of delinquent assessments pursuant to Article II, Section 7 of these Bylaws. In no event shall the Developer be liable for, nor shall any Unit owned by the Developer be subject to any lien for, any assessment levied to fund the cost of asserting any claim against Developer, whether by arbitration, judicial proceeding, or otherwise.

Section 3. Developer's Responsibility for Assessments. The Developer of the Condominium, although a member of the Association, shall not be responsible at any time for payment of the regular Association assessments. The Developer, however, shall at all times pay all expenses of maintaining the Units that it owns, including the improvements located thereon, together with a proportionate share of all current expenses of administration actually incurred by the Association from time to time, except expenses related to maintenance and use of the Units in the Project and of the improvements constructed within or appurtenant to the Units that are not owned by Developer. For purposes of the foregoing sentence, the Developer's proportionate share of such expenses shall be based upon the ratio of all Units owned by the Developer at the time the expense is incurred to the total number of Units then in the Project. The only expenses in which it is contemplated that the Developer will share are (1) liability insurance premiums for the Common Elements, (2) snow plowing of roads, (3) minimal maintenance of Common Element landscaped areas, and (4) miscellaneous administrative expenses such as postage, office supplies and expense of filing required Association reports. The Developer may assign the assessment exemptions under this Section to any builder or other person or entity to whom or which it sells a vacant Unit. In no event shall the Developer (or its assignee) be responsible for payment of any assessments for or with

respect to deferred maintenance, reserves for replacement, reserves for contingencies, for capital improvements or other special assessments, except with respect to Units owned by it on which there is a completed residential dwelling. Further, the Developer or any assignee of the Developer hereunder shall in no event be liable for any assessment levied in whole or in part to purchase any Unit from the Developer or to finance any litigation or other claims against the Developer, any cost of investigating and preparing such litigation or claim or any similar or related costs. A "completed residential dwelling" shall mean a residential dwelling with respect to which a certificate of occupancy has been issued by the Village of Beverly Hills.

Section 4. **Penalties for Default.** The payment of an assessment shall be in default if any installment thereof is not paid to the Association in full on or before the due date for such installment. A late charge not to exceed twenty-five ($25.00) dollars per installment per month may be assessed automatically by the Association upon each installment in default for ten or more days until paid in full. The Association may, pursuant to Article XX hereof, levy fines for late payment of assessment installments in addition to such late charge. Each Owner (whether one or more persons) shall be, and remain, personally liable for the payment of all assessments (including fines for late payment and costs of collection and enforcement of payment) pertinent to his Unit which may be levied while such Owner is the owner thereof, except a land contract purchaser from any Owner including Developer shall be so personally liable and such land contract seller shall not be personally liable for all such assessment installments levied up to and including the date upon which such land contract seller actually takes possession of the Unit following extinguishment of all rights of the land contract purchaser in the Unit. Payments on account of installments of assessments in default shall be applied as follows: first, to costs of collection and enforcement of payment, including reasonable attorneys' fees; second, to any interest charges and fines for late payment on such installments; and third, to installments in default in order of their due dates.

Section 5. **Liens for Unpaid Assessments.** Sums assessed to the Association which remain unpaid, including but not limited to regular assessments, special assessments, fines and late charges, shall constitute a lien upon the Unit or Units in the Project owned by the Owner at the time of the assessment and upon the proceeds of sale thereof. Any such unpaid sum shall constitute a lien against the Unit or Units as of the first day of the fiscal year to which the assessment, fine or late charge relates and shall be a lien prior to all claims except real property taxes and first mortgages of record. All charges which the Association may levy against any Owner shall be deemed to be assessments for purposes of this Section and Section 108 of the Act.

Section 6. **Waiver of Use or Abandonment of Unit.** No Owner may exempt himself from liability for his contribution toward the expenses of administration by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

Section 7. **Enforcement.**

(a) **Remedies.** In addition to any other remedies available to the Association, the Association may enforce collection of delinquent assessments by a suit at law for a money judgment or by foreclosure of the statutory lien that secures payment of assessments. In the event of default by any Owner in the payment of any installment of the annual assessment

levied against his Unit, the Association shall have the right to declare all unpaid installments of the annual assessment for the pertinent fiscal year immediately due and payable. The Association also may discontinue the furnishing of any utilities or other services to an Owner in default upon seven-day written notice to such Owner of its intention to do so. An Owner in default shall not be entitled to utilize any of the General Common Elements of the Project and shall not be entitled to vote at any meeting of the Association so long as such default continues; provided, however, this provision shall not operate to deprive any Owner of ingress or egress to and from his Unit. In a judicial foreclosure action, a receiver may be appointed to collect a reasonable rental for the Unit from the Owner thereof or any persons claiming under him. The Association may also assess fines for late payment or non-payment of installments of assessments in accordance with the provisions of Article XX of these Bylaws. All of these remedies shall be cumulative and not alternative.

(b) **Foreclosure Proceedings**. Each Owner, and every other person who from time to time has any interest in the Project, shall be deemed to have granted to the Association the unqualified right to elect to foreclose the lien securing payment of assessments either by judicial action or by advertisement. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each Owner and every other person who from time to time has any interest in the Project shall be deemed to have authorized and empowered the Association to sell or to cause to be sold the Unit with respect to which the assessment(s) is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each Owner of a Unit in the Project acknowledges that at the time of acquiring title to such Unit, he was notified of the provisions of this subsection and that he voluntarily, intelligently and knowingly waived notice of any proceedings brought by the Association to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject Unit.

(c) **Notice of Action**. Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for a money judgment shall be commenced, nor shall any notice of foreclosure by advertisement be published, until the expiration of ten days after mailing, by first class mail, postage prepaid, addressed to the delinquent Owner(s) at his or their last known address, a written notice that one or more installments of the annual assessment levied against the pertinent Unit is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within ten days after the date of mailing. Such written notice shall be accompanied by a written affidavit of an authorized representative of the Association that sets forth (1) the affiant's capacity to make the affidavit, (2) the statutory and other authority for the lien, (3) the amount outstanding (exclusive of interest, costs, attorneys' fees and future assessments), (4) the legal description of the subject Unit(s), and (5) the name(s) of the Owner(s) of record. Such affidavit shall be recorded in the office of the Oakland County Register of Deeds prior to commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing. If the delinquency is not cured within the ten-day period, the Association may take such

remedial action as may be available to it hereunder or under Michigan law. In the event the Association elects to foreclose the lien by advertisement, the Association shall so notify the delinquent Owner and shall inform him that he may request a judicial hearing by bringing suit against the Association.

(d) **Expenses of Collection**. The expenses incurred in collecting unpaid assessments, including interest, costs, actual attorneys' fees (not limited to statutory fees) and advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Owner in default and shall be secured by the lien on his Unit.

Section 8. Statement as to Unpaid Assessments. The purchaser of any Unit may request a statement of the Association as to the amount of any unpaid Association assessments thereon, whether regular or special. Upon written request to the Association accompanied by a copy of the executed purchase agreement pursuant to which the purchaser holds the right to acquire a Unit, the Association shall provide a written statement of such unpaid assessments as may exist or a statement that none exist, which statement shall be binding upon the Association for the period stated therein. Upon the payment of that sum within the period stated, the Association's lien for assessments as to such Unit shall be deemed satisfied; provided, however, that the failure of a purchaser to request such statement at least five days prior to the closing of the purchase of such Unit shall render any unpaid assessments and the lien securing the same fully enforceable against such purchaser and the Unit itself, to the extent provided by the Act.

Section 9. Liability of Mortgagee. Notwithstanding any other provisions of the Condominium Documents, the holder of any first mortgage covering any Unit in the Project which comes into possession of the Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a *pro rata* share of such assessments or charges resulting from a *pro rata* reallocation of such assessments or charges to all Units including the mortgaged Unit).

Section 10. Property Taxes and Special Assessments. All property taxes and special assessments levied by any public taxing authority shall be assessed in accordance with Section 131 of the Act.

Section 11. Personal Property Tax Assessment of Association Property. The Association shall be assessed as the person or entity in possession of any tangible personal property of the Condominium owned or possessed in common by the Owners, and personal property taxes based thereon shall be treated as expenses of administration.

Section 12. Construction Lien. A construction lien otherwise arising under Act No. 497 of the Michigan Public Acts of 1980, as amended, shall be subject to Section 132 of the Act.

ARTICLE III

ARBITRATION

Section 1. **Scope and Election.** Disputes, claims, or grievances arising out of or relating to the interpretation or the application of the Condominium Documents, or any disputes, claims or grievances arising among or between the Owners and the Association, upon the election and written consent of the parties to any such disputes, claims or grievances (which consent shall include an agreement of the parties that the judgment of any circuit court of the State of Michigan may be rendered upon any award pursuant to such arbitration), and upon written notice to the Association, shall be submitted to arbitration and the parties thereto shall accept the arbitrator's decision as final and binding, provided that no question affecting the claim of title of any person to any fee or life estate in real estate is involved. The Commercial Arbitration Rules of the American Arbitration Association as amended and in effect from time to time hereafter shall be applicable to any such arbitration.

Section 2. **Judicial Relief.** In the absence of the election and written consent of the parties pursuant to Section 1 above, no Owner or the Association shall be precluded from petitioning the courts to resolve any such disputes, claims or grievances.

Section 3. **Election of Remedies.** Such election and written consent by Owners or the Association to submit any such dispute, claim or grievance to arbitration shall preclude such parties from litigating such dispute, claim or grievance in the courts.

ARTICLE IV

INSURANCE

Section 1. **Extent of Coverage.** The Association shall, to the extent appropriate in light of the nature of the General Common Elements of the Project, carry extended coverage, vandalism and malicious mischief and liability insurance (in a minimum amount to be determined by the Developer or the Association in its discretion, but in no event less than $1,000,000 per occurrence), officers' and directors' liability insurance, and workmen's compensation insurance, if applicable, and any other insurance the Association may deem applicable, desirable or necessary, pertinent to the ownership, use and maintenance of the General Common Elements and such insurance shall be carried and administered in accordance with the following provisions:

(a) **Responsibilities of Association**. All such insurance shall be purchased by the Association for the benefit of the Association, the Developer and the Co-owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of Co-owners, upon request of a mortgagee.

(b) **Insurance of Common Elements**. All General Common Elements of the Condominium Project shall be insured against perils covered by a standard extended coverage endorsement, if applicable and appropriate, in an amount equal to the current insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association.

(c) **Premium Expenses**. All premiums on insurance purchased by the Association pursuant to these Bylaws shall be expenses of administration.

(d) **Proceeds of Insurance Policies**. If applicable, proceeds of all insurance policies owned by the Association shall be received by the Association, held in a separate account and distributed to the Association and the Co-owners and their mortgagees, as their interests may appear; provided, however, whenever repair or reconstruction of the Condominium shall be required as provided in Article V of these Bylaws, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction shall be applied for such repair or reconstruction and in no event shall hazard insurance proceeds be used for any purpose other than for repair, replacement or reconstruction of the Project unless all of the institutional holders of first mortgages on Units in the Project have given their prior written approval.

Section 2. Authority of Association to Settle Insurance Claims. Each Co-owner, by ownership of a Unit in the Condominium Project, shall be deemed to appoint the Association as his or her true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of fire and extended coverage, vandalism and malicious mischief, liability insurance and workmen's compensation insurance, if applicable, pertinent to the General Common Elements of the Condominium Project, with such insurer as may, from time to time, provide such insurance for the Condominium Project. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds and to distribute the same to the Association, the Co-owners and respective mortgagees, as their interests may appear (subject always to the Condominium Documents), to execute releases of liability and to execute all documents and to do all things on behalf of such Co-owner and the Condominium as shall be necessary or convenient to the accomplishment of the foregoing. Unless the Association obtains coverage for the dwelling within the Unit pursuant to the provisions of Article IV, Section 3 below, the Association's authority shall not extend to insurance coverage on any dwelling.

Section 3. Responsibilities of Co-owners. Each Co-owner shall be obligated and responsible for obtaining fire and extended coverage and vandalism and malicious mischief insurance with respect to the dwelling and all other improvements constructed or to be constructed within the perimeter of his or her Condominium Unit and for his or her personal property located therein or thereon or elsewhere on the Condominium Project. There is no responsibility on the part of the Association to insure any of such improvements whatsoever. All such insurance shall be carried by each Co-owner in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs. Each Co-owner shall deliver certificates of insurance

to the Association from time to time to evidence the continued existence of all insurance required to be maintained by the Co-owner hereunder. In the event of the failure of a Co-owner to obtain such insurance or to provide evidence thereof to the Association, the Association may obtain such insurance on behalf of such Co-owner and the premiums therefor shall constitute a lien against the Co-owner's Unit which may be collected from the Co-owner in the same manner that Association assessments may be collected in accordance with Article II hereof. Each Co-owner also shall be obligated to obtain insurance coverage for his or her personal liability for occurrences within the perimeter of his or her Unit and the improvements located thereon, and also for any other personal insurance coverage that the Co-owner wishes to carry. Such insurance shall be carried in such minimum amounts as may be specified by the Association and such coverage shall not be less than $1,000,000.00 (and as specified by the Developer during the Development and Sales Period) and each Co-owner shall furnish evidence of such coverage to the Association or the Developer upon request. The Association shall under no circumstances have any obligation to obtain any of the insurance coverage described in this Section 3 or any liability to any person for failure to do so.

Section 4. **Waiver of Right of Subrogation.** The Association and all Co-owners shall use their best efforts to cause all property and liability insurance carried by the Association or any Co-owner to contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against any Co-owner or the Association.

Section 5. **Indemnification.** Each individual Co-owner shall indemnify and hold harmless every other Co-owner, the Developer and the Association for all damages and costs, including attorneys' fees, which such other Co-owners, the Developer or the Association may suffer as a result of defending any claim arising out of an occurrence on or within such individual Co-owner's Unit and shall carry insurance to secure this indemnity if so required by the Association (or the Developer during the Development and Sales Period). This Section 5 shall not be construed to give any insurer any subrogation right or other right or claim against any individual Co-owner, however.

ARTICLE V

RECONSTRUCTION OR REPAIR

Section 1. **Responsibility for Reconstruction or Repair.** If any part of the Condominium Premises shall be damaged, the determination of whether or not it shall be reconstructed or repaired, and the responsibility therefor, shall be as follows:

(a) **General Common Element.** If the damaged property is a General Common Element, the damaged property shall be rebuilt or repaired unless all of the Owners and all of the institutional holders of mortgages on any Unit in the Project unanimously agree to the contrary.

(b) **Unit or Improvements Thereon**. If the damaged property is a Unit or any improvements thereon, the Owner of such Unit alone shall determine whether to rebuild or repair the damaged property, subject to the rights of any mortgagee or other person or entity having an interest in such property, and such Owner shall be responsible for any reconstruction or repair that he elects to make. The Owner shall in any event remove all debris and restore his Unit and the improvements thereon to a clean and sightly condition satisfactory to the Association and in accordance with the provisions of this Article VI as soon as reasonably possible following the occurrence of the damage.

Section 2. Repair in Accordance with Master Deed, Etc. Any such reconstruction or repair shall be substantially in accordance with the Master Deed and the original plans and specifications for any damaged improvements located within the Unit to the extend it is practical and subject to the approval of the Co-Owner of the affected unit.

Section 3. Association Responsibility for Repair. Immediately after the occurrence of a casualty causing damage to property for which the Association has the responsibility of maintenance, repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that existing before the damage. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction or repair required to be performed by the Association, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the cost thereof are insufficient, assessment shall be made against all Owners for the cost of reconstruction or repair of the damaged property in sufficient amounts to provide funds to pay the estimated or actual cost of repair. This provision shall not be construed to require replacement of mature trees and vegetation with equivalent trees or vegetation.

Section 4. Timely Reconstruction and Repair. If damage to the General Common Elements adversely affects the appearance of the Project, the Association shall proceed with replacement of the damaged property without delay.

Section 5. Eminent Domain. The following provisions shall control upon any taking by eminent domain:

(a) **Taking of Unit or Improvements Thereon**. In the event of any taking of all or any portion of a Unit or any improvements thereon by eminent domain, the award for such taking shall be paid to the Owner of such Unit and the mortgagee thereof, as their interests may appear, notwithstanding any provision of the Act to the contrary. If an Owner's entire Unit is taken by eminent domain, such Owner and his mortgagee shall, after acceptance of the condemnation award therefor, be divested of all interest in the Condominium Project.

(b) **Taking of General Common Elements**. If there is any taking of any portion of the General Common Elements, the condemnation proceeds relative to such taking shall be paid to the Owners and their mortgagees in proportion to their respective interests in the Common Elements and the affirmative vote of more than 50% of the Owners shall

determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate.

(c) **Continuation of Condominium After Taking**. In the event the Condominium Project continues after taking by eminent domain, then the remaining portion of the Condominium Project shall be resurveyed and the Master Deed amended accordingly, and, if any Unit shall have been taken, then Article V of the Master Deed shall also be amended to reflect such taking and to proportionately readjust the percentages of value of the remaining Owners based upon the continuing value of the Condominium of 100%. Such amendment may be effected by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval thereof by any Owner.

(d) **Notification of Mortgagees**. In the event any Unit in the Condominium, or any portion thereof, or the Common Elements or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association promptly shall so notify each institutional holder of a first mortgage lien on any of the Units in the Condominium.

(e) **Applicability of the Act**. To the extent not inconsistent with the foregoing provisions, Section 133 of the Act shall control upon any taking by eminent domain.

Section 6. Notification of FHLMC and FNMA. In the event any mortgage in the Condominium is held by the Federal Home Loan Mortgage Corporation ("FHLMC") or by the Federal National Mortgage Association ("FNMA") then, upon request therefor by FHLMC or FNMA, as the case may be, the Association shall give it written notice at such address as it may, from time to time, direct of any loss to or taking of the Common Elements of the Condominium if the loss or taking exceeds $10,000 in amount or damage to a Condominium Unit covered by a mortgage purchased in whole or in part by FHLMC or FNMA exceeds $1,000. The same right of notice shall also be extended to private and public insurers of mortgage loans.

Section 7. Priority of Mortgagee Interests. Nothing contained in the Condominium Documents shall be construed to give an Owner or any other party priority over any rights of first mortgagees of Condominium Units pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

ARTICLE VI

RESTRICTIONS

All of the Units in the Condominium shall be held, used and enjoyed subject to the following limitations and restrictions:

Section 1. **Residential Use.** No Unit in the Condominium shall be used for other than single-family residential purposes and the Common Elements shall be used only for purposes consistent with single-family residential use and in accordance with the ordinances of the Village of Beverly Hills including, without limitation, the Village's Single-Family Residential Cluster Option Ordinance.

Section 2. **Leasing and Rental.**

(a) **Right to Lease.** An Owner may lease or sell his Unit for the same purposes set forth in Section 1 of this Article VI. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, all of the provisions of the Condominium Documents.

(b) **Payment of Assessment and Other Association Rights.** When an Owner is in arrears to the Association for assessments, the Association may give written notice of the arrearage to a tenant occupying an Owner's Unit under a lease or rental agreement and the tenant, after receiving the notice, shall deduct from rental payments due the Owner the arrearage and future installments of assessments as they fall due and pay them to the Association. The deductions shall not constitute a breach of the rental agreement or lease by the tenant. Additionally, the Association shall have all such other rights with respect to leases, lessors and lessees as are conferred by the Act.

Section 3. **Architectural Control.** No building, structure or other improvement shall be constructed within a Condominium Unit or elsewhere within the Condominium Project, nor shall any exterior modification be made to any existing building, structure or improvement, unless plans and specifications therefor, containing such detail as the Developer may reasonably request, have first been approved in writing by the Developer. Construction of any building or other improvements must also receive any necessary approvals from the local public authority. The Developer shall have the right to refuse to approve any such plans or specifications which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing upon such plans and specifications it shall have the right to take into consideration the suitability of the proposed structure, improvement or modification, the site upon which it is proposed to be constructed and the degree of harmony thereof with the Condominium as a whole. Outbuildings of any sort will generally not be approved. The purpose of this Section is to assure the continued maintenance of the Condominium as a beautiful and harmonious residential development, and shall be binding upon both the Association and upon all Owners. Developer's rights under this Article VI, Section 3 may, in the Developer's discretion, be assigned to the Association or other successor to the Developer and shall, upon conclusion of the Development and Sales Period, be assigned to the Association. The Developer may construct or authorize any improvements upon the Condominium Premises that it may, in its sole discretion, elect to make without the necessity of prior consent from the Association or any other person or entity, subject only to the express limitations contained in the Condominium Documents. The rights reserved to Developer hereunder may be exercised only by the Developer until assigned in writing by Developer to the Association.

Section 4. **Alterations and Modifications of Common Elements.** No Owner shall make alterations, modifications or changes in any of the Units or Common Elements without the express written approval of the Board of Directors or the Developer as required pursuant to these Bylaws, including, without limitation, the erection of antennas, aerials, awnings, newspaper holders, mailboxes, flag poles or other exterior attachments or modifications. Satellite dish antennae may be approved by the Developer if they are placed in an unobtrusive location and do not exceed eighteen (18) inches in diameter. No Owner shall in any way restrict access to any utility line, or any other element that must be accessible to service the Common Elements or any element which affects an Association responsibility in any way.

Section 5. **Activities.** No immoral, improper, unlawful or offensive activity shall be carried on in any Unit or upon the Common Elements nor shall anything be done which may be or become an annoyance, a nuisance or a safety hazard to the Owners of the Condominium. No unreasonably noisy activity shall occur in or on the Common Elements or in any Unit at any time and disputes among Owners, arising as a result of this provision which cannot be amicably resolved, shall be arbitrated by the Association. No Owner shall do or permit anything to be done or keep or permit to be kept in his Unit or on the Common Elements anything that will increase the rate of insurance on the Condominium without the written approval of the Association, and each Owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition even if approved. Activities which are deemed offensive and are expressly prohibited include, but are not limited to, the following: any activity involving the use of firearms, air rifles, pellet guns, B-B guns, bows and arrows, or other similar dangerous weapons, projectiles or devices.

Section 6. **Pets and Other Animals.** No animal other than those commonly regarded as household pets may be maintained within the Condominium and no animal may be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No animal may be permitted to run loose at any time upon the Common Elements and any animal shall at all times be leashed and attended by some responsible person while on the Common Elements. No savage or dangerous animal shall be kept and any Owner who causes any animal to be brought or kept upon the premises of the Condominium shall indemnify and hold harmless the Association for any loss, damage or liability which the Association may sustain as the result of the presence of such animal on the premises, whether or not the Association has given its permission therefor. Each Owner shall be responsible for collection and disposition of all fecal matter deposited by any pet maintained by such Owner. No dog whose barks can be heard on any frequent or continuing basis shall be kept in any Unit or on the Common Elements even if permission was previously granted to maintain the pet on the Premises. The Association may charge all Owners maintaining animals a reasonable additional assessment to be collected in the manner provided in Article II of these Bylaws in the event that the Association determines such assessment necessary to defray the maintenance cost to the Association of accommodating animals within the Condominium. The Association may, without liability to the owner thereof, remove or cause to be removed any animal from the Condominium which it determines to be in violation of the restrictions imposed by this Section. The Association shall have the right to require that any pets be registered with it and may adopt such additional reasonable rules

and regulations with respect to animals as it may deem proper. In the event of any violation of this Section, the Board of Directors of the Association may assess fines for such violation in accordance with these Bylaws and in accordance with duly adopted rules and regulations of the Association and/or revoke the privilege of an Owner to maintain a pet in the Condominium.

Section 7. **Aesthetics.** The Common Elements and open areas of Units shall not be used for storage of supplies, materials, personal property or trash or refuse of any kind, except as provided in duly adopted rules and regulations of the Association. Trash receptacles shall be maintained in the garage or in other areas designated therefor at all times and shall not be permitted to remain elsewhere within a Unit or on the Common Elements except for such short periods of time as may be reasonably necessary to permit periodic collection of trash. The open areas of Units and the Common Elements shall not be used in any way for the drying, shaking or airing of clothing or other fabrics. Vacant Units must be neatly maintained with weeds cut and without accumulation of natural or other debris. In general, no activity shall be carried on nor condition maintained by an Owner, either in his Unit or upon the Common Elements, which is detrimental to the appearance of the Condominium. Without written approval by the Association, no Owner shall change in any way the exterior appearance of the residence and other improvements and appurtenances located within his Unit. Thus, in connection with any maintenance, repair, replacement, decoration or redecoration of such residence, improvements or appurtenances, no Owner shall modify the design, material or color of any such item including, without limitation, windows, doors, screens, roofs, siding or any other component of any building, or other structure which is visible from a Common Element or other Unit without the written approval of the Association.

Section 8. **Vehicles.** No house trailers, commercial vehicles, boat trailers, boats, camping vehicles, camping trailers, motorcycles, all terrain vehicles, snowmobiles, snowmobile trailers or vehicles other than automobiles or vehicles used primarily for general personal transportation purposes, may be parked or stored in any area which is visible from any portion of the Condominium Premises except as hereinafter provided or as provided in duly adopted rules and regulations. All vehicles shall be parked in garages to the extent possible. Garage doors shall be kept closed when not in use. Commercial vehicles and trucks shall not be parked in or about the Condominium (except as above provided) unless while making deliveries or pickups in the normal course of business. The Association may prohibit parking of vehicles other than passenger vehicles on the Common Elements. Owners shall, if the Association shall require, register with the Association all vehicles maintained on the Condominium Premises. In view of the fact that parking areas on the General Common Elements are limited, the Association may promulgate and strictly enforce reasonable and equitable parking regulations for Owners and their invitees.

Section 9. **Advertising.** No signs or other advertising devices of any kind shall be displayed which are visible from the exterior of a Unit or on the Common Elements except by the Developer during the Development and Sales Period, and, subsequent thereto, only with prior written permission from the Association.

Section 10. **Driveways and Garages.** All driveways shall be paved with asphalt, concrete or other material approved by the Developer, and shall be completed prior to occupancy. Each garage shall be attached to the main dwelling.

Section 11. **Swimming Pools.** No swimming pool shall be erected or maintained upon any Unit.

Section 12. **Transmission Devices.** No outside radio, television aerial, antenna, satellite dish or other reception or transmission device shall be placed, constructed, altered or maintained on any Unit without the prior written consent of the Developer.

Section 13. **Dog Runs/Animal Shelters.** No dog runs or other enclosed shelters for animals shall be installed or maintained on any Unit.

Section 14. **Walls and Fences.** No fence or wall of any type shall be permitted or maintained on any Unit.

Section 15. **Trees and Other Vegetation.** No Co-owner shall cut down or trim any tree located on any Unit which has a diameter of six (6) inches or more measured four (4) feet above ground level without the prior written approval of the Association and, during the Development and Sales Period, the Developer. The Developer and the Association shall permit only such tree cutting as may be reasonably necessary for construction of dwellings and as may be necessary to provide adequate stormwater drainage. No Co-owner may cut or trim any tree or other vegetation located on the Common Elements without approval of the Developer and the Association. Neither the Association nor any Co-owner shall cut or remove any tree or other vegetation anywhere on the Condominium Premises in violation of any applicable Ordinance of the Village or in violation of the Easement and Maintenance Agreement referenced in Article IX, Section 11 of the Master Deed. Each tree removed or trimmed in violation of this provision shall constitute a separate violation and shall subject the offending Co-owner to fines as set forth in Articles XIX and XX of these Bylaws. This provision shall apply to any tree located within the Condominium Premises, whether within any Unit or upon the Common Elements. Co-owners shall also comply with any ordinances of the Village of Beverly Hills which are applicable from time to time to the Condominium Premises.

Section 16. **Rules and Regulations.** It is intended that the Board of Directors of the Association may make rules and regulations from time to time to reflect the needs and desires of the majority of the Owners in the Condominium. Reasonable regulations consistent with the Act, the Master Deed and these Bylaws concerning the use of the Common Elements may be made and amended from time to time by any Board of Directors of the Association, including the first Board of Directors (or its successors) prior to the Transitional Control Date. Copies of all such rules, regulations and amendments thereto shall be furnished to all Owners.

Section 17. **Common Element Maintenance.** Sidewalks, yard areas, landscaped areas, driveways, and parking areas shall not be obstructed nor shall they be used for purposes other than

that for which they are reasonably and obviously intended. No bicycles, vehicles, chairs or other obstructions may be left unattended on or about the General Common Elements.

Section 18. **Owner Maintenance.** Each Owner shall maintain his Unit in a safe, clean and sanitary condition. Each Owner shall also use due care to avoid damaging any of the Common Elements including, but not limited to, the telephone, water, sewer, gas, electrical or other utility conduits and systems and any other Common Elements in any Unit which are appurtenant to or which may affect any other Unit. Each Owner shall be responsible for damages or costs to the Association resulting from negligent damage to or misuse of any of the Common Elements by him, or his family, guests, agents or invitees, unless such damages or costs are covered by insurance carried by the Association (in which case there shall be no such responsibility, unless reimbursement to the Association is limited by virtue of a deductible provision, in which case the responsible Owner shall bear the expense to the extent of the deductible amount). Any costs or damages to the Association may be assessed to and collected from the responsible Owner in the manner provided in Article II hereof.

Section 19. **Right of Access of Association.** The Association or its duly authorized agents shall have access to each Unit from time to time, during reasonable working hours, upon notice to the Owner thereof, as may be necessary to carry out any responsibilities imposed on the Association by the Condominium Documents. The Association or its agents shall also have access to Units as may be necessary to respond to emergencies. The Association may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such Owner for any necessary damage to his Unit caused thereby. This provision, in and of itself, shall not be construed to permit access to the interiors of residences or other structures.

Section 20. **Reserved Rights of Developer.**

(a) **Prior Approval by Developer**. During the Development and Sales Period, no buildings, fences, walls, retaining walls, drives, walks or other structures or improvements shall be commenced, erected, maintained, nor shall any addition to, or change or alteration to any structure be made (including in color or design), except interior alterations which do not affect structural elements of any Unit, until plans and specifications, acceptable to the Developer, showing the nature, kind, shape, height, materials, color scheme, location and approximate cost of such structure or improvement shall have been submitted to and approved in writing by Developer, its successors or assigns, and a copy of said plans and specifications, as finally approved, lodged permanently with the Developer. The Developer shall have the right to refuse to approve any such plan or specifications which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing upon such plans and specifications, it shall have the right to take into consideration the suitability of the proposed structure, improvement or modification, the site upon which it is proposed to effect the same, and the degree of harmony thereof with the Condominium as a whole. The purpose of this Section is to assure the continued maintenance of the Condominium as a beautiful and harmonious residential development and shall be binding upon both the Association and upon all Owners.

(b) **Developer's Rights in Furtherance of Development and Sales**. None of the restrictions contained in this Article VI shall apply to the commercial activities or signs or billboards, if any, of the Developer during the Development and Sales Period or of the Association in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation, as the same may be amended from time to time. Notwithstanding anything to the contrary elsewhere herein contained, Developer shall have the right to maintain a sales office, model units, advertising display signs, storage areas and reasonable parking incident to the foregoing and such access to, from and over the Project as may be reasonable to enable development and sale of the entire Project by the Developer and may continue to do so during the entire Development and Sales Period and for so long as Developer may be in the process of developing other residential property within five (5) miles of Orchard Villas; provided, however, that model Units may be maintained after the expiration of the Development and Sales Period only if the Village of Beverly Hills does not prohibit the same.

(c) **Enforcement of Bylaws**. The Condominium Project shall at all times be maintained in a manner consistent with the highest standards of a beautiful, serene, private, residential community for the benefit of the Owners and all persons interested in the Condominium. If at any time the Association fails or refuses to carry out its obligation to maintain, repair, replace and landscape in a manner consistent with the maintenance of such high standards, then the Developer, or any person to whom it may assign this right, at its option, may elect to maintain, repair and/or replace any Common Elements and/or to do any landscaping required by these Bylaws and to charge the cost thereof to the Association as an expense of administration. The Developer shall have the right to enforce these Bylaws throughout the Development and Sales Period which right of enforcement shall include (without limitation) an action to restrain the Association or any Owner from any activity prohibited by these Bylaws.

Section 21. General Common Element Areas. The General Common Element Areas depicted on the Condominium Subdivision Plan shall be used only as permitted by the Single-Family Residential Cluster Option Ordinance of the Village of Beverly Hills and in accordance with any duly promulgated rules and regulations of the Developer or the Association.

Section 22. Temporary Structures. No structure of a temporary character, trailer, commercial vehicle, recreation vehicle, shack, garage, barn, storage shed, tent, tree house, or other similar outbuilding, may be permanently placed on any Unit.

Section 23. General. The purpose of this Article VI is to assure the continued maintenance of the Condominium as a beautiful and harmonious residential development, and shall be binding upon all Co-owners. The Developer may, in its sole discretion, waive any part of the restrictions set forth in this Article VI due to unusual topographic, natural or aesthetic considerations or other circumstances which the Developer deems compelling. Any such waiver must be in writing and shall be limited to the Unit to which it pertains and shall not constitute a waiver as to enforcement of the restrictions as to any other Unit. Developer's rights under this Article VI may,

in Developer's discretion, be assigned to the Association or other successor to Developer. Developer may construct any improvements upon the Condominium Premises that it may, in its sole discretion, elect to make without the necessity of prior consent from the Association or any other person or entity, subject only to the express limitations contained in the Condominium Documents.

ARTICLE VII

MORTGAGES

Section 1. **Notice to Association.** Any Owner who mortgages his Unit shall notify the Association of the name and address of the mortgagee, and the Association shall maintain such information in a book entitled "Mortgages of Units." The Association may, at the written request of a mortgagee of any such Unit, report any unpaid assessments due from the Owner of such Unit. The Association shall give to the holder of any first mortgage covering any Unit in the Project written notification of any default in the performance of the obligations of the Owner of such Unit that is not cured within 60 days.

Section 2. **Insurance.** The Association shall notify each mortgagee appearing in said book of the name of each company insuring the General Common Elements and respective Unit of the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief and the amounts of such coverage.

Section 3. **Notification of Meetings.** Upon request submitted to the Association, any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive written notification of every meeting of the members of the Association and to designate a representative to attend such meeting.

ARTICLE VIII

VOTING

Section 1. **Vote.** Each Owner shall be entitled to one vote for each Condominium Unit owned.

Section 2. **Eligibility to Vote.** No Owner, other than the Developer, shall be entitled to vote at any meeting of the Association until he has presented evidence of ownership of a Unit in the Condominium Project to the Association. Except as provided in Article XI, Section 2 of these Bylaws, no Owner, other than the Developer, shall be entitled to vote prior to the date of the First Annual Meeting of members held in accordance with Section 2 of Article IX. The vote of each Owner may be cast only by the individual representative designated by such Owner in the notice required in Section 3 of this Article VIII below or by a proxy given by such individual representative. The Developer shall be the only person entitled to vote at a meeting of the Association until the First Annual Meeting of members. At and after the First Annual Meeting the

Developer shall be entitled to one vote for each Unit which it owns. If, however, the Developer elects to designate a Director pursuant to its rights under Article XI, Section 2(c)(i) or (ii) hereof, it shall not then be entitled to also vote for the non-developer Director.

Section 3. **Designation of Voting Representative.** Each Owner shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such Owner. Such notice shall state the name and address of the individual representative designated, the number or numbers of the Condominium Unit or Units owned by the Owner, and the name and address of each person, firm, corporation, partnership, association, trust or other entity who is the Owner. Such notice shall be signed and dated by the Owner. The individual representative designated may be changed by the Owner at any time by filing a new notice in the manner herein provided.

Section 4. **Quorum.** The presence in person or by proxy of 35% of the Owners qualified to vote shall constitute a quorum for holding a meeting of the members of the Association, except for voting on questions specifically required by the Condominium Documents to require a greater quorum. The written vote of any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.

Section 5. **Voting.** Votes may be cast only in person or by a writing duly signed by the designated voting representative not present at a given meeting in person or by proxy. Proxies and any written votes must be filed with the Secretary of the Association at or before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

Section 6. **Majority.** A majority, except where otherwise provided herein, shall consist of more than 50% of those qualified to vote and present in person or by proxy (or written vote, if applicable) at a given meeting of the members of the Association. Whenever provided specifically herein, a majority may be required to exceed the simple majority hereinabove set forth of designated voting representatives present in person or by proxy, or by written vote, if applicable, at a given meeting of the members of the Association.

ARTICLE IX

MEETINGS

Section 1. **Place of Meeting.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Owners as may be designated by the Board of Directors. Meetings of the Association shall be conducted in accordance with Sturgis' Code of Parliamentary Procedure, Roberts Rules of Order or some other generally recognized manual of parliamentary procedure, when not otherwise in conflict with the Condominium Documents (as defined in the Master Deed) or the laws of the State of Michigan.

Section 2. **First Annual Meeting.** The First Annual Meeting of members of the Association may be convened only by the Developer and may be called at any time after more than 50% of the Units in Orchard Villas have been sold and the purchasers thereof qualified as members of the Association. In no event, however, shall such meeting be called later than 120 days after the conveyance of legal or equitable title to non-developer Owners of 75% of all Units or 54 months after the first conveyance of legal or equitable title to a non-developer Owner of a Unit in the Project, whichever first occurs. The Developer may call meetings of members for informative or other appropriate purposes prior to the First Annual Meeting of members and no such meeting shall be construed as the First Annual Meeting of members. The date, time and place of such meeting shall be set by the Board of Directors, and at least 10 days' written notice thereof shall be given to each Owner.

Section 3. **Annual Meetings.** Annual meetings of members of the Association shall be held on the third Tuesday of March each succeeding year after the year in which the First Annual Meeting is held, at such time and place as shall be determined by the Board of Directors; provided, however, that the second annual meeting shall not be held sooner than eight (8) months after the date of the First Annual Meeting. At such meetings there shall be elected by ballot of the Owners a Board of Directors in accordance with the requirements of Article XI of these Bylaws. The Owners may also transact at annual meetings such other business of the Association as may properly come before them.

Section 4. **Special Meetings.** It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by 1/3 of the Owners presented to the Secretary of the Association. Notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. **Notice of Meetings.** It shall be the duty of the Secretary (or other Association officer in the Secretary's absence) to serve a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, upon each Owner of record, at least 10 days but not more than 60 days prior to such meeting. The mailing, postage prepaid, of a notice to the representative of each Owner at the address shown in the notice required to be filed with the Association by Article VIII, Section 3 of these Bylaws shall be deemed notice served. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, shall be deemed due notice.

Section 6. **Adjournment.** If any meeting of Owners cannot be held because a quorum is not in attendance, the Owners who are present may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

Section 7. **Order of Business.** The order of business at all meetings of the members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) appointment of inspectors of election (at annual meetings

or special meetings held for the purpose of electing Directors or officers); (g) election of Directors (at annual meeting or special meetings held for such purpose); (h) unfinished business; and (i) new business. Meetings of members shall be chaired by the most senior officer of the Association present at such meeting. For purposes of this Section, the order of seniority of officers shall be President, Vice President, Secretary and Treasurer.

Section 8. **Action Without Meeting.** Any action which may be taken at a meeting of the members (except for the election or removal of Directors) may be taken without a meeting by written ballot of the members. Ballots shall be solicited in the same manner as provided in Section 5 for the giving of notice of meetings of members. Such solicitations shall specify (a) the number of responses needed to meet the quorum requirements; (b) the percentage of approvals necessary to approve the action; and (c) the time by which ballots must be received in order to be counted. The form of written ballot shall afford an opportunity to specify a choice between approval and disapproval of each matter and shall provide that, where the member specifies a choice, the vote shall be cast in accordance therewith. Approval by written ballot shall be constituted by receipt, within the time period specified in the solicitation, of (i) a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting; and (ii) a number of approvals which equals or exceeds the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast.

Section 9. **Consent of Absentees.** The transactions at any meeting of members, either annual or special, however called and noticed, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy; and if, either before or after the meeting, each of the members not present in person or by proxy signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 10. **Minutes; Presumption of Notice.** Minutes or a similar record of the proceedings of meetings of members, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be *prima facie* evidence that such notice was given.

ARTICLE X

ADVISORY COMMITTEE

Within one year after conveyance of legal or equitable title to the first Unit in the Condominium to a purchaser or within 120 days after conveyance to purchasers of 1/3 of the Units, whichever first occurs, the Developer shall cause to be established an Advisory Committee consisting of at least three non-developer Owners. The Committee shall be established and perpetuated in any manner the Developer deems advisable, except that if more than 50% of the non-

developer Owners petition the Board of Directors for an election to select the Advisory Committee, then an election for such purpose shall be held. The purpose of the Advisory Committee shall be to facilitate communications between the temporary Board of Directors and the other Owners and to aid in the transition of control of the Association from the Developer to purchaser Owners. The Advisory Committee shall cease to exist automatically when the non-developer Owners have the voting strength to elect a majority of the Board of Directors of the Association. The Developer may remove and replace at its discretion at any time any member of the Advisory Committee who has not been elected thereto by the Owners.

ARTICLE XI

BOARD OF DIRECTORS

Section 1. **Number and Qualification of Directors.** The Board of Directors shall be comprised of three members, all of whom must be members of the Association or officers, partners, trustees, employees or agents of members of the Association, except for the first Board of Directors. Directors shall serve without compensation.

Section 2. **Election of Directors.**

(a) **First Board of Directors**. The first Board of Directors shall be comprised of three persons and such first Board of Directors, or its successors as selected by the Developer, shall manage the affairs of the Association until the appointment of the first non-developer Owners to the Board. Elections for non-developer Owner Directors shall be held as provided in subsections (b) and (c) below.

(b) **Appointment of Non-developer Owners to Board Prior to First Annual Meeting**. Not later than 120 days after conveyance of legal or equitable title to non-developer Owners of 25% of the Units, one of the three Directors shall be selected by non-developer Owners. When the required number of conveyances have been reached, the Developer shall notify the non-developer Owners and request that they hold a meeting and elect the required Director. Upon certification by the Owners to the Developer of the Director so elected, the Developer shall then immediately appoint such Director to the Board to serve until the First Annual Meeting of members unless he is removed pursuant to Section 7 of this Article or he resigns or becomes incapacitated.

(c) **Election of Directors at and After First Annual Meeting**.

(i) Not later than 120 days after conveyance of legal or equitable title to non-developer Owners of 75% of the Units, the non-developer Owners shall elect all Directors on the Board, except that the Developer shall have the right to designate at least one Director as long as it owns at least 10% of all Units in the Project. Whenever the required conveyance level is achieved, a meeting of Owners shall be

promptly convened to effectuate this provision, even if the First Annual Meeting has already occurred.

(ii) Regardless of the percentage of Units which have been conveyed, upon the expiration of 54 months after the first conveyance of legal or equitable title to a non-developer Owner of a Unit in the Project, the non-developer Owners have the right to elect a number of members of the Board of Directors equal to the percentage of Units they own, and the Developer has the right to elect a number of members of the Board of Directors equal to the percentage of Units which are owned by the Developer. This election may increase, but shall not reduce, the minimum election and designation rights otherwise established in subparagraph (i). Application of this subparagraph does not require a change in the size of the Board of Directors.

(iii) If the calculation of the percentage of members of the Board of Directors that the non-developer Owners have the right to elect under subsection (b) and subparagraph (c)(i), or if the product of the number of members of the Board of Directors multiplied by the percentage of Units held by the non-developer Owners under subparagraph (c)(ii) results in a right of non-developer Owners to elect a fractional number of members of the Board of Directors, then a fractional election right of 0.5 or greater shall be rounded up to the nearest whole number, which number shall be the number of members of the Board of Directors that the non-developer Owners have the right to elect. After application of this formula the Developer shall have the right to elect the remaining members of the Board of Directors. Application of this subparagraph shall not eliminate the right of the Developer to designate one Director as provided in subparagraph (i).

(iv) At the First Annual Meeting, two Directors shall be elected for a term of two years and one Director shall be elected for a term of one year. At such meeting all nominees shall stand for election as one slate and the two persons receiving the highest number of votes shall be elected for a term of two years and the person receiving the next highest number of votes shall be elected for a term of one year. At each annual meeting held thereafter, either one or two Directors shall be elected depending upon the number of Directors whose terms expire. After the First Annual Meeting, the term of office (except for one of the Directors elected at the First Annual Meeting) of each Director shall be two years. The Directors shall hold office until their successors have been elected and hold their first meeting.

(v) Once the Owners have acquired the right hereunder to elect a majority of the Board of Directors, annual meetings of Owners to elect Directors and conduct other business shall be held in accordance with the provisions of Article IX, Section 3 hereof.

Section 3. **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as

are not prohibited by the Condominium Documents or required thereby to be exercised and done by the Owners.

Section 4. **Other Duties.** In addition to the foregoing duties imposed by these Bylaws or any further duties which may be imposed by resolution of the members of the Association, the Board of Directors shall be responsible specifically to do the following:

(a) To manage and administer the affairs of and to maintain the Condominium Project and the Common Elements thereof.

(b) To levy and collect assessments from the members of the Association and to use the proceeds thereof for the purposes of the Association.

(c) To carry insurance and collect and allocate the proceeds thereof.

(d) To rebuild improvements after casualty.

(e) To contract for and employ persons, firms, corporations or other agents to assist in the management, operation, maintenance and administration of the Condominium Project.

(f) To acquire, maintain and improve; and to buy, operate, manage, sell, convey, assign, mortgage or lease any real or personal property (including any Unit in the Condominium and easements, rights-of-way and licenses) on behalf of the Association in furtherance of any of the purposes of the Association.

(g) To borrow money and issue evidences of indebtedness in furtherance of any or all of the purposes of the Association, and to secure the same by mortgage, pledge, or other lien on property owned by the Association; provided, however, that any such action shall also be approved by affirmative vote of 75% of all of the members of the Association.

(h) To make rules and regulations in accordance with Article VI, Section 16 of these Bylaws.

(i) To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the Condominium and to delegate to such committees any functions or responsibilities which are not by law or the Condominium Documents required to be performed by the Board.

(j) To enforce the provisions of the Condominium Documents.

Section 5. **Management Agent.** The Board of Directors may employ for the Association a professional management agent (which may include the Developer or any person or entity related thereto) at reasonable compensation established by the Board to perform such duties

and services as the Board shall authorize, including, but not limited to, the duties listed in Sections 3 and 4 of this Article, and the Board may delegate to such management agent any other duties or powers which are not by law or by the Condominium Documents required to be performed by or have the approval of the Board of Directors or the members of the Association. In no event shall the Board be authorized to enter into any contract with a professional management agent, or any other contract providing for services by the Developer, sponsor or builder, in which the maximum term is greater than three (3) years or which is not terminable by the Association upon 90 days' written notice thereof to the other party and no such contract shall violate the provisions of Section 55 of the Act.

Section 6. **Investigation and Assertion of Claims.** In order to minimize the possibility of imprudent and/or excessively costly assertion of claims without notice to and decisional participation by Co-owners, the Board shall establish and follow thorough procedural guidelines for the investigation and assertion of claims on behalf of the Association in order to facilitate compliance with the provisions of Article II, Section 2(d) of these Bylaws. Such guidelines shall be directed to the orderly evaluation of claims in a manner and to a degree that will enable the Board to make an affirmative recommendation to the Co-owners regarding such claims. Prior to engagement of attorneys or experts for the evaluation of claims, and the levying of any special assessments therefor, the Board shall conduct its own evaluation and make recommendations to the membership at a special meeting for such purpose at which such proposed undertakings shall be approved by sixty-six and two-thirds percent (66 2/3%) of all Co-owners, prior to implementation by the Board. Modified undertakings involving material cost increases and ultimate commencement of formal proceedings for assertion of claims shall each require that the Board follow the same procedure for obtaining membership approval. At each meeting of the members for approval of investigation and evaluation of claims, commencement of proceedings and levying of assessments in connection therewith, the Board shall furnish a report to the members with notice of the meeting on the determinations, recommendations and findings of the Board together with other pertinent information including, without limitation: (a) the basis for the claims; (b) the professional credentials of attorneys and/or other experts to be engaged; (c) cost projections and proposed fee agreements with respect to the investigation, evaluation and prosecution of the claims; (d) reports as to prior and anticipated actions taken and to be taken and the timing thereof.

Section 7. **Vacancies.** Vacancies in the Board of Directors which occur after the Transitional Control Date caused by any reason other than the removal of a Director by a vote of the members of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum, except that the Developer shall be solely entitled to fill the vacancy of any Director whom it is permitted in the first instance to designate. Each person so elected shall be a Director until a successor is elected at the next annual meeting of the members of the Association. Vacancies among non-developer Owner elected Directors which occur prior to the Transitional Control Date may be filled only through election by non-developer Owners and shall be filled in the manner specified in Section 2(b) of this Article.

Section 8. **Removal.** At any regular or special meeting of the Association duly called with due notice of the removal action proposed to be taken, any one or more of the Directors may be removed with or without cause by the affirmative vote of more than 50% of all of the Owners and a successor may then and there be elected to fill any vacancy thus created. The quorum requirement

for the purpose of filling such vacancy shall be the normal 35% requirement set forth in Article VIII, Section 4. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. The Developer may remove and replace any or all of the Directors selected by it at any time or from time to time in its sole discretion. Likewise, any Director selected by the non-developer Owners to serve before the First Annual Meeting may be removed before the First Annual Meeting in the same manner set forth in this paragraph for removal of Directors generally.

Section 9. **First Meeting.** The first meeting of a newly elected Board of Directors shall be held within 10 days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

Section 10. **Regular Meetings.** Regular meetings of the Board of Directors may be held at such times and places as shall be determined from time to time by a majority of the Directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director personally, by mail, telephone or telegraph, at least 10 days prior to the date named for such meeting.

Section 11. **Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of two Directors.

Section 12. **Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meetings of the Board shall be deemed a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. **Quorum.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting to a subsequent time upon 24 hours' prior written notice delivered to all Directors not present. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such Director for purposes of determining a quorum.

Section 14. **First Board of Directors.** The actions of the first Board of Directors of the Association or any successors thereto selected or elected before the Transitional Control Date shall be binding upon the Association so long as such actions are within the scope of the powers and

duties which may be exercised generally by the Board of Directors as provided in the Condominium Documents.

Section 15. **Fidelity Bonds.** The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be expenses of administration.

ARTICLE XII

OFFICERS

Section 1. **Officers.** The principal officers of the Association shall be a President, who shall be a member of the Board of Directors, a Vice President, a Secretary and a Treasurer. The Directors may appoint an Assistant Treasurer, and an Assistant Secretary, and such other officers as in their judgment may be necessary. Any two offices except that of President and Vice President may be held by one person.

(a) **President**. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. He or she shall have all of the general powers and duties which are usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the members of the Association from time to time as he or she may in his or her discretion deem appropriate to assist in the conduct of the affairs of the Association.

(b) **Vice President**. The Vice President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors.

(c) **Secretary**. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; he or she shall have charge of the corporate seal, if any, and of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all duties incident to the office of the Secretary.

(d) **Treasurer**. The Treasurer shall have responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, and in such depositories as may, from time to time, be designated by the Board of Directors.

Section 2. **Election.** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. **Removal.** Upon affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. No such removal action may be taken, however, unless the matter shall have been included in the notice of such meeting. The officer who is proposed to be removed shall be given an opportunity to be heard at the meeting.

Section 4. **Duties.** The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board of Directors.

ARTICLE XIII

SEAL

The Association may (but need not) have a seal. If the Board determines that the Association shall have a seal, then it shall have inscribed thereon the name of the Association, the words "corporate seal," and "Michigan."

ARTICLE XIV

FINANCE

Section 1. **Records.** The Association shall keep detailed books of account showing all expenditures and receipts of administration, and which shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and the Owners. Such accounts and all other Association records shall be open for inspection by the Owners and their mortgagees during reasonable working hours. The Association shall prepare and distribute to each Owner at least once a year a financial statement, the contents of which shall be defined by the Association. The books of account shall be audited at least annually by qualified independent auditors; provided, however, that such auditors need not be certified public accountants nor does such audit need to be a certified audit. Any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive a copy of such annual audited financial statement within 90 days following the end of the Association's fiscal year upon request therefor. The costs of any such audit and any accounting expenses shall be expenses of administration.

Section 2. **Fiscal Year.** The fiscal year of the Association shall be an annual period commencing on such date as may be initially determined by the Directors. The commencement date of the fiscal year shall be subject to change by the Directors for accounting reasons or other good cause.

Section 3. **Bank.** Funds of the Association shall be initially deposited in such bank or savings association as may be designated by the Directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time. The funds may be invested from time to time in accounts or deposit certificates of such bank or savings association as are insured by applicable federal deposit insurers and may also be invested in interest-bearing obligations of the United States Government.

ARTICLE XV

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Every Director and officer of the Association shall be indemnified by the Association against all expenses and liabilities, including actual and reasonable counsel fees and amounts paid in settlement, incurred by or imposed upon him in connection with any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, to which he or she may be a party or in which he or she may become involved by reason of his or her being or having been a Director or officer of the Association, whether or not he or she is a Director or officer at the time such expenses are incurred, except as otherwise prohibited by law; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors (with the Director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled. At least ten days prior to payment of any indemnification which it has approved, the Board of Directors shall notify all Owners thereof. Further, the Board of Directors is authorized to carry officers' and directors' liability insurance covering acts of the officers and Directors of the Association in such amounts as it shall deem appropriate.

ARTICLE XVI

AMENDMENTS

Section 1. **Proposal.** Amendments to these Bylaws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors or may be proposed by 1/3 or more of the Owners by instrument in writing signed by them.

Section 2. **Meeting.** Upon any such amendment being proposed, a meeting for consideration of the same shall be duly called in accordance with the provisions of these Bylaws.

Section 3. **Voting.** These Bylaws may be amended by the Owners at any regular annual meeting or a special meeting called for such purpose by an affirmative vote of not less than 66-2/3% of all Owners. No consent of mortgagees shall be required to amend these Bylaws except to any extent required by Section 90 of the Act.

Section 4. **By Developer.** Prior to the Transitional Control Date, these Bylaws may be amended by the Developer without approval from any other person so long as any such amendment does not materially and adversely alter or change the right of an Owner or mortgagee.

Section 5. **When Effective.** Any amendment to these Bylaws shall become effective upon recording of such amendment in the office of the Oakland County Register of Deeds.

Section 6. **Binding.** A copy of each amendment to the Bylaws shall be furnished to every member of the Association after adoption; provided, however, that any amendment to these Bylaws that is adopted in accordance with this Article shall be binding upon all persons who have an interest in the Project irrespective of whether such persons actually receive a copy of the amendment.

ARTICLE XVII

COMPLIANCE

The Association and all present or future Owners, tenants, future tenants, or any other persons acquiring an interest in or using the Project in any manner are subject to and shall comply with the Act, as amended, and the mere acquisition, occupancy or rental of any Unit or an interest therein or the utilization of or entry upon the Condominium Premises shall signify that the Condominium Documents are accepted and ratified. In the event the Condominium Documents conflict with the provisions of the Act, the Act shall govern.

ARTICLE XVIII

DEFINITIONS

All terms used herein shall have the same meaning as set forth in the Master Deed to which these Bylaws are attached as an Exhibit or as set forth in the Act.

ARTICLE XIX

REMEDIES FOR DEFAULT

Any default by an Owner shall entitle the Association or another Owner or Owners to the following relief:

Section 1. **Legal Action.** Failure to comply with any of the terms or provisions of the Condominium Documents shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in payment of assessment) or any combination thereof, and such relief may be sought by the Association or, if appropriate, by an aggrieved Owner or Owners.

Section 2. **Recovery of Costs.** In any proceeding arising because of an alleged default by any Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees) as may be determined by the court, but in no event shall any Owner be entitled to recover such attorneys' fees.

Section 3. **Removal and Abatement.** The violation of any of the provisions of the Condominium Documents shall also give the Association or its duly authorized agents the right, in addition to the rights set forth above, to enter upon the Common Elements or into any Unit, where reasonably necessary, and summarily remove and abate, at the expense of the Owner in violation, any structure, thing or condition existing or maintained contrary to the provisions of the Condominium Documents. The Association shall have no liability to any Owner arising out of the exercise of its removal and abatement power authorized herein.

Section 4. **Assessment of Fines.** The violation of any of the provisions of the Condominium Documents by any Owner shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations. No fine may be assessed unless in accordance with the provisions of Article XX thereof.

Section 5. **Non-waiver of Right.** The failure of the Association or of any Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provision, covenant or condition in the future.

Section 6. **Cumulative Rights, Remedies and Privileges.** All rights, remedies and privileges granted to the Association or any Owner or Owners pursuant to any terms, provisions, covenants or conditions of the aforesaid Condominium Documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

Section 7. **Enforcement of Provisions of Condominium Documents.** An Owner may maintain an action against the Association and its officers and Directors to compel such persons to enforce the terms and provisions of the Condominium Documents. An Owner may maintain an action against any other Co-owner for injunctive relief or for damages or any combination thereof for noncompliance with the terms and provisions of the Condominium Documents or the Act.

ARTICLE XX

ASSESSMENT OF FINES

Section 1. **General.** The violation by any Owner, occupant or guest of any provisions of the Condominium Documents including any duly adopted rules and regulations shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines against the involved Owner. Such Owner shall be deemed responsible for such violations whether they occur as a result of his personal actions or the actions of his family, guests, tenants or any other person admitted through such Owner to the Condominium Premises.

Section 2. **Procedures.** Upon any such violation being alleged by the Board, the following procedures will be followed:

(a) **Notice**. Notice of the violation, including the Condominium Document provision violated, together with a description of the factual nature of the alleged offense set forth with such reasonable specificity as will place the Owner on notice as to the violation, shall be sent by first class mail, postage prepaid, or personally delivered to the representative of said Owner at the address as shown in the notice required to be filed with the Association pursuant to Article VIII, Section 3 of the Bylaws.

(b) **Opportunity to Defend**. The offending Owner shall have an opportunity to appear before the Board and offer evidence in defense of the alleged violation. The appearance before the Board shall be at its next scheduled meeting but in no event shall the Owner be required to appear less than 10 days from the date of the Notice.

(c) **Default**. Failure to respond to the notice of violation constitutes a default.

(d) **Hearing and Decision**. Upon appearance by the Owner before the Board and presentation of evidence of defense, or, in the event of the Owner's default, the Board shall, by majority vote of a quorum of the Board, decide whether a violation has occurred and shall so notify such Owner within ten (10) days of its decision. The Board's decision is final.

Section 3. **Amounts.** Upon violation of any of the provisions of the Condominium Documents and after default of the offending Owner or upon the decision of the Board as recited above, the following fines shall be levied:

(a) **First Violation**. No fine shall be levied.

(b) **Second Violation**. Twenty-Five Dollar ($25.00) fine.

(c) **Third Violation**. Fifty Dollar ($50.00) fine.

(d) **Fourth Violation and Subsequent Violations**. One Hundred Dollar ($100.00) fine.

Section 4. Collection. The fines levied pursuant to Section 3 above shall be assessed against the Owner and shall be due and payable together with the regular Condominium assessment installment on the first day of the next following due date. Failure to pay the fine will subject the Owner to all liabilities set forth in the Condominium Documents including, without limitation, those described in Article II and Article XIX of these Bylaws.

ARTICLE XXI

RIGHTS RESERVED TO DEVELOPER

Any or all of the rights and powers granted or reserved to the Developer in the Condominium Documents or by law, including the right and power to approve or disapprove any act, use, or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such powers and rights and such assignee or transferee shall thereupon have the same rights and powers as herein given and reserved to the Developer. Any rights and powers reserved or granted to the Developer or its successors shall terminate, if not sooner assigned to the Association, at the conclusion of the Development and Sales Period as defined in Article III of the Master Deed. The immediately preceding sentence dealing with the termination of certain rights and powers granted or reserved to the Developer is intended to apply, insofar as the Developer is concerned, only to the Developer's rights to approve and control the administration of the Condominium and shall not, under any circumstances, be construed to apply to or cause the termination of any real property rights granted or reserved to the Developer or its successors and assigns in the Master Deed or elsewhere (including, but not limited to, access easements, utility easements and all other easements created and reserved in such documents which shall not be terminable in any manner hereunder and which shall be governed only in accordance with the terms of their creation or reservation and not hereby).

ARTICLE XXII

SEVERABILITY

In the event that any of the terms, provisions or covenants of these Bylaws or the Condominium Documents are held to be partially or wholly invalid or unenforceable for any reason

whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants of such documents or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

LIBER32439 P0730

OAKLAND COUNTY CONDOMINIUM SUBDIVISION
PLAN NUMBER 1611
EXHIBIT B TO THE MASTER DEED OF

Orchard Villas

VILLAGE OF BEVERLY HILLS, OAKLAND COUNTY, MICHIGAN

NOTE

THE CONDOMINIUM SUBDIVISION PLAN NUMBER MUST BE ASSIGNED IN CONSECUTIVE SEQUENCE. WHEN A NUMBER HAS BEEN ASSIGNED TO THIS PROJECT, IT MUST BE PROPERLY SHOWN IN THE TITLE, SHEET 1 AND THE SURVEYOR'S CERTIFICATE, SHEET 2.

DEVELOPER

JAHN CONSTRUCTION, L.L.C.,
A MICHIGAN LIMITED LIABILITY COMPANY
195 CHARRINGTON COURT
BEVERLY HILLS, MI. 48025

SURVEYOR

NOWAK AND FRAUS, P.L.L.C.
1310 N. STEPHENSON HWY.
ROYAL OAK, MICHIGAN 48067
PHONE: (248) 399-0886
FAX: (248) 399-0805

LEGAL DESCRIPTION

PART OF THE NORTHEAST 1/4 OF SECTION 4, TOWN 1 NORTH, RANGE 10 EAST, VILLAGE OF BEVERLY HILLS, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT ON THE EAST LINE OF SECTION 4, DISTANT S.03°14'15"E., 1093.48 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 4, SAID LINE ALSO BEING THE CENTERLINE OF LAHSER ROAD (66.00 FEET WIDE); THENCE CONTINUING ALONG SAID EAST LINE OF SECTION 4, S.03°14'15"E., 225.44 FEET TO A POINT ON THE NORTH LINE OF VILLAGE PINES CONDOMINIUM (CONDOMINIUM SUBDIVISION PLAN No. 402); THENCE S.88°42'36"W., 695.43 FEET ALONG SAID NORTH LINE OF VILLAGE PINES CONDOMINIUM; THENCE N.03°14'15"W., 225.39 FEET TO A POINT ON THE SOUTH LINE OF VALLEY WOODS No. 2 SUBDIVISION, AS RECORDED IN LIBER 120 OF PLATS, PAGE 25, OAKLAND COUNTY RECORDS; THENCE N.88°42'22"E., 695.42 FEET ALONG SAID SOUTH LINE OF VALLEY WOODS No. 2 SUBDIVISION TO THE POINT OF BEGINNING.

CONTAINING 156,668 SQUARE FEET OR 3.59 ACRES.

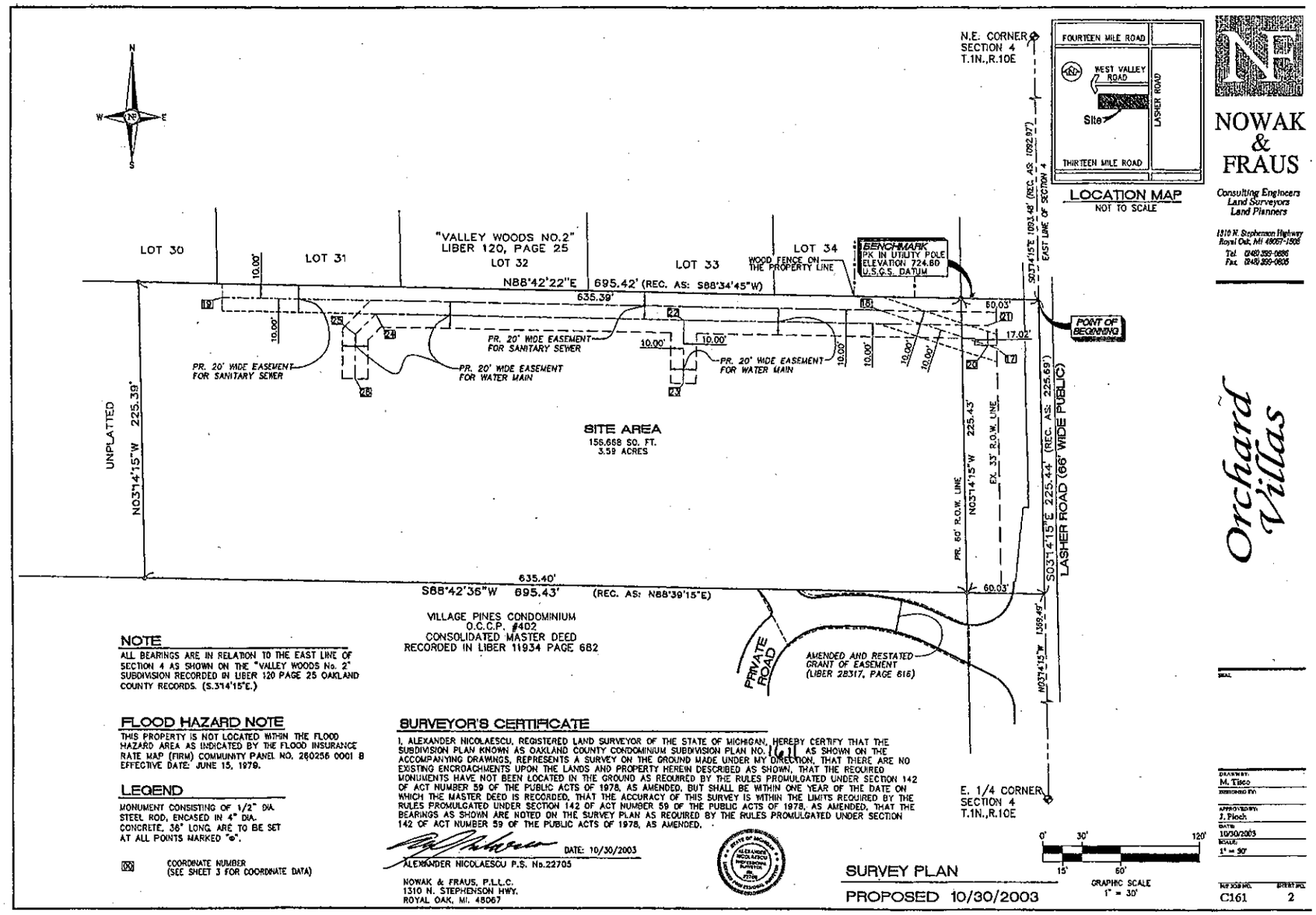
INDEX

1..... TITLE SHEET
2..... SURVEY/FLOOD PLAIN PLAN
3..... SITE PLAN
4..... UTILITY PLAN

ISSUED 10/30/2003
C161
SHEET No. 1

TITLE SHEET
PROPOSED 10/30/2003

LIBER 32439 PG 731



LOCATION MAP
NOT TO SCALE

NOTE

ALL BEARINGS ARE IN RELATION TO THE EAST LINE OF SECTION 4 AS SHOWN ON THE "VALLEY WOODS No. 2" SUBDIVISION RECORDED IN LIBER 120 PAGE 25 OAKLAND COUNTY RECORDS. (S.3°14'15"E.)

FLOOD HAZARD NOTE

THIS PROPERTY IS NOT LOCATED WITHIN THE FLOOD HAZARD AREA AS INDICATED BY THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 260256 0001 B EFFECTIVE DATE: JUNE 15, 1979.

LEGEND

MONUMENT CONSISTING OF 1/2" DIA. STEEL ROD, ENCASED IN 4" DIA. CONCRETE, 36" LONG, ARE TO BE SET AT ALL POINTS MARKED "⊙".

000 COORDINATE NUMBER (SEE SHEET 3 FOR COORDINATE DATA)

SURVEYOR'S CERTIFICATE

I, ALEXANDER NICOLAESCU, REGISTERED LAND SURVEYOR OF THE STATE OF MICHIGAN, HEREBY CERTIFY THAT THE SUBDIVISION PLAN KNOWN AS OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 161 AS SHOWN ON THE ACCOMPANYING DRAWINGS, REPRESENTS A SURVEY ON THE GROUND MADE UNDER MY DIRECTION, THAT THERE ARE NO EXISTING ENCROACHMENTS UPON THE LANDS AND PROPERTY HEREIN DESCRIBED AS SHOWN, THAT THE REQUIRED MONUMENTS HAVE NOT BEEN LOCATED IN THE GROUND AS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED, BUT SHALL BE WITHIN ONE YEAR OF THE DATE ON WHICH THE MASTER DEED IS RECORDED, THAT THE ACCURACY OF THIS SURVEY IS WITHIN THE LIMITS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED, THAT THE BEARINGS AS SHOWN ARE NOTED ON THE SURVEY PLAN AS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED.

DATE: 10/30/2003

ALEXANDER NICOLAESCU P.S. No.22705

NOWAK & FRAUS, P.L.L.C.
1310 N. STEPHENSON HWY.
ROYAL OAK, MI. 48067

SURVEY PLAN
PROPOSED 10/30/2003

NOWAK & FRAUS
Consulting Engineers
Land Surveyors
Land Planners
1310 N. Stephenson Highway
Royal Oak, MI 48067-1806
Tel. (248) 399-0886
Fax. (248) 399-0806

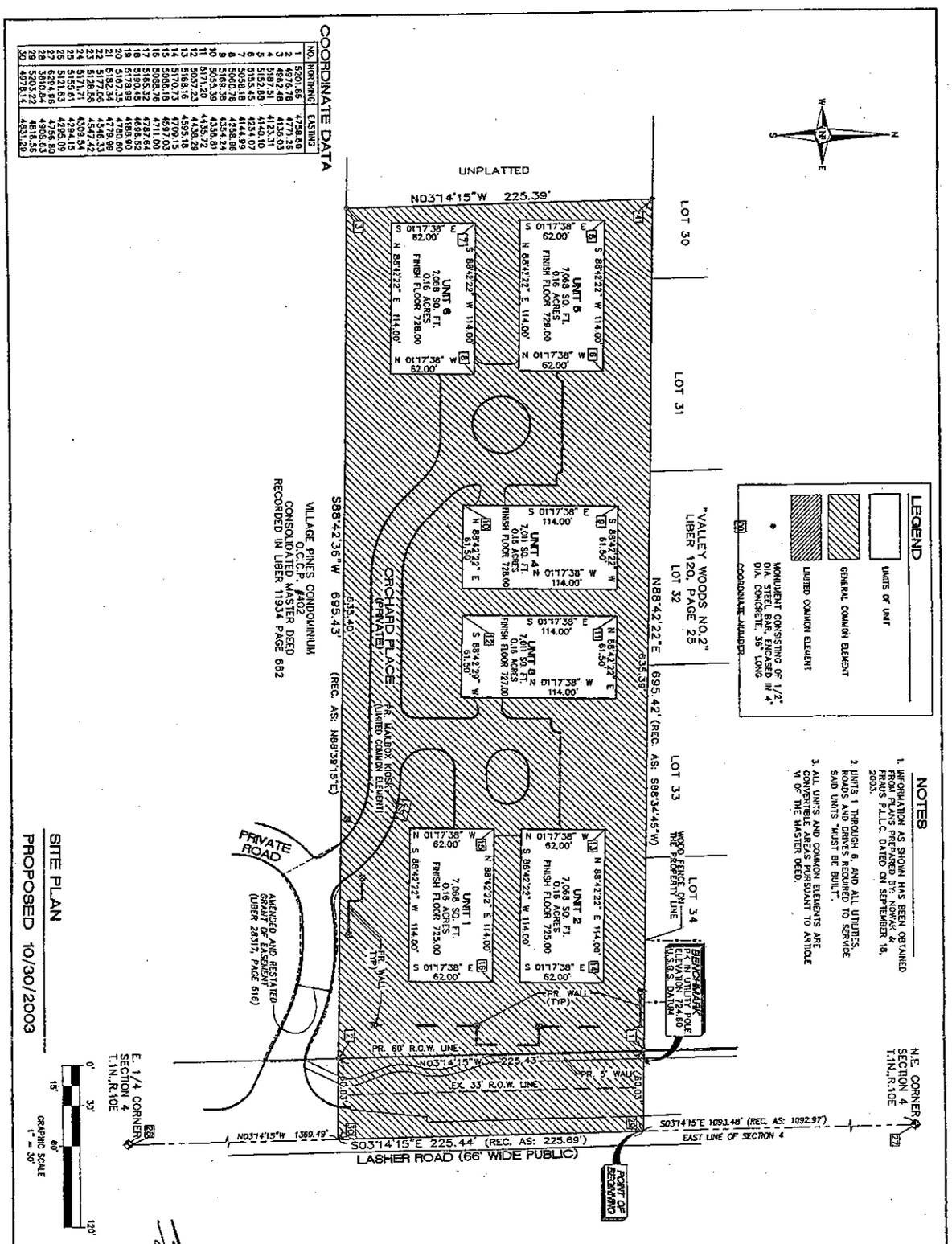
Orchard Villas

DRAWN BY: M. Tisco
DESIGNED BY:
APPROVED BY: J. Flock
DATE: 10/30/2003
SCALE: 1" = 30'
JOB NO. C161
SHEET NO. 2

Orchard Villas

SITE PLAN

PROPOSED 10/30/2003



LEGEND

- LIMITS OF UNIT
- GENERAL COMMON ELEMENT
- LIMITED COMMON ELEMENT
- MONUMENT CONSISTING OF 1/2" DIA. STEEL BAR, ENCASED IN 4" DIA. CONCRETE, 36" LONG
- (20) COORDINATE NUMBER

NOTES

1. INFORMATION AS SHOWN HAS BEEN OBTAINED FROM A SURVEY PREPARED BY NOWAK & FRAUS P.L.L.C. DATED ON SEPTEMBER 18, 2003.
2. UNITS 1 THROUGH 6, AND ALL UTILITIES, ROADS AND DRIVES REQUIRED TO SERVICE SAID UNITS MUST BE BUILT.
3. ALL UNITS AND COMMON ELEMENTS ARE CONVERTIBLE AREAS PURSUANT TO ARTICLE VI OF THE MASTER DEED.

COORDINATE DATA

NO.	NORTHING	EASTING
1	5201.85	4758.60
2	4976.78	4771.26
3	4862.48	4136.03
4	5187.58	4123.31
5	5187.58	4140.01
6	5155.45	4251.07
7	5056.18	4144.99
8	5060.76	4258.86
9	5169.28	4354.24
10	5055.39	4336.81
11	5057.23	4435.72
12	5168.16	4439.26
13	5170.73	4595.18
14	5086.18	4597.03
15	5088.76	4709.15
16	5186.32	4711.00
17	5190.91	4787.64
18	5178.89	4788.90
19	5167.35	4780.60
20	5182.34	4779.99
21	5177.06	4546.33
22	5128.56	4547.42
23	5171.71	4539.54
24	5155.61	4294.15
25	5121.63	4295.09
26	5284.66	4756.60
27	3810.84	4908.63
28	5203.22	4818.55
29	4978.14	4831.28

NOWAK & FRAUS
Consulting Engineers
Land Surveyors
Land Planners
1310 N. Stephenson Highway
Royal Oak, MI 48067-1898
TEL (248) 399-2666
FAX (248) 399-6605

DRAWN BY	M.J. Tilma
CHECKED BY	
APPROVED BY	J. Pioch
DATE	10/30/2003
SCALE	1" = 30'
JOB NO.	C161
SHEET NO.	3

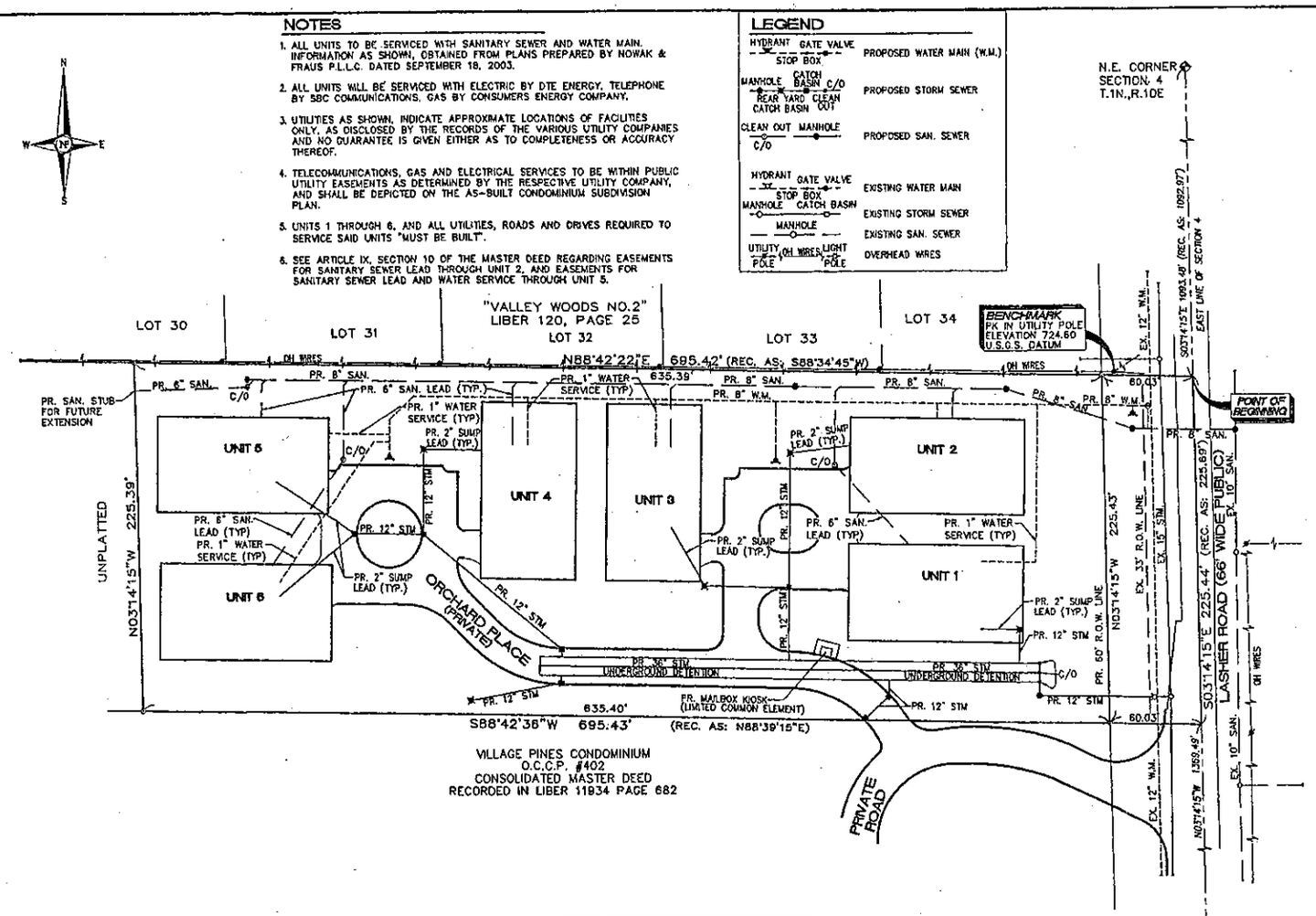
LIBER 32439 PG733

NOTES

1. ALL UNITS TO BE SERVICED WITH SANITARY SEWER AND WATER MAIN. INFORMATION AS SHOWN, OBTAINED FROM PLANS PREPARED BY NOWAK & FRAUS P.L.L.C. DATED SEPTEMBER 18, 2003.
2. ALL UNITS WILL BE SERVICED WITH ELECTRIC BY DTE ENERGY, TELEPHONE BY SBC COMMUNICATIONS, GAS BY CONSUMERS ENERGY COMPANY.
3. UTILITIES AS SHOWN, INDICATE APPROXIMATE LOCATIONS OF FACILITIES ONLY, AS DISCLOSED BY THE RECORDS OF THE VARIOUS UTILITY COMPANIES AND NO GUARANTEE IS GIVEN EITHER AS TO COMPLETENESS OR ACCURACY THEREOF.
4. TELECOMMUNICATIONS, GAS AND ELECTRICAL SERVICES TO BE WITHIN PUBLIC UTILITY EASEMENTS AS DETERMINED BY THE RESPECTIVE UTILITY COMPANY, AND SHALL BE DEPICTED ON THE AS-BUILT CONDOMINIUM SUBDIVISION PLAN.
5. UNITS 1 THROUGH 6, AND ALL UTILITIES, ROADS AND DRIVES REQUIRED TO SERVICE SAID UNITS "MUST BE BUILT".
6. SEE ARTICLE IX, SECTION 10 OF THE MASTER DEED REGARDING EASEMENTS FOR SANITARY SEWER LEAD THROUGH UNIT 2, AND EASEMENTS FOR SANITARY SEWER LEAD AND WATER SERVICE THROUGH UNIT 5.

LEGEND

- HYDRANT, GATE VALVE, STOP BOX — PROPOSED WATER MAIN (W.M.)
- MANHOLE, CATCH BASIN, C/O, REAR YARD CATCH BASIN, CLEAN OUT — PROPOSED STORM SEWER
- CLEAN OUT MANHOLE C/O — PROPOSED SAN. SEWER
- HYDRANT, GATE VALVE, STOP BOX — EXISTING WATER MAIN
- MANHOLE, CATCH BASIN — EXISTING STORM SEWER
- MANHOLE — EXISTING SAN. SEWER
- UTILITY POLE, OH WIRES, LIGHT POLE — OVERHEAD WIRES



UTILITY SOURCE INFORMATION

UTILITY	SOURCE OF LOCATION
GAS	CONSUMERS ENERGY COMPANY
ELECTRIC	DTE ENERGY
TELEPHONE	SBC COMMUNICATIONS
WATER MAIN	MUNICIPALITY RECORDS
SANITARY SEWER	AND NOWAK AND FRAUS
STORM SEWER	ENGINEERING PLANS.
T.V. CABLE	COMCAST CABLE SERVICES

0' 30' 120'
15' 60'
GRAPHIC SCALE
1" = 30'

E. 1/4 CORNER
SECTION 4
T.1N.,R.10E

UTILITY PLAN

PROPOSED 10/30/2003

NOWAK & FRAUS
Consulting Engineers
Land Surveyors
Land Planners
1310 N. Stephenson Highway
Royal Oak, MI 48067-1508
Tel. (248) 399-0886
Fax. (248) 399-0805

Orchard Villas

DRAWN BY: M. Tisco
DESIGNED BY:
APPROVED BY: J. Pioch
DATE: 10/30/2003
SCALE: 1" = 30'

SUP JOB NO. C161
SHEET NO. 4

RECEIVED
MAR 05 2004
G. W. Caddell Register Of Deeds
Oakland County, MI

123095
LIBER 32424 PAGE 29
$34.00 MISC RECORDING
$4.00 REMONUMENTATION
03/09/2004 10:59:31 A.M. RECEIPT# 29884
PAID RECORDED - OAKLAND COUNTY
G.WILLIAM CADDELL, CLERK/REGISTER OF DEEDS

EASEMENT AND MAINTENANCE AGREEMENT

THIS EASEMENT AND MAINTENANCE AGREEMENT is made as of this 18th day of August, 2003 by JAHN CONSTRUCTION, L.L.C., a Michigan limited liability company, the address of which is 195 Charrington Court, Beverly Hills, Michigan 48025, hereinafter referred to as the "Developer," ORCHARD VILLAS HOMEOWNERS ASSOCIATION, a Michigan non-profit corporation, the address of which is also 195 Charrington Court, Beverly Hills, Michigan 48025, hereinafter referred to as the "Association," and the VILLAGE OF BEVERLY HILLS, a Michigan municipal corporation, the address of which is 18500 West 13 Mile Road, Beverly Hills, Michigan 48025, hereinafter referred to as the "Village."

W I T N E S S E T H:

WHEREAS, Developer is the owner of a certain parcel of real estate situated in the Village of Beverly Hills, Oakland County, Michigan, containing 3.597 acres of land more or less, fronting on Lahser Road, which is more fully described as follows:

> Part of the Northeast 1/4 of Section 4, T.1N., R.10E., Village of Beverly Hills, Oakland County, Michigan, being described as: Beginning at a point on the East line of said Section 4, distant S. 03°14'15" E., 1093.48 feet from the Northeast corner of said Section 4, said line also being the centerline of Lahser Road (66.00 feet wide); thence continuing along said East line of Section 4, S. 03°14'15" E., 225.44 feet to a point on the North line of Village Pines Condominium (Condominium Subdivision Plan No. 402); thence S. 88°42'36" W., 695.43 feet along said North line of Village Pines Condominium; thence N. 03°14'15" W., 225.39 feet to a point on the South line of "Valley Woods No. 2" subdivision, as recorded in Liber 120 of Plats, Page 25, Oakland County Records; thence N. 88°42'22" E., 695.42 feet along said South line of "Valley Woods No. 2" Subdivision to the point of beginning. Containing 156,668 square feet or 3.59 acres. (Tax Parcel I. D. # 24-04-276-081).

hereinafter sometimes referred to as the "Parcel;" and

O.K. - KB

WHEREAS, the Developer proposes to use and develop the Parcel as a residential site condominium project to be known as "Orchard Villas," as set forth in the Final Engineering Site Plan ("Site Plan") prepared and certified by Nowak & Fraus, PLLC, originally dated March 17, 2003, as subsequently revised, and as approved by the Village Council on August 18, 2003, consisting of six (6) residential condominium building site condominium units ("Building Sites") and certain Common Elements ("Common Elements") appurtenant thereto, hereinafter sometimes referred to as the "Condominium Project" or the "Condominium Premises;" and

WHEREAS, the Association will be the administrator of the Common Elements in the Condominium Project, and will be responsible for the administration, maintenance, repair, replacement and operation of the Common Elements of the Condominium Project; and

WHEREAS, the Association has joined in this Easement and Maintenance Agreement to acknowledge that its administration and maintenance of the Common Elements, including a road ("Road") and open areas ("Open Areas") as more particularly described below, will be subject to the terms, covenants and provisions of this Easement and Maintenance Easement; and

WHEREAS, the Village seeks assurances from the Developer that the Road and Open Areas and other Common Elements in the Condominium Project will be created by the Developer in strict compliance with: (i) all Village ordinances and regulations, (ii) the Site Plan, (iii) the Master Deed, Condominium Bylaws and Condominium Subdivision Plan of Orchard Villas, and (iv) this Easement and Maintenance Agreement; and

WHEREAS, the Village also seeks assurance from the Developer that the Road, Open Areas and other Common Elements will not be developed as Building Sites but will be maintained as such in perpetuity by the Association after completion of construction and development of the Condominium Project and the residences to be located within the Building Sites, and

WHEREAS, the Village is willing to execute this Easement and Maintenance Agreement only with the express understanding that the creation, maintenance, improvement, repair and replacement and the costs thereof of the Road, Open Areas and other Common Elements of the Condominium Project will be the sole responsibility of the Developer and the Association.

NOW, THEREFORE, in consideration of the mutual covenants of the parties described herein, and with the express understanding that this Easement and Maintenance Agreement contains important and essential terms and provisions associated with the Master Deed and Bylaws for the Condominium Project, the parties hereby agree as follows:

1. **Development Matters**.

   (a) The Village and the Developer acknowledge and represent that the foregoing recitals are true, accurate and binding on the respective parties.

   (b) The Village acknowledges and represents that the Parcel has been approved for development of the Condominium Project in accordance with the approved Site Plan.

   (c) The Developer shall create the Common Elements, including the Road and Open Areas as described below, in the Condominium Project and shall otherwise complete construction of all other improvements for the Condominium Project in strict compliance with the terms of this Easement

and Maintenance Agreement and the ordinances and regulations of the Village.

(d) The Developer has established the Association as a Michigan non-profit corporation, which shall be a party to and be bound by this Easement and Maintenance Agreement, and shall have the duties and responsibilities set forth herein.

(e) The Developer shall record this Easement and Maintenance Agreement, the Master Deed, Condominium Bylaws and the Condominium Subdivision Plan, in the Oakland County records; and shall commit the Association to perpetual maintenance, repair, and replacement of the Road, the Open Areas and other Common Elements of the Condominium Project. The Condominium Bylaws recorded in the Oakland County records shall include the duty of the Association to levy appropriate, sufficient and reasonable assessments, both annual and special, to defray all cost and expense associated with the maintenance, repair and replacement of the Road, the Open Areas and other Common Elements.

(f) Capitalized terms not specifically defined herein shall have the same meanings as set forth in the Condominium Documents for the Condominium Project.

2. **Description of Easement Areas**. The approved Site Plan for the Parcel is attached hereto as Exhibit "A", which graphically shows the areas delineated as the Road, the Open Areas and the Building Sites. The Road shall consist of all paved asphalt areas designed for vehicular access to the Building Sites within the Condominium Premises and the Open Areas shall consist of all areas within the Condominium Premises other than the Road and the Building Sites.

3. **Grant of Easements**. Developer hereby gives, grants and conveys to the Village a permanent, nonexclusive and irrevocable right, easement and privilege over the Road, the Open Areas and other Common Elements, for the purposes and on the terms and conditions contained herein.

4. **No Further Divisions**. The Road, the Open Areas and/or other Common Elements shall not be further divided or subdivided, or otherwise prepared for development purposes so as to increase the number of building sites approved by the Village for the Condominium Project.

5. **Conservation Easement**. The Developer and the Association shall use their best efforts at all times to preserve in healthy condition all trees numbered as 5, 8, 9, 13, 20, 21, 22, 26, 27, 28 and 29 on the Boundary & Topographic Survey prepared and certified by Nowak & Fraus, PLLC, originally dated October 5, 2001, as subsequently revised and filed with the Village, and attached hereto as Exhibit B. In the event that the Developer determines that the preservation of any of such trees interferes with the development of the Parcel in accordance with the approved Site Plan, it shall give notice thereof to the Village together with reasonable evidence of such

interference. The Village shall review the matter within 15 days after receipt of such notice and shall either approve the removal of such tree (which approval shall not be unreasonably withheld) or shall, with reasons stated in writing to the Developer, disapprove such removal. Failure of the Village to disapprove within 15 days after receipt of notice shall be deemed automatic approval. The parties acknowledge that such trees have been tagged in accordance with the foregoing numbering schedule in order to facilitate their preservation. The agreements expressed in this Section 5 shall constitute a conservation easement in favor of the Village, subject to the limitations of Section 6 hereof.

6. **Not a Dedication**. This Easement does not grant or convey to the Village or members of the general public any right of ownership, possession, or use of any portion of the Condominium Project.

7. **Right of Entry**. The Village, and its authorized employees and agents, may enter upon and inspect the Road, the Open Areas and other Common Elements to determine whether they are being maintained in compliance with the terms of this Easement and Maintenance Agreement.

8. **Enforcement**. This Easement may be enforced by either an action at law or in equity and shall be enforceable against the Association or any owner or owners of the Condominium Premises or any other person despite a lack of privity of estate or contract.

9. **Binding Covenants**. This Easement and Maintenance Agreement shall run with the land in perpetuity unless modified or terminated by written agreement of the parties. This Easement and Maintenance Agreement shall be binding upon the successors and assigns of the parties.

10. **Recording**. This Easement and Maintenance Agreement shall be recorded with the Oakland County Register of Deeds to give notice to all successive owners, mortgagees and other persons obtaining an interest in the easement areas and in the Condominium Project.

11. **Right of Village to Maintain, Repair and Replace**. If the Developer and Association fail to establish, maintain, or preserve the Road, the Open Areas and other Common Elements as provided for and as required in this Easement and Maintenance Agreement and in the Master Deed, Bylaws and in the Village regulations and ordinances, then the Village shall have the right, but not the duty, after thirty (30) days written notice to the Developer or the Association, to perform any necessary maintenance, repair or replacement with respect to the Road, the Open Areas and other Common Elements. All costs associated with such maintenance, repair or replacement shall be billed to the Association, and shall be paid within ten (10) days of such invoice. Prior to the Association's Transitional Control Date, all such costs incurred by the Village in the improvement, maintenance, repair or replacement of the Road, the Open Areas or other Common Elements shall be billed to the Developer. If such billings are not paid in full to the Village within thirty (30) days of billing, the Village may assess the costs against the owners of the Condominium Project in equal amounts in the same manner as property taxes are assessed and collected.

12. **Indemnification of Village**. The Developer initially, but after the Transitional Control Date, only the Association, shall defend, indemnify and hold the Village harmless from any

and all claims, demands, actions, damages, injuries, costs or expenses arising from or in any way related to the design, construction, use, maintenance, repair or operation (or omissions in these regards) of the Road, the Open Areas and other Common Elements which are the subjects of this Easement and Maintenance Agreement. The indemnification and hold harmless shall include all costs, expenses and fees incurred by the Village in connection with such claims or the enforcement of this Easement and Maintenance Agreement.

13. **Liability Insurance**. The Association shall maintain liability insurance in sufficient amount for the purpose of defending itself and the Condominium Project owners, and the Developer from the burden of any liability resulting from accidents which may cause death or injury to anyone or damage to any Condominium Premises while on the Common Elements of the Condominium Project. The Village may specify the reasonable and acceptable amount of coverage for such insurance. Proof of insurance shall be provided to the Village upon demand.

14. **Agreement Runs With the Land**. The Agreement of the Village to approve the Condominium Project shall benefit the land and all of the covenants and obligations of the Developer and the Association shall be deemed to run with the land and be binding on all current and future owners thereof and this Easement and Maintenance Agreement shall be recorded at Developer's expense in the Office of the Oakland County Register of Deeds.

[Signatures and acknowledgments of the parties appear on the following two pages]

This instrument drafted by and, after recording, return to:

William T. Myers
MYERS NELSON DILLON & SHIERK, PLLC
40701 Woodward Avenue, Suite 235
Bloomfield Hills, Michigan 48034

This Instrument is not subject to real estate transfer taxes, consideration being less than $100.

IN WITNESS WHEREOF, this Easement and Maintenance Agreement has been executed on behalf of the Developer and the Association as of the date first above written.

DEVELOPER:

JAHN CONSTRUCTION, L.L.C.,
A Michigan limited liability company

By:_____
James C. Merritt, Manager

ASSOCIATION:

ORCHARD VILLAS HOMEOWNERS ASSOCIATION,
A Michigan non-profit corporation

By:_____
James C. Merritt, President

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 19 day of August, 2003, by James C. Merritt, Manager of Jahn Construction, L.L.C., a Michigan limited liability company, on behalf of the company.

BARBARA A. FIX
NOTARY PUBLIC, Oakland County, MI
My Commission Expires: 11-23-07

Barbara A Fix
~~William T. Myers~~
Notary Public, Oakland County, Michigan
My commission expires ~~August 29, 2004~~ 11-23-07

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 19 day of August, 2003, by James C. Merritt, the President of Orchard Villas Homeowners Association, a Michigan non-profit corporation, on behalf of the corporation.

BARBARA A. FIX
NOTARY PUBLIC, Oakland County, MI
My Commission Expires: 11-23-07

Barbara A Fix
~~William T. Myers~~
Notary Public, Oakland County, Michigan
My commission expires ~~August 29, 2004~~ 11-23-07

IN WITNESS WHEREOF, this Easement and Maintenance Agreement has been executed on behalf of the Village as of the date first above written.

VILLAGE:

VILLAGE OF BEVERLY HILLS,
A Michigan municipal corporation

By: _____
Doyle Downey
Its: Village Council President

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 18th day of August, 2003 by Doyle Downey, the Council President of the Village of Beverly Hills, a Michigan municipal corporation, on behalf of the Village.

Ellen E. Marshall
ELLEN E. MARSHALL
Notary Public, Oakland County, Michigan
My commission expires: 7-13-06

After recording, return to:

William T. Myers
MYERS NELSON DILLON & SHIERK, PLLC
40701 Woodward Avenue, Suite 235
Bloomfield Hills, Michigan 48034

Exhibit A to Easement and Maintenance Agreement Dated August 18, 2003

LIBER 32424 PG036

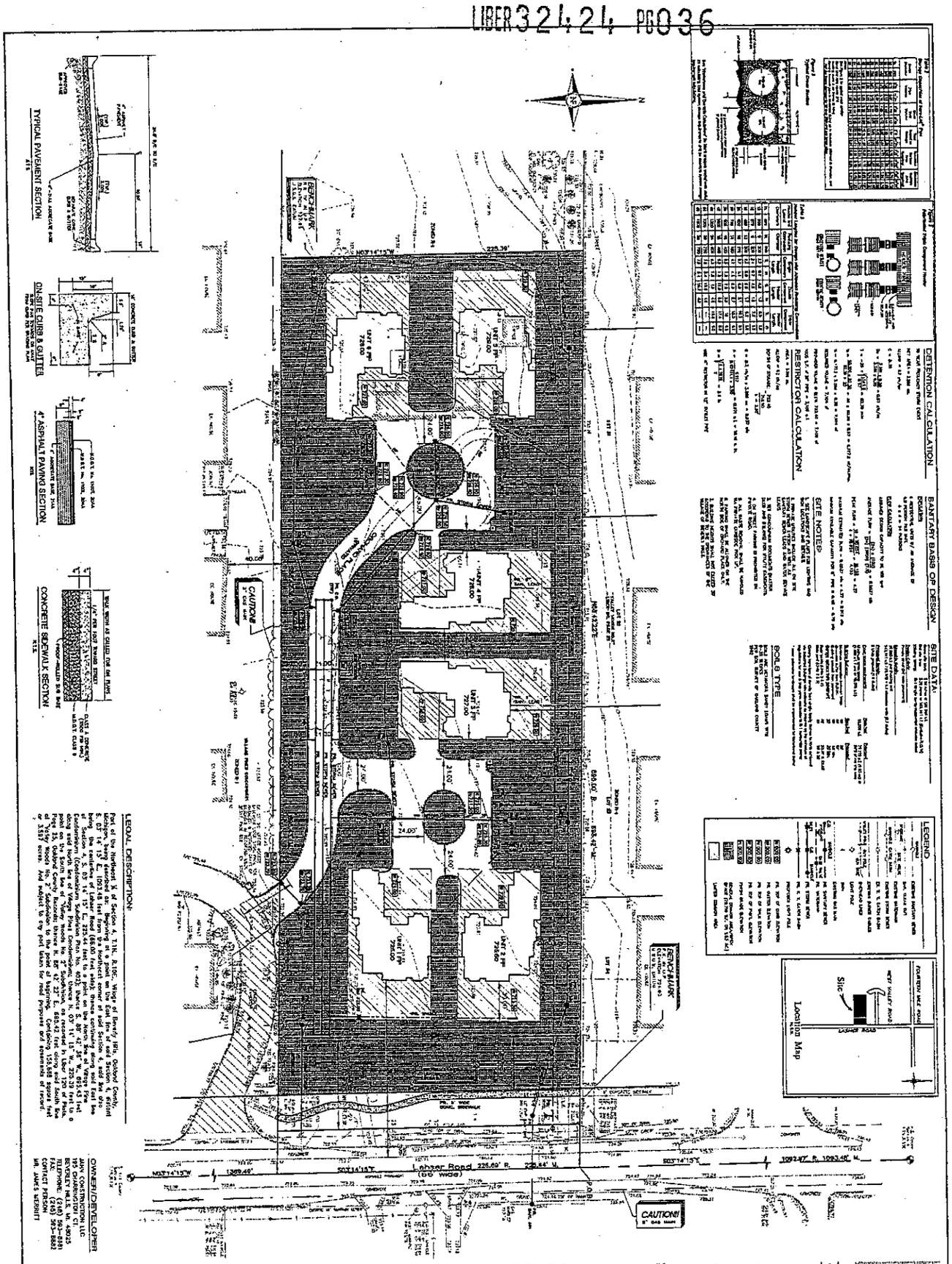
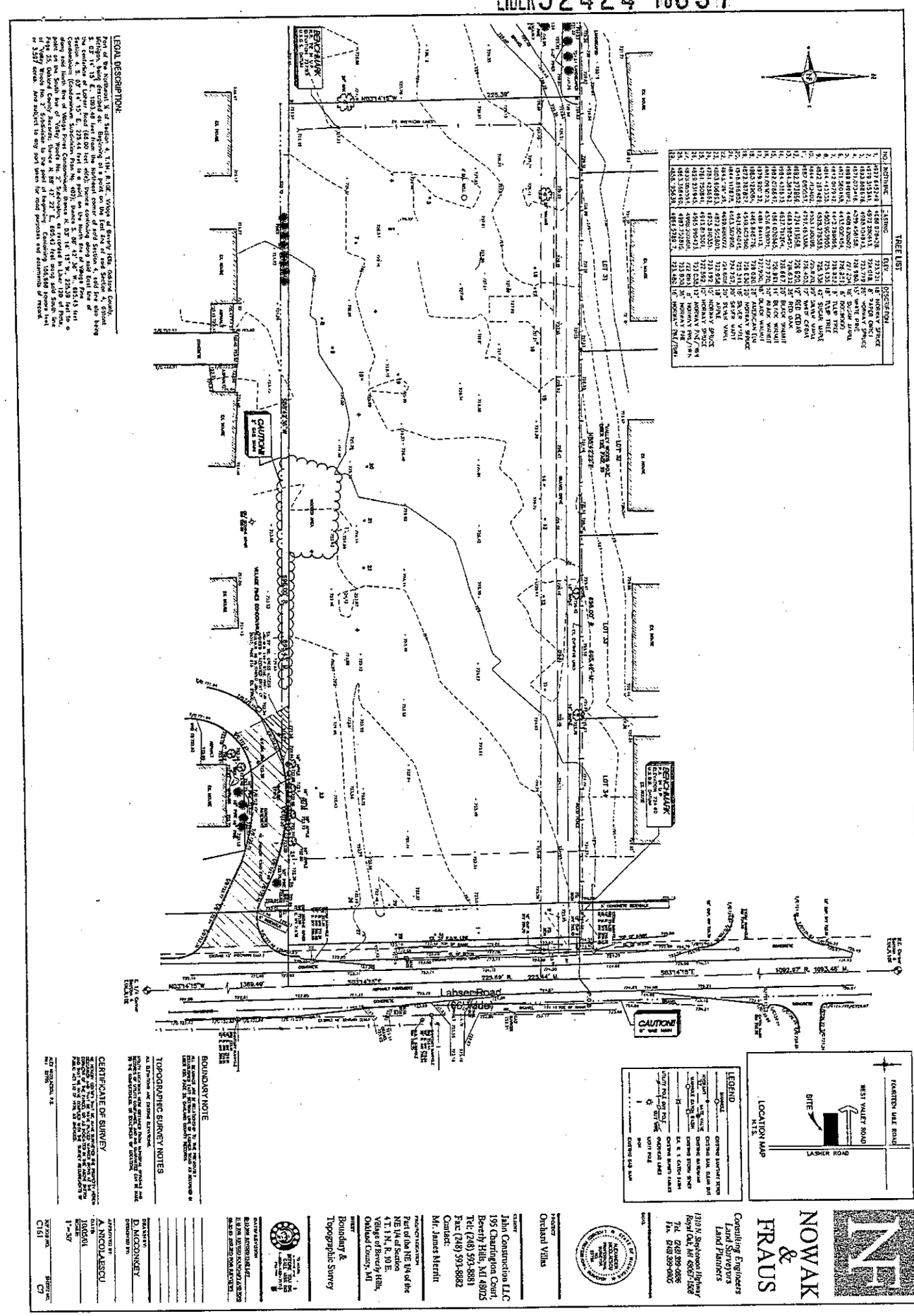


Exhibit B to Easement and Maintenance Agreement Dated August 18, 2003

LIBER 32424 PG037



RECEIVED
MAR 06 2003
G.W. Caddell Register of Deeds
Oakland County, MI

116954
LIBER 28317 PAGE 616
$5.00 MISC RECORDING
$2.00 REMONUMENTATION
03/12/2003 09:54:21 A.M. RECEIPT# 3
PAID RECORDED - OAKLAND COUNTY
G.WILLIAM CADDELL, CLK/REGISTER OF

AMENDED AND RESTATED GRANT OF EASEMENT

This Amended and Restated Grant of Easement (***Amended Easement***) is made as of November 19, 2002, by and between VILLAGE PINES CONDOMINIUM ASSOCIATION, a Michigan non-profit corporation (the ***Association***), whose address is c/o McShane & Associates, 6230 Orchard Lake Road, #200, West Bloomfield, Michigan 48322, and JAHN CONSTRUCTION, L.L.C., a Michigan limited liability company (the ***Developer***), whose address is 195 Charrington Court, Beverly Hills, Michigan 48025.

RECITALS

A. The Association is responsible for the management, maintenance, operation and administration of Village Pines Condominium, Oakland County Condominium Subdivision Plan No. 402, established pursuant to the Master Deed thereof recorded in Liber 8935, Pages 362 through 416, Oakland County Records (the ***Condominium Project***), as amended.

B. Pursuant to a Grant of Easement recorded in Liber 9156, Page 734 through 738, Oakland County Records (the ***Grant of Easement***), Robertson Jamieson Corporation (the ***Grantor***), developer of the Condominium Project, declared, granted and conveyed to Janet Evans (the ***Grantee***), the then owner of the "benefitted property" described in Exhibit A to the Grant of Easement, an easement over the private paved roads in the Condominium Project (the ***Private Road Easement***) and an easement over a parcel of land more particularly described in Exhibit B to the Grant of Easement (the ***Additional Access Easement***.)

C. The Association is successor in interest to the Grantor and the Developer is successor in interest to the Grantee, and as such they are each entitled to the benefits and subject to the burdens created by the Grant of Easement.

D. The Association, acting on its own behalf and on behalf of all present and past co-owners in the Condominium Project pursuant to § 60 of P.A. 1978, No. 59, as amended, and their

---

This instrument is exempt from the tax imposed by the state real estate transfer tax act (P.A. 1993, No. 330) pursuant to section 6(a) of such act.

This instrument is exempt from the tax imposed by the real estate transfer tax act (P.A. 1966, No. 134) pursuant to section 5(a) of such act.

O.K. - KB

respective successors and assigns, and the Developer, wish to amend and restate the Grant of Easement in the manner set forth below.

NOW THEREFORE, the parties agree that:

1. Benefitted Property. ***Exhibit A*** to this Amended Easement shall replace and supersede Exhibit A to the Grant of Easement, and all references in this Amended Easement to the "benefitted property" shall mean and refer to the parcel described in ***Exhibit A*** to this Amended Easement.

2. Amended and Restated Private Road Easement. Notwithstanding any provision of the Grant of Easement to the contrary, the Private Road Easement hereafter shall extend only over the private road segment in the Condominium Project as such road segment is shown in ***Exhibit B*** to this Amended Easement. Except as otherwise provided in this Amended Easement with respect to the Additional Access Easement, the Developer's rights and obligations, and the rights and obligations of all persons and entities now or hereafter having an interest in the benefitted property, or any portion thereof, as such, henceforth shall be limited in all respects to the road segment shown in ***Exhibit B*** to this Amended Easement. The Private Road Easement, as described in this paragraph, shall be a perpetual non-exclusive easement appurtenant to the benefitted property and every part thereof, for the benefit of the Developer and its successors and assigns and all other persons and entities now and hereafter owning or holding any interest in the benefitted property or any part thereof, and their respective guests, invitees and permittees. The Association shall maintain and repair that segment of the private road in the Condominium Project that comprises the Private Road Easement in substantially the same condition and to substantially the same standards as the other roads in the Condominium Project are maintained and repaired. All of the Developer's rights and, subject to paragraph 13 below, all of the Developer's obligations with respect to the Private Road Easement shall run with the land and shall be binding upon the Developer's successors and assigns and any person who obtains an interest in all or any portion of the benefitted property.

3. Amended and Restated Additional Access Easement. Notwithstanding any provision of the Grant of Easement to the contrary, the Additional Access Easement hereafter shall extend over the land described in ***Exhibit C*** to this Amended Easement, as shown in ***Exhibit C*** to this Amended Easement. Except as otherwise provided in this Amended Easement with respect to the Private Road Easement, the Developer's rights and obligations, and the rights and obligations of all persons and entities now or hereafter having an interest in the benefitted property, or any portion thereof, as such, henceforth shall be limited in all respects to the land described in ***Exhibit C*** to this Amended Easement and shown in ***Exhibit C*** to this Amended Easement. The Additional Access Easement, as described in this paragraph, shall be a perpetual exclusive easement appurtenant to the benefitted property and every part thereof, for the benefit of the Developer and its successors and assigns and all other persons and entities now and hereafter owning or holding any interest in the benefitted property or any part thereof, and their respective guests, invitees and permittees. All of the Developer's rights and, subject to paragraph 13 below, all of the Developer's obligations with respect to the Additional Access Easement shall run with the land and shall be binding upon the

Developer's successors and assigns and any person who obtains an interest in all or any portion of the benefitted property.

4. Paving and Maintenance of Additional Access Easement.

(a) The Developer shall, at no expense to the Association or any of its members, and before the first temporary or permanent certificate of occupancy is issued for any residential unit to be constructed on the benefitted property or any part thereof, pave the Additional Access Easement and install such related road and driveway improvements, including, without limitation, utilities, lighting and drainage, as may be required by any governmental authority having jurisdiction in connection with use of the Additional Access Easement for ingress to and egress from the benefitted property. The Developer shall have the right to install such other road and driveway improvements as may be permitted by any governmental authority having jurisdiction and approved by the Association, such approval not to be unreasonably withheld. If the Developer decides to abandon the development, the Developer shall be obligated to remove any such paving and related road and driveway improvements and restore the land comprising the Additional Access Easement to the condition that existed when the Developer began the installation.

(b) The Association authorizes the Developer and its contractors, subcontractors, materialmen and suppliers to enter upon the Condominium Project for the purposes and at such times as may be reasonably necessary to accomplish the work described in paragraph 4(a) above; provided, however, that, as between the Developer and the Association, the Developer shall be obligated to repair any damage to the roads, grounds and other improvements in the Condominium Project caused by the Developer or its contractors, subcontractors, materialmen and suppliers in connection with all such activities. Not less than 14 days before commencing any of the work described in paragraph 4(a) above, the Developer shall furnish to the Association a certificate of insurance confirming (i) that, in connection with such work, the Developer has in force a general liability insurance policy in the amount of not less than $1,000,000 covering claims for loss or damage to persons and property on the Condominium Project during the policy period, (ii) the duration of the policy period, and (iii) that the Association will be given least 30 days' written notice if the policy is terminated or the insurance limits are reduced before the stated expiration of the policy period; provided, however, that Developer shall maintain such insurance in force until completion of the work with respect to which such insurance was required, and if the Developer fails to do so, the Developer shall be in breach of this Amended Easement. The evidence of existence of the insurance coverage referred to in the preceding sentence may be given at the time and in the manner notice is given pursuant to paragraph 4(d) below. Such insurance coverage shall be required to be maintained in force only in connection with the initial installation of improvements in the Additional Access Easement, and need not be maintained in force in connection with the use, maintenance or repair of such improvements.

(c) The Developer and its successors and assigns who own fee simple title to the benefitted property or any part thereof (collectively, the ***Beneficial Owners***) shall maintain, repair and replace the pavement and the other road and driveway improvements installed by the Developer on the Additional Access Easement as reasonably required to keep such improvements in good repair at all times, and the Beneficial Owners and their contractors, subcontractors, materialmen and suppliers shall have the right to enter upon the Private Road Easement and the Additional Access Easement at such times as may be convenient for such purposes. The Developer shall defend, indemnify and hold the Association and its members harmless from all liability for all costs of paving the Additional Access Easement and installing the other road and driveway improvements described above, and the Beneficial Owners shall pay all costs of maintaining, repairing and replacing such improvements.

(d) Not less than 14 days before commencing any of the work described in paragraph 4(a) above, the Developer shall notify the Association in writing of the Developer's intention to commence making improvements to the Additional Access Easement, including a general description of the improvements to be made and the expected schedule for completing such work. Such notice shall be deemed sufficient for all purposes when mailed by U. S. mail, postage pre-paid, addressed to the Association at its address set forth on the first page of this Amended Easement, or to such other address as hereafter may be specified by written notice from the Association to the Developer.

5. Landscape Plan and Related Matters. Before the first temporary or permanent certificate of occupancy is issued for any residential unit to be constructed on the benefitted property or any part thereof, the Developer shall have installed on the benefitted property the proposed plantings and other proposed landscaping improvements called for by ***Exhibit D*** to this Amended Easement (the ***Landscape Plan***.) The Beneficial Owners shall be obligated to maintain, repair and replace the proposed plantings and other proposed landscaping improvements located on the benefitted property and called for by the Landscape Plan. The Developer shall be responsible, at its sole expense, for relocating the light pole and relocating or otherwise modifying the gas main located within the Additional Access Easement as depicted on the Landscape Plan, all in a manner required by the utility companies having jurisdiction thereof.

6. Additional Terms and Conditions. The Private Road Easement and the Additional Access Easement described in paragraphs 2 and 3 above are granted on the following terms and conditions:

(a) The Private Road Easement and the Additional Access Easement may be used for normal pedestrian and residential-related vehicular traffic for no more than six residential units.

(b) All residential units constructed on the benefitted property or any portion thereof shall be equal in size or larger than the smallest residential unit in the Condominium Project. No residential unit shall be constructed on the benefitted property unless the

Association has approved (i) the exterior elevation sketches therefor, which shall depict only Traditional American-style and Traditional European-style dwellings with minimum 8/12 forward roof pitches and minimum masonry coverage of 75% on front elevations and 40% on side and rear elevations, and (ii) the type and quality of all materials to be used in the construction of any components of such residential unit that will be visible from the exterior. By separate document dated as of the date of this Amended Easement, the Association has granted its irrevocable written approval of the Exterior Elevations (defined in paragraph 7 below) for the residential units that the Developer proposes to construct on the benefitted property.

(c) Except as provided in paragraph 4 above, no construction vehicles shall be permitted to use the Private Road Easement or the Additional Access Easement in connection with the initial construction of any residential units or land development improvements on the benefitted property or any part thereof. No provision of this Amended Easement, however, shall prohibit use of the Private Road Easement or the Additional Access Easement for construction and commercial vehicles incidental to the maintenance, repair, replacement, alteration or modification of any residential units or other improvements on the benefitted property.

(d) The Beneficial Owners shall be obligated to pay a proportionate share of the expenses of maintaining, repairing and replacing that segment of the private paved road in the Condominium Project that comprises the Private Road Easement. The proportionate share of such expenses to be borne by the Beneficial Owners pursuant to this paragraph 6(d) shall be determined by multiplying the total of the expenses described in the preceding sentence (which may include a reasonable reserve for future expenses relating to such private road segment) by a fraction, the numerator of which shall be the number of completed residential units on the benefitted property and the denominator of which shall be the sum of the numerator plus 27; provided, however, that the reserve for future expenses relating to such private road segment to which the Beneficial Owners shall contribute may equal but shall in no event exceed the product obtained by multiplying the total reserve for replacement of all roads in the Condominium Project established by the Association from time to time by a fraction, the numerator of which shall be the lineal footage of paved road surface in the Private Road Easement and the denominator of which shall be the lineal footage of paved road surface in the entire Condominium Project. A ***completed residential unit*** shall be one with respect to which the local public authority has issued a certificate of occupancy. The Beneficial Owners' obligation to bear their proportionate share of the expenses described in this paragraph 6(d) shall begin as of the date on which the first certificate of occupancy is issued for any residential unit to be constructed on the benefitted property or any part thereof.

(e) The Beneficial Owners shall pay the expenses to be borne by them pursuant to paragraph 6(d) above within 30 days after receipt of a written invoice therefor from the Association, including such supporting detail and related documentation as may be reasonably requested by the Beneficial Owners to verify the total expenses and the manner

in which their proportionate share thereof was determined. If the amount due the Association from the Beneficial Owners has not been paid within 30 days after the Association has provided such invoice and supporting documentation to them, all sums owed by the Beneficial Owners to the Association that are not paid within 30 days after the due date shall bear interest from the due date until paid at the rate of ten percent (10%) per year at simple interest (or at the highest rate permitted by law, if such rate is less than ten percent (10%) per year at simple interest) until paid. The Association shall invoice the Beneficial Owners annually for the expenses to be paid or reimbursed by them pursuant to this Amended Easement, unless otherwise agreed in writing by the Association and the Beneficial Owners or their representative. If a condominium association or a similar association of homeowners is created with respect to any of the improvements to be constructed on the benefitted property, the Association shall be entitled to treat such homeowners association as the representative of the Beneficial Owners for all purposes described in this Amended Easement.

7. Approval of Exterior Elevation Sketches. Whenever this Amended Easement confers upon the Association the right to approve the exterior elevation sketches for a proposed residential unit, the party seeking such approval, or such party's representative, shall submit exterior elevation sketches, together with a description of the type and quality of all materials to be used in the construction of any components of such residential unit that will be visible from the exterior (together, the ***Exterior Elevations***) for the improvement(s) in question to the Board of Directors of the Association. Such Exterior Elevations need not be final construction plans or specifications, but they shall include such information and detail as may be reasonably necessary to describe the approximate size, nature and appearance of the improvement(s) in question in order to enable the Association to exercise its permitted review function in light of the criteria expressed in paragraph 6(b) above. The Association shall be deemed to have approved all proposed improvements shown in such Exterior Elevations unless, before the expiration of thirty (30) days after such Exterior Elevations have been submitted to the Association's Board of Directors, the Association notifies the party seeking approval (or such party's representative) in writing of any objections that the Association has to the improvement(s) in question (such objections to be include such detail as may be reasonably required to enable the party seeking approval to propose changes that would be satisfactory to the Association.) The Association shall be deemed to have approved the proposed improvement(s) as altered in response to Association's written objections unless, before the expiration of thirty (30) days after revised Exterior Elevations have been submitted to the Association's Board of Directors, the Association notifies the party seeking approval (or such party's representative) in writing of any objections that the Association has to the improvements as shown in such revised Exterior Elevations, including such detail as may be reasonably required to enable the party seeking approval to propose further changes that would be satisfactory to the Association.

8. Other Amendments to Grant of Easement. Paragraphs 2, 3, 4 and 5 of the Grant of Easement are hereby deleted in their entirety, and hereafter shall be null and void and of no further force whatever. Except as expressly amended by this Amended Easement, the Grant of Easement is ratified, affirmed and shall remain in full force and effect.

9. Other Remedies. The parties acknowledge that there is no adequate remedy at law for breach of the architectural approval and maintenance, repair and replacement provisions of this Amended Easement, and that such provisions therefore shall be specifically enforceable without the necessity of further evidence establishing the inadequacy of legal remedies. The prevailing party in any lawsuit or other proceeding brought to enforce any provision of this Amended Easement shall be entitled to recover, in addition to any damages and other remedies granted by the court, its reasonable costs incurred in bringing such lawsuit, including but not necessarily limited to reasonable attorneys' fees, witness fees, costs of deposition and trial transcripts and appellate costs.

10. Incorporation of Recitals. The Recitals set forth above are intended to form a part of this Amendment and are incorporated herein by reference.

11. Counterparts. This Amendment may be executed in any number of counterparts, and the executed counterparts together shall constitute one and the same agreement.

12. Construction. This Amended Easement was jointly prepared by the Association and the Developer, each assisted by legal counsel of their choosing. Therefore, in interpreting the provisions of this Amended Easement, no principle of construction shall be applied that construes any ambiguity in this Amended Easement against one party or the other on the basis that such party was the drafter of this Amended Easement.

13. Limitation of Liability. Notwithstanding any provision of this Amended Easement to the contrary, no person or entity, other than the Developer, now or hereafter owning the benefitted property or any portion thereof, shall have any liability for the payment of money pursuant to any provision of this Amended Easement, other than for payment of the costs of maintenance, repair and replacement of: (a) the road and driveway improvements in the Additional Access Easement, in accordance with paragraph 4(c) above; and (b) the private paved road segment in the Condominium Project that comprises the Private Road Easement, in accordance with paragraph 6(d) above. Unless and until a condominium association or a similar association of homeowners (a ***Homeowners Association***) is created to administer the benefitted property or any improvements located on the benefitted property, all persons and entities now or hereafter holding fee simple title to the benefitted property, or any portion thereof, shall be obligated, jointly and severally, to make the payments referred to in the preceding sentence. Upon the incorporation or establishment of a Homeowners Association, the Homeowners Association automatically shall have and assume all liability for making the payments referred to in the first sentence of this paragraph, and no owner of the benefitted property (other than the Developer) thereafter shall have any personal liability for the payment of money pursuant to any provision of this Amended Easement.

[SIGNATURES APPEAR ON FOLLOWING PAGES S-1 AND S-2]

List of Exhibits

Exhibit A - Legal Description of the Benefitted Property (¶ 1)
Exhibit B - Drawing of Private Road Easement (¶ 2)
Exhibit C - Legal Description and Drawing of Additional Access Easement (¶ 3)
Exhibit D - Landscape Plan (¶ 5)

[SIGNATURE PAGE TO AMENDED EASEMENT]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Amended Easement as of the date set forth in the first paragraph on page 1 of this instrument.

VILLAGE PINES CONDOMINIUM ASSOCIATION

By: Robert S. Colladay

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on ~~January~~ February 12, ~~2002~~ 2003, by Robert Colladay, who is the President of Village Pines Condominium Association, a Michigan non-profit corporation, on behalf of such corporation.

Notary Public, _____ County
My commission expires: _____
JANET L MILLER
Notary Public, Oakland County, MI
My Commission Expires Jul 30, 2004

DRAFTED BY AND RETURN TO:

Robert L. Nelson of
MYERS NELSON DILLON & SHIERK, PLLC
125 Ottawa Avenue, Suite 370
Grand Rapids, Michigan 49503

[SIGNATURE PAGE TO AMENDED EASEMENT]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Amended Easement as of the date set forth in the first paragraph on page 1 of this instrument.

JAHN CONSTRUCTION, L.L.C.

By: _____
James C. Merritt, Member

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on ~~December~~ February 12, 2003, ~~2002~~, by James C. Merritt, a Member of JAHN CONSTRUCTION, L.L.C., a Michigan limited liability company, on behalf of such limited liability company.

_____
Notary Public, _____ County
My commission expires: _____

JANET L MILLER
Notary Public, Oakland County, MI
My Commission Expires Jul 30, 2004

DRAFTED BY AND RETURN TO:

Robert L. Nelson of
MYERS NELSON DILLON & SHIERK, PLLC
125 Ottawa Avenue, Suite 370
Grand Rapids, Michigan 49503

EXHIBIT A TO AMENDED AND RESTATED GRANT OF EASEMENT
(The Benefitted Property)

Part of the Northeast 1/4 of Section 4, T.1N., R.10E., Village of Beverly Hills, Oakland County, Michigan, being described as: Beginning at a point on the East line of said Section 4, distant S. 03°14'15" E., 1093.48 feet from the Northeast corner of said Section 4, said line also being the centerline of Lahser Road (66.00 feet wide); thence continuing along said East line of Section 4, S. 03°14'15" E., 225.44 feet to a point on the North line of Village Pines Condominium (Condominium Subdivision Plan No. 402); thence S. 88° 42' 36" W., 659.43 feet along said North line of Village Pines Condominium; thence N. 03' 14° 15" W., 225.39 feet to a point on the South line of Valley Woods No. 2 Subdivision, as recorded in Liber 120 of Plats, Page 25, Oakland County Records; thence N. 88° 42' 22" E., 695.42 feet along said South line of Valley Woods No. 2 Subdivision to the point of beginning. Containing 156,668 square feet or 3.597 acres.

*695.43

24-04-276-081

v12.17.02

EXHIBIT B TO AMENDED AND RESTATED GRANT OF EASEMENT

(Private Road Easement)

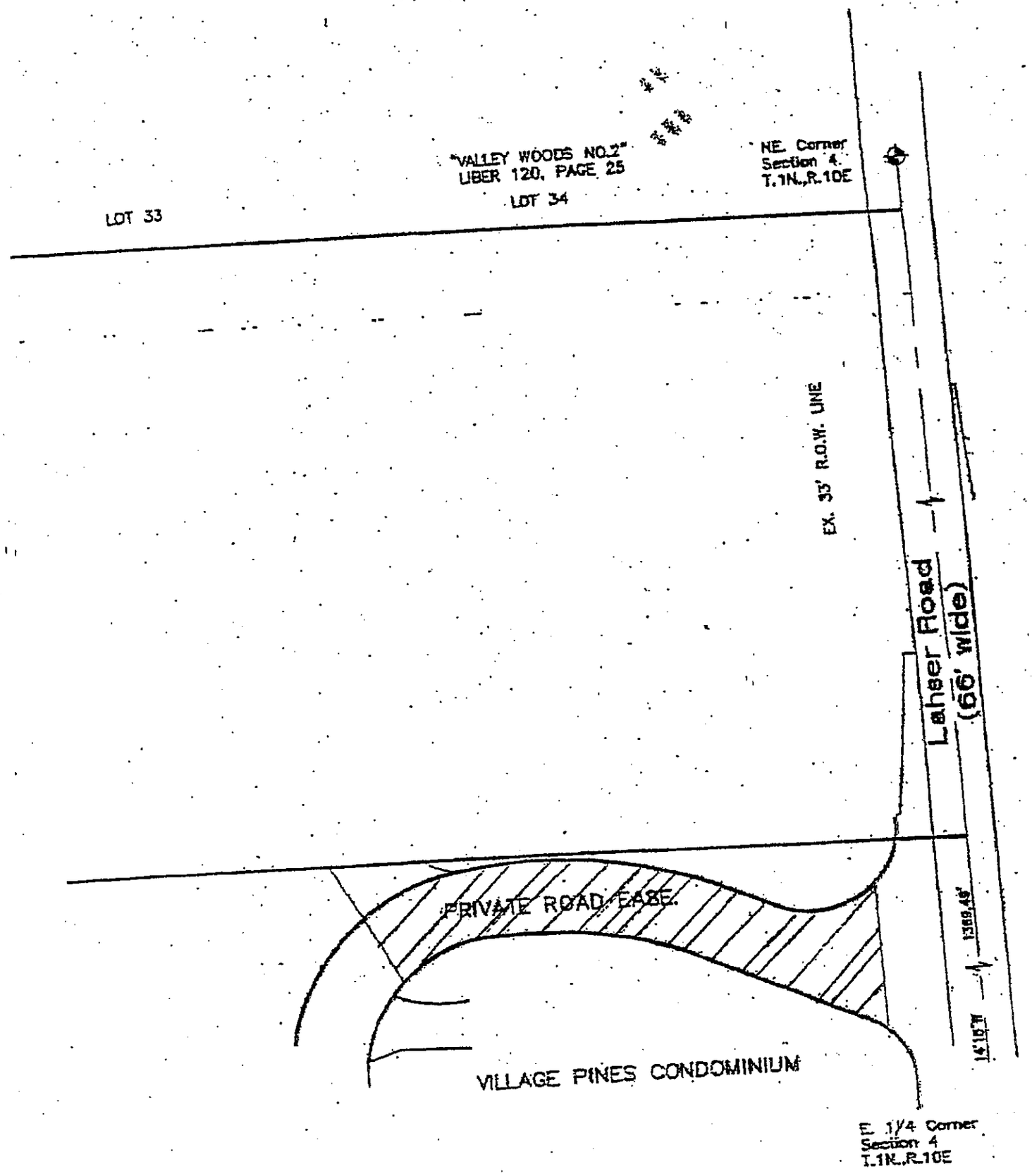


EXHIBIT C TO AMENDED AND RESTATED GRANT OF EASEMENT

(Additional Access Easement)

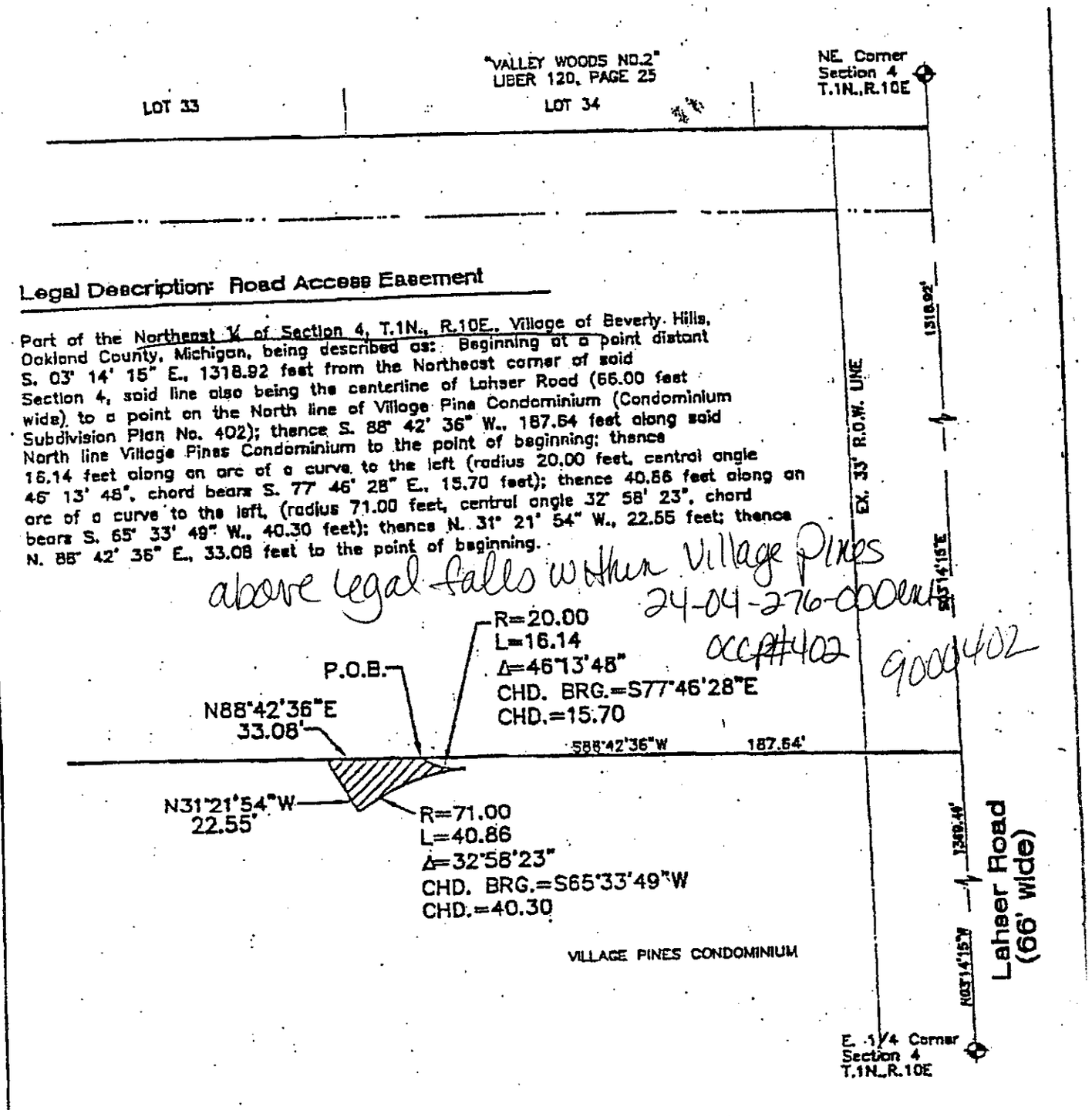


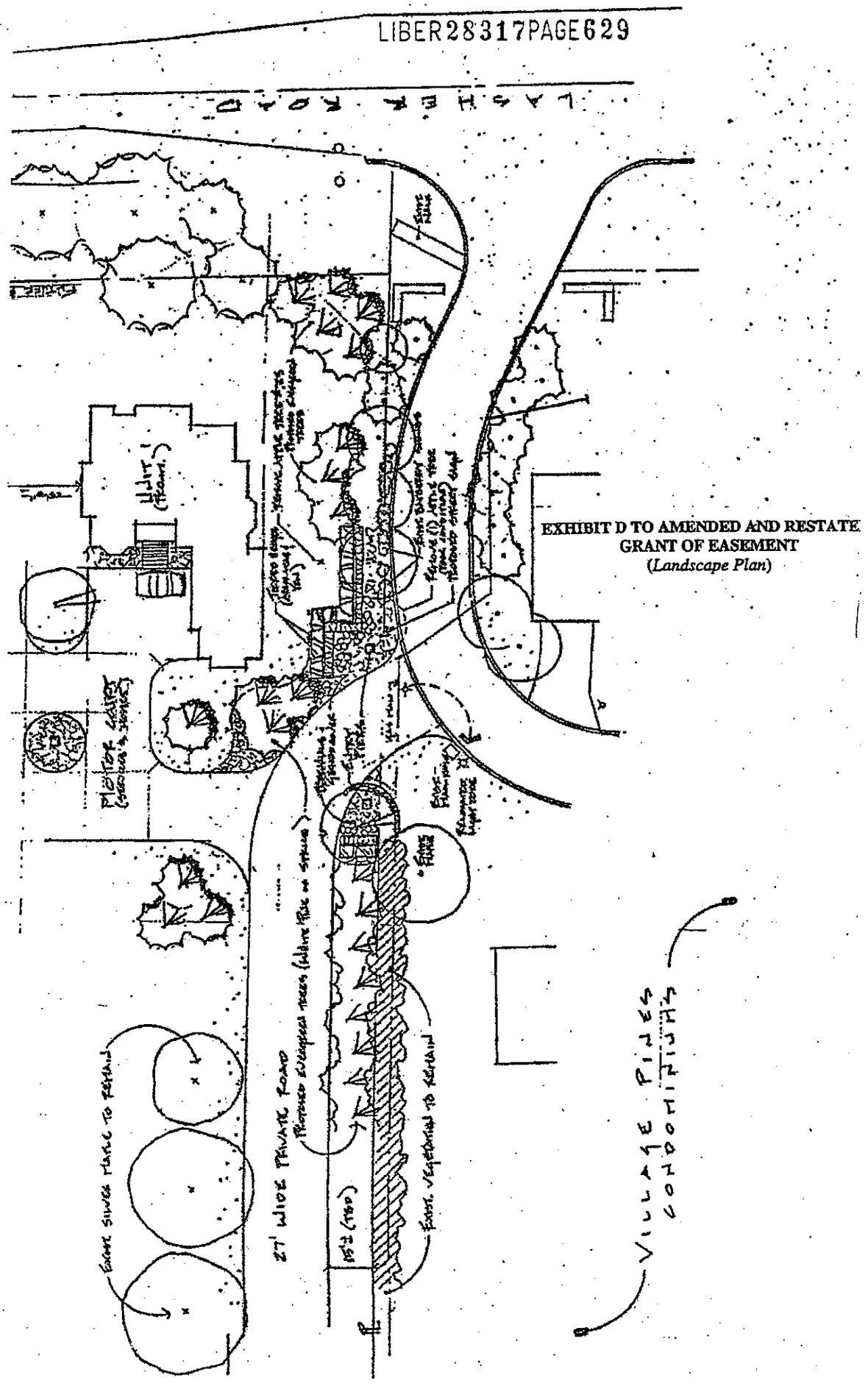
EXHIBIT C TO AMENDED AND RESTATED GRANT OF EASEMENT
(Additional Access Easement)

Legal Description: Road Access Easement

Part of the Northeast 1/4 of Section 4, T.1N., R.10E., Village of Beverly Hills, Oakland County, Michigan, being described as: Beginning at a point distant S. 03° 14' 15" E., 1318.92 feet from the Northeast corner of said Section 4, said line also being the centerline of Lahser Road (66.00 feet wide) to a point on the North line of Village Pines Condominium (Condominium Subdivision Plan No. 402); thence S. 88° 42' 36" W., 187.64 feet along said North line of Village Pines Condominium to the point of beginning; thence 16.14 feet along an arc of a curve to the left (radius 20.00 feet, central angle 46° 13' 48", chord bears S. 77° 46' 28" E., 15.70 feet); thence 40.86 feet along an arc of a curve to the left (radius 71.00 feet, central angle 32° 58' 23", chord bears S. 65° 33' 49" W., 40.30 feet); thence N. 31° 21' 54" W., 22.55 feet; thence N. 88° 42' 36" E., 33.08 feet to the point of beginning.

above legal falls within Village Pines
24-04-276-000ert
Occp# 402
900402

EXHIBIT D TO AMENDED AND RESTATE GRANT OF EASEMENT
(*Landscape Plan*)



LAND DESIGN STUDIO 12483346899 10/17/02 03:34pm P. 001
LIBER28317PAGE630

Village of Beverly Hills Cluster Housing Development
CONCEPTUAL ENTRY LANDSCAPE

PLANT LIST

Evergreen Trees

QTY	COMMON NAME	SIZE	ROOT
15	White Spruce	8' – 10' Ht.	B&B
8	White Pine	8' – 10' Ht.	B&B

Deciduous Tree

1	Tulip Tree	2 ½" Cal.	B&B

Shrubs / Perennials & Ground Cover TBD

Michigan Department of Consumer and Industry Services

Filing Endorsement

This is to Certify that the ARTICLES OF INCORPORATION - NONPROFIT

for

ORCHARD VILLAS HOMEOWNERS ASSOCIATION

ID NUMBER: 784934

received by facsimile transmission on May 29, 2003 is hereby endorsed filed on June 2, 2003 by the Administrator. The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 2nd day of June, 2003.

, Director

Bureau of Commercial Services

Sent by Facsimile Transmission 03153

NON-PROFIT
ARTICLES OF INCORPORATION

These Articles of Incorporation are signed and acknowledged by the incorporator for the purpose of forming a nonprofit corporation under the provisions of Act No. 162 of the Public Acts of 1982, as follows:

ARTICLE I

NAME

The name of the corporation is Orchard Villas Homeowners Association.

ARTICLE II

PURPOSES

The purposes for which the corporation is formed are as follows:

(a) To manage and administer the affairs of and to maintain Orchard Villas, a residential condominium project (hereinafter called "Condominium");

(b) To levy and collect assessments against and from the members of the corporation and to use the proceeds thereof for the purposes of the corporation;

(c) To carry insurance and to collect and allocate the proceeds thereof;

(d) To rebuild improvements after casualty;

(e) To contract for and employ persons, firms, or corporations to assist in management, operation, maintenance and administration of said Condominium;

(f) To make and enforce reasonable regulations concerning the use and enjoyment of said Condominium;

(g) To own, maintain and improve, and to buy, sell, convey, assign, mortgage, or lease (as landlord or tenant) any real and personal property, including, but not limited to, any Unit in the Condominium, any easements or licenses or any other real property, whether or not contiguous to the Condominium, for the purpose of providing benefit to the members of the corporation and in furtherance of any of the purposes of the corporation;

(h) To borrow money and issue evidences of indebtedness in furtherance of any or all of the objects of its business; to secure the same by mortgage, pledge or other lien;

(i) To enforce the provisions of the Master Deed and Bylaws of the Condominium and of these Articles of Incorporation and such Bylaws and rules and regulations of this corporation as may hereinafter be adopted;

(j) To enter into agreements with public agencies concerning the nature and extent of use and maintenance of the Condominium premises.

(k) To do anything required of or permitted to it as administrator of said Condominium by the Condominium Master Deed or Bylaws or by Act No. 59 of Public Acts of 1978, as amended; and

(l) In furtherance of the foregoing purposes, to enter into any kind of activity, to make and perform any contract and to exercise all powers necessary, incidental or convenient to the administration, management, maintenance, repair, replacement and operation of said Condominium.

ARTICLE III

ADDRESS

Address of the first registered office is 195 Charrington Court, Beverly Hills, Michigan 48025.

ARTICLE IV

RESIDENT AGENT

Name of the first resident agent is James C. Merritt.

ARTICLE V

BASIS OF ORGANIZATION AND ASSETS

Said corporation is organized upon a non-stock, membership basis.

The value of assets which said corporation possesses is:

Real Property: None

Personal Property: None

Said corporation is to be financed under the following general plan: Assessment of members

ARTICLE VI

INCORPORATOR

The name of the incorporator is William T. Myers and his place of business is 40701 Woodward Avenue, Suite 235, Bloomfield Hills, Michigan 48304.

ARTICLE VII

EXISTENCE

The term of corporate existence is perpetual.

ARTICLE VIII

MEMBERSHIP AND VOTING

The qualifications of members, the manner of their admission to the corporation, the termination of membership, and voting by such members shall be as follows:

(a) The Developer of the Condominium and each Co-owner of a Unit in the Condominium shall be members of the corporation, and no other person or entity shall be entitled to membership; except that the subscriber hereto shall be a member of the corporation until such time as his membership shall terminate, as hereinafter provided.

(b) Membership in the corporation (except with respect to the incorporator, who shall cease to be a member upon the recording of the Master Deed) shall be established by acquisition of fee simple title to a Unit in the Condominium and by recording with the Register of Deeds of Oakland County, Michigan, a deed or other instrument establishing a change of record title to such Unit and the furnishing of evidence of same satisfactory to the corporation (except that the Developer of the Condominium shall become a member immediately upon establishment of the Condominium) the new Co-owner thereby becoming a member of the corporation, and the membership of the prior Co-owner thereby being terminated. The Developer's membership shall continue until no Units remain to be created in the Condominium and until the Developer no longer owns any Unit in the Condominium.

(c) The share of a member in the funds and assets of the corporation cannot be assigned, pledged, encumbered or transferred in any manner except as an appurtenance to his Unit in the Condominium.

(d) Voting by members shall be in accordance with the provisions of the Bylaws of this corporation.

ARTICLE IX

LIMITATION OF LIABILITY OF VOLUNTEER OFFICERS AND DIRECTORS AND OTHER VOLUNTEERS

No volunteer director or volunteer officer, as those terms are defined in Act 162, Public Acts of 1982, as amended ("Act"), shall be personally liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director or officer, provided that the foregoing shall not eliminate or limit the liability of a director or officer for any of the following: (i) breach of the director's or officer's duty of loyalty to the corporation, its shareholders, or its members; (ii) acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of the law; (iii) a violation of Section 551(1) of the Act; (iv) a transaction from which the director or officer derived an improper personal benefit; or (v) an act or omission that is grossly negligent. If the Act hereafter is amended to authorize the further elimination or limitation of the liability of directors or officers, then the liability of a director or officer of the corporation, in addition to the limitation on personal liability contained herein, shall be limited to the fullest extent permitted by the amended Act. No amendment or repeal of this Article IX shall apply to or have any effect on the liability of any director or officer of the corporation for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal.

Signed this 29th day of May, 2003.

William T. Myers

William T. Myers, Incorporator

When filed, return to:

William T. Myers of MYERS NELSON DILLON & SHIERK
40701 Woodward Avenue, Suite 235
Bloomfield Hills, Michigan 48304

ORCHARD VILLAS
ESCROW AGREEMENT

THIS AGREEMENT is entered into as of this 28th day of September, 2005, between Jahn Construction, L.L.C., a Michigan limited liability company ("Developer"), and Security Union Title Insurance Company ("Escrow Agent") through its duly designated agent for this purpose, Philip R. Seaver Title Co., Inc.

WHEREAS, Developer is the Developer of Orchard Villas, a residential building site condominium project established under applicable Michigan law.

WHEREAS, Developer is selling building site Condominium Units ("Units") in Orchard Villas and is entering into Agreements ("Purchase Agreements") with Purchasers for such Units in substantially the form attached hereto, and each Purchase Agreement requires that all deposits made under such Agreement with respect to the acquisition of a Unit be held in an escrow account with an Escrow Agent; and,

WHEREAS, the parties hereto desire to enter into an Escrow Agreement to establish such an escrow account for the benefit of Developer and for the benefit of each Purchaser (hereinafter called "Purchaser") who makes a deposit under a Purchase Agreement with respect to the acquisition of a Unit; and,

WHEREAS, Escrow Agent is acting as an independent party hereunder pursuant to the provisions of this Agreement and the Michigan Condominium Act (Act No. 59, Public Acts of 1978, as amended, hereinafter the "Act") for the benefit of Developer and all Purchasers and not as the agent of any one or less than all of such parties.

NOW, THEREFORE, it is agreed as follows:

1. **Initial Deposit of Funds.** Developer shall, promptly after receipt, transmit to Escrow Agent such sums as are deposited with it under a Purchase Agreement which are specifically related to the acquisition of a Unit, together with a fully executed copy of such Agreement and a receipt signed by the Purchaser for the recorded Master Deed, The Condominium Buyers Handbook and the Disclosure Statement.

2. **Release of Funds.** The sums paid to Escrow Agent under the terms of any Purchase Agreement shall be held and released to Developer or Purchaser only upon the conditions hereinafter set forth:

A. **Upon Withdrawal by Purchaser.** The escrowed funds shall be released to Purchaser under the following circumstances:

(i) If the Purchase Agreement is contingent upon Purchaser obtaining a mortgage and he fails to do so as provided therein and duly withdraws from the Purchase Agreement as a result thereof, Escrow Agent shall release to Purchaser all sums held by it pursuant to said Agreement.

(ii) In the event that a Purchaser duly withdraws from a Purchase Agreement prior to the time that said Agreement becomes binding under paragraph 6 of the General Provisions thereof, Escrow Agent shall, within 3 business days from the date of receipt of notice of such withdrawal, release to Purchaser all of Purchaser's deposits held thereunder.

B. **Upon Default by Purchaser.** In the event that a Purchaser under a Purchase Agreement defaults in making any payments required by said Agreement or in fulfilling any other obligations thereunder for a period of 10 days after written notice by Developer to Purchaser, Escrow Agent shall release all sums held pursuant to the Purchase Agreement to Developer in accordance with the terms of said Agreement.

C. **Upon Conveyance of Title to Purchaser.** Upon conveyance of title to a Unit from Developer to Purchaser (or upon execution of a land contract between Developer and Purchaser in fulfillment of a Purchase Agreement), Escrow Agent shall release to Developer all sums held in escrow under such Agreement provided Escrow Agent has received a certificate signed by a licensed professional engineer or architect confirming:

(i) That those portions of the Condominium Project which on the Condominium Subdivision Plan are labeled "must be built" are substantially complete; and

(ii) That all common elements or facilities intended for common use, wherever located, which on the Condominium Subdivision Plan are labeled "must be built", are substantially complete.

If the elements or facilities referred to in paragraphs 2C(i) and 2C(ii) above are not substantially complete, only sufficient funds to finance substantial completion of such elements or facilities shall be retained in escrow and the balance may be released. All funds required to be retained in escrow may be released, however, if other adequate security shall have been arranged as provided in paragraph 2F below. Determination of amounts necessary to finance substantial completion shall likewise be determined by the certificate of a licensed professional architect or engineer. For purposes of paragraph 2C(i) above, the portion of the Condominium Project in which Purchaser's Unit is located shall be "substantially complete" when all utility mains and leads and an access road (to the extent such items are designated on the Condominium Subdivision Plan as "must be built") are substantially complete as evidenced by certificates of substantial completion issued by a licensed professional architect or engineer as described in Section 3 below. Improvements of the type described in paragraph 2C(ii) above shall be substantially complete when certificates of substantial completion have been issued therefor by a licensed professional architect or engineer, as described in Section 3.

D. **Release of Funds Escrowed For Completion of Incomplete Improvements.** Upon furnishing Escrow Agent a certificate from a licensed professional architect or engineer evidencing substantial completion in accordance with the pertinent plans and specifications of a structure, improvement, facility or identifiable portion thereof for which funds or other security have been deposited in escrow, Escrow Agent shall release to Developer the amount of such funds or other security specified by the issuer of the certificate as being attributable to such substantially completed item(s); provided, however, that if the amounts remaining in escrow after any such partial release would be insufficient in the opinion of the issuer of such certificate to finance substantial completion of any remaining incomplete items for which funds or other security have been deposited in escrow, only the amount in escrow in excess of such estimated cost to substantially complete shall be released by Escrow Agent to Developer.

E. **Release of Interest Earned Upon Escrowed Funds.** Escrow Agent shall be under no obligation to earn interest upon the escrowed sums held pursuant hereto. In the event that interest upon such sums is earned, however, all such interest shall be separately accounted for by Escrow Agent and shall be held in escrow and released as and when principal deposits are released hereunder; provided, however, that all interest earned on deposits refunded to a Purchaser upon the occasion of his withdrawal from a Purchase Agreement shall be paid to Developer.

F. **Other Adequate Security.** If Developer requests that all of the escrowed funds held hereunder or any part thereof be delivered to it prior to the time it otherwise becomes entitled to receive the same, Escrow Agent may release all such sums to Developer if Developer has placed with Escrow Agent an irrevocable letter of credit drawn in favor of Escrow Agent in form and substance satisfactory to Escrow Agent

and securing full repayment of said sums, or has placed with Escrow Agent such other substitute security as may be permitted by law and approved by Escrow Agent.

G. In the Event Elements or Facilities Remain Incomplete. If Escrow Agent is holding in escrow funds or other security for completion of incomplete elements or facilities under §103b(7) of the Act, such funds or other security shall be administered by Escrow Agent in the following manner:

(i) Escrow Agent shall upon request give all statutorily required notices under §103b(7) of the Act.

(ii) If Developer, the Orchard Villas Homeowners Association and any other party or parties asserting a claim to or interest in the escrow deposit enter into a written agreement (satisfactory in its terms and conditions to Escrow Agent for Escrow Agent's protection, as determined by Escrow Agent in its absolute and sole discretion), as to the disposition of the funds or security in escrow under §103b(7) of the Act, Escrow Agent shall release such funds or security in accordance with the terms of such written agreement among such parties.

(iii) Failing written agreement as provided in paragraph 2G(ii) above, Escrow Agent shall be under no obligation whatever to release any such escrowed funds or security, but Escrow Agent may, in its absolute and sole discretion, at any time take either of the following actions:

(a) Initiate an interpleader action in any circuit court in the State of Michigan naming the Developer, the Orchard Villas Homeowners Association and all other claimants and interested parties as parties and deposit all funds or other security in escrow under §103b(7) of the Act with the clerk of such court in full acquittance of its responsibilities under this Agreement; or

(b) Initiate an arbitration proceeding under the Commercial Arbitration Rules of the American Arbitration Association pursuant to which proceeding both the Developer and the Orchard Villas Homeowners Association shall be named as parties. Escrow Agent shall continue to hold all sums in escrow under §103b(7) of the Act pending the outcome of such arbitration but Escrow Agent shall not be a party to such arbitration. All issues relative to disposition of such escrow deposits or other security shall be decided by the arbitrator or arbitration panel and such decision shall be final and binding upon all parties concerned and judgment thereon may be rendered upon such award by any circuit court of the State of Michigan. Escrow Agent may in any event release all such escrow deposits in accordance with the arbitration decision or may commence an interpleader action with respect thereto as provided above.

3. Proof of Occurrences; Confirmation of Substantial Completion; Determination of Cost to Complete. Escrow Agent may require reasonable proof of occurrence of any of the events, actions or conditions stated herein before releasing any sums held by it pursuant to any Purchase Agreement either to a Purchaser thereunder or to Developer. Whenever Escrow Agent is required hereby to receive the certification of a licensed professional architect or engineer that a facility, element, structure, improvement or identifiable portion of any of the same is substantially complete in accordance with the pertinent plans therefor, it may base such confirmation entirely upon the certificate of the Developer to such effect coupled with the certificate to the same effect of a licensed professional architect or engineer. Likewise, all estimates and determinations of the cost to substantially complete any incomplete elements, facilities, structures and improvements for which escrowed funds are being specifically maintained under paragraph 2D above shall be made entirely by a licensed professional engineer or architect and the determination of all amounts to be retained or maintained in the escrow account for the completion of any such elements, facilities, improvements or structures shall be based entirely upon such determinations and estimates as are furnished by such engineer or architect. No inspections of the Project or any portion thereof by any representative of Escrow Agent shall be deemed necessary hereunder, nor must any cost estimates or determinations be made by Escrow Agent and Escrow Agent may rely entirely upon certificates, determinations and estimates as described above in retaining and releasing all escrowed funds hereunder.

4. Limited Liability of Escrow Agent; Right to Deduct Expenses From Escrow Deposits. Upon making delivery of the funds deposited with Escrow Agent pursuant to any Purchase Agreement and performance of the obligations and services stated therein and herein, Escrow Agent shall be released from any further liability thereunder and hereunder, it being expressly understood that liability is limited by the terms and provisions set forth in such Agreements and in this Agreement, and that by acceptance of this Agreement, Escrow Agent is acting in the capacity of a depository and is not, as such, responsible or liable for the sufficiency, correctness, genuineness or validity of the instruments submitted to it, or the marketability of title to any Unit sold under any other Agreement. Escrow Agent is not responsible for the failure of any bank used by it as an escrow depository for funds received by it under this Agreement.

Further, Escrow Agent is not a guarantor of performance by Developer under the Condominium Documents or any Purchase Agreement and Escrow Agent undertakes no responsibilities whatever with respect to the nature, extent or quality of such performance thereunder or with regard to the conformity of such performance to the terms of such documents, to the plans and specifications for the Project, to local or state laws or in any other particular. So long as Escrow Agent relies in good faith upon any certificate, cost estimate or determination of the type described in Section 3, Escrow Agent shall have no liability whatever to Developer, any Purchaser, any Co-owner or any other party for any error in such certificate, cost estimate or determination or for any act or omission by the Escrow Agent in reliance thereon.

Except in instances of gross negligence or wilful misconduct, Escrow Agent's liability hereunder shall in all events be limited to return, to the party or parties entitled thereto, of the funds retained in escrow (or which were replaced by security) less any reasonable expenses which Escrow Agent may incur in the administration of such funds or otherwise hereunder, including, without limitation, reasonable attorney's fees and litigation expenses paid in connection with the defense, negotiation or analysis of claims against it, by reason of litigation or otherwise, arising out of the administration of such escrowed funds, all of which costs Escrow Agent shall be entitled without notice to deduct from amounts on deposit hereunder.

Notwithstanding any other provision herein to the contrary, Escrow Agent shall be under no obligation to release funds deposited hereunder to any party until it can satisfactorily ascertain that the funds deposited have been paid, settled and fully collected as such terms are defined under the provisions of MCL 440.4101, et seq.

5. Notices. All notices required or permitted hereunder and all notices of change of address shall be deemed sufficient if personally delivered or sent by registered mail, postage prepaid and return receipt requested, addressed to the recipient party at the address shown below such party's signature to this Agreement or upon the pertinent Purchase Agreement. For purposes of calculating time periods under the provisions of this Agreement, notice shall be deemed effective upon mailing or personal delivery, whichever is applicable.

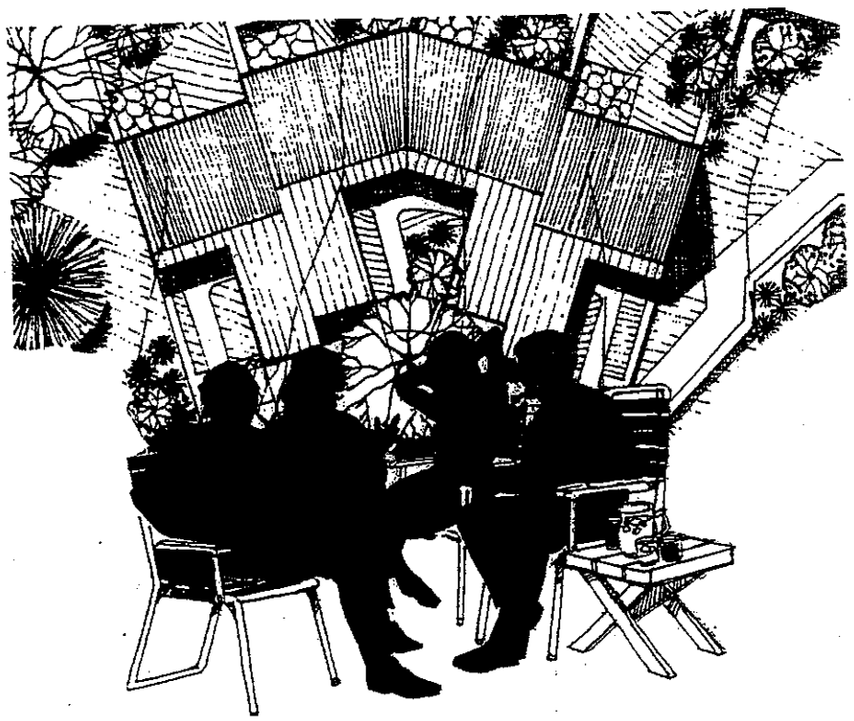
JAHN CONSTRUCTION, L.L.C.,
a Michigan limited liability company, Developer

By: _____
James C. Merritt, Member
32800 Lahser Road
Beverly Hills, Michigan 48025
(248) 593-8881

SECURITY UNION TITLE INSURANCE COMPANY,
Escrow Agent
By: Philip R. Seaver Title Company, Inc., Its Agent

By: _____
Philip R. Seaver, President
42651 Woodward Avenue
Bloomfield Hills, Michigan 48304
(248) 647-2171

The Condominium Buyers' Handbook



State of Michigan
Department of Consumer & Industry Services
Office of Policy & Legislative Affairs
Boundary Commission
www.cis.state.mi.us/opla

CIS

"Serving Michigan...Serving You"



Preface

The Condominium Buyers Handbook was created by the Michigan Department of Consumer & Industry Services as required by the Condominium Act, Public Act 59 of 1978, as amended. This edition reflects Public Act 379 of 2000 amendments that took effect January 2, 2001.

This handbook is intended as a guide for people who are considering buying a condominium. It provides a summary of portions of the Condominium Act (MCL 559.101 et seq.) and is directed primarily toward residential condominium buyers, although the Act also provides for business, campground and marina condominium developments.

Although the Department of Consumer & Industry Services is identified as the administrator in the Act, the Legislature repealed the Department's regulatory responsibilities many years ago. The Act does not give the Department authority to enforce any provisions in the Act. The last section of the handbook describes the remedies the Act does provide. In addition, the Department will forward a copy of a complaint received regarding a developer of a condominium project to the developer along with a notice of available remedies in the Act. Contact:

Michigan Department of Consumer & Industry Services
Office of Policy & Legislative Affairs
P.O. Box 30004
Lansing, MI 48909
(517) 241-4580
www.cis.state.mi.us/opla



Condominium Ownership

Unit owners have exclusive ownership rights to their unit and the right to share the common elements of the condominium project with the other co-owners. The development is privately owned and maintained by the co-owners, unless the local government agrees to take responsibility for maintaining a portion of the development. Roads are an example of a portion of a condominium development that may become public. The master deed will designate the percentage of ownership of each condominium unit in the development. This percentage of value will determine your obligation for payment of monthly fees, assessments, and may determine your voting percentage at association meetings.

The bylaws should be read carefully as they contain provisions outlining your rights as an owner. Modifications or repairs to your unit may require approval of the co-owners association. There may be restrictions on pets, renting, use of recreational facilities, and other prohibitions in the bylaws that you should be aware of before signing a purchase agreement.

Association of Co-owners (Condominium Board):

Initially, the developer appoints the board of directors, who govern the development until the first annual meeting. The provisions for holding the annual meeting and designating the voting procedures are included in the condominium



bylaws. The association of co-owners is elected by the co-owners and is responsible for governing the development and maintaining the general common elements. The general common elements may consist of hallways, lobbies, building exteriors, lawns, streets (if the roads are private), recreation facilities, heating, water and electric systems. The association has authority to determine the monthly maintenance fee and the amount of any special assessments. The association of co-owners may hire a management company to provide services for the development. Each co-owner must pay a monthly fee for these services and any special assessments.

Rules governing the association are written in the bylaws of the condominium development. After the association of co-owners is created, it may adopt bylaws for the operation of the association. Meetings of the co-owners association are meetings of a private entity, and not subject to the Open Meetings Act, which requires government agencies to allow public attendance at meetings. Associations are required to maintain a reserve fund for major repairs and replacement of common elements. The minimum amount is 10 % of the annual budget on a non-cumulative basis.

You should receive a disclosure statement itemizing the association's budget at the time you are given the master deed. The monthly assessment is considered a lien on the condominium unit and you cannot be exempt from assessments and monthly fees by nonuse of any common elements or by abandonment of the condominium unit. Co-owners must notify the association if they rent or mortgage their unit.



If you have complaints with the association or other co-owners, review the condominium bylaws to determine what recourse you have. Generally only professional arbitrators or the courts have jurisdiction over complaints between these parties.

Site Condominiums

The term "site condominium" is used to describe a condominium development with single-family detached housing instead of two or more housing units in one structure. Site condominium developments must comply with the Act. The Act requires developers to notify the appropriate local government of their intent to develop a condominium project. The type of review the development is subject to depends on the local government's ordinances. Site condominium documents are not reviewed by the State for conformance with the Act.

There is another type of residential subdivision development in Michigan that is regulated in accordance with the Land Division Act. Subdivisions developed pursuant to the Land Division Act are subject to state review for conformance with the Land Division Act.

Limited or General Common Elements

Limited common elements are property with usage restrictions. A carport space assigned to a unit is a limited common element. The yard of a unit that is a single family detached home may be a limited common element for use by the owner of that unit. General common elements may be roads, open space areas and recreation facilities. They



are available for use by everyone in the development. The master deed specifies which parts of your condominium development are designated as limited or general common elements. Use of the common elements is governed by the bylaws for the condominium development.

Condominium Documents

The condominium documents include the master deed, condominium subdivision plan, bylaws for the condominium project, and any other documents referred to in the master deed or bylaws. In addition, the developer is required to provide a disclosure statement. Once the condominium association is established, it may adopt another set of bylaws pertaining to the association's operation. The association or management company must keep books and records with a detailed account of the expenditures and receipts affecting the project and its administration, and which specify the operation expenses.

Preliminary Reservation Agreements

A preliminary reservation agreement gives you the opportunity to purchase a particular condominium unit for a specified period of time upon sale terms to be determined later. The developer must place the payment you make in an escrow account with an escrow agent. If you make a payment under a preliminary reservation agreement and cancel the agreement, the developer must fully refund the money. If you subsequently enter into a purchase agreement, the developer must treat the payment made as if it was made under a purchase agreement.



Purchase Agreements

A purchaser may withdraw from a signed purchase agreement without cause or penalty within nine business days as long as the property has not been conveyed to the purchaser. The nine-business day window starts the day on which the documents listed below are received, if that day is a business day. The developer must deposit payments made under a purchase agreement in an escrow account with an escrow agent.

Before signing an agreement, it is advisable to seek professional assistance to review all condominium documents. Some issues to consider before buying include the following:

- The bylaws may contain a variety of restrictions. The bylaws may require you to receive association approval for certain actions. If you do not obtain prior approval, the association has authority to enforce any legal restrictions in the bylaws.
- You may be subject to a binding purchase agreement before construction begins or is completed. Determine whether the agreements will provide you with adequate rights if the developer does not finish the unit in time to meet the occupancy date.
- Review all restrictions, covenants, and easements that might affect the condominium project or your unit.
- Determine if the developer has reserved any rights to alter the project.
- Before signing a purchase agreement make sure you have financing, or that the agreement specifies it is dependent on your ability to obtain a mortgage commitment for the unit.



- You may want to determine if the developer is contractually obligated to finish the development. The local government may have required the developer to provide letters of credit to complete elements of the project.
- Do not rely on verbal promises, insist that everything be in writing and signed by the person who made the promise.
- When buying a condominium in a structure that has been converted from an existing building, you will also be a joint owner of the furnace, roof, pipes, wires and other common elements. Ask for an architect's or engineer's report on the condition of all building components and their expected useful life. Ask to see copies of the building maintenance records, and find out what improvements the developer has made.

Documents the Developer Must Provide

The developer must provide copies of the following documents to a prospective purchaser:

1. The recorded master deed.
2. A copy of the purchase agreement and escrow agreement
3. The condominium buyer's handbook.
4. A disclosure statement that must include information about:
   - the developer's previous experience with condominium projects,
   - any warranties undertaken by the developer, and
   - the extent to which financial arrangements have been provided for completion of all structures and improvements labeled "must be built" on the subdivision plan.



Advisory Committee

The advisory committee is established when one of the following occurs, whichever happens first:

- 120 days after 1/3 of the units are sold to nondeveloper co-owners.
- One year after a unit is sold to a nondeveloper co-owner.

The purpose of the advisory committee is to meet with the project board of directors to facilitate communication and aid in the transition of control to the association of co-owners. The advisory committee ceases when a majority of the board of directors of the association of co-owners is elected by the nondeveloper co-owners.

Election of Board of Directors for Association of Co-owners

No later than 120 days after 25% of nondeveloper co-owners have title to the units that may be created, at least one director, and not less than 25% of the board of directors shall be elected by the nondeveloper co-owners.

No later than 120 days after 50% of nondeveloper co-owners have title to the units that may be created, at least 33.3% of the board of directors shall be elected by nondeveloper co-owners.

No later than 120 days after 75% of nondeveloper co-owners have title to units that may be created, and before 90% are conveyed to nondeveloper co-owners, the nondeveloper co-owners shall elect all directors on the board, except if



the developer owns and offers for sale at least 10% of the units, or as long as 10% of the units remain to be created, the developer shall have the right to designate one director.

If titles to 75% - 100% of the units that may be created have not been conveyed, 54 months after the first conveyance, the nondeveloper co-owners shall elect the number of board members equal to the percentage of units they hold. The developer has the right to elect the number of board members equal to the percentage of units that are owned by the developer, if the developer has paid all assessments for those units.

Documents the Association Must Provide

The association of co-owners must provide a financial statement annually to each co-owner. The books, records, and contracts concerning the administration and operation of the condominium project must be available for examination by any of the co-owners at convenient times. All books and records must be audited or reviewed by independent accountant annually, but the audit does not have to be certified. The association must keep current copies of the master deed, all amendments to the master deed, and other condominium documents available at reasonable hours to co-owners, prospective purchasers and prospective mortgagees.



Amendments to Condominium Documents

If the condominium documents contain a statement that the developer or association of co-owners has reserved the right to amend the documents for that purpose, then the documents may be amended without the consent of the co-owners, as long as the change does not materially alter or change the rights of a co-owner.

The master deed, bylaws and condominium subdivision plan may be amended, even if the amendment will materially alter or change the rights of a co-owner with the consent of at least 2/3 of the votes of the co-owners and mortgagees.

The method or formula used to determine the percentage of value of each unit for other than voting purposes cannot be modified without the consent of each affected co-owner. Provisions relating to the ability or terms under which a co-owner may rent a unit may not be modified without the consent of the co-owner. A co-owner's unit dimensions or the limited common elements to the co-owner's unit may not be modified without the co-owner's consent.



Remedies Available Pursuant to the Act

A developer who offers or sells a condominium unit in violation of the Act is liable to the purchaser for damages.

A person or association of co-owners adversely affected by a violation of, or failure to comply with, the Act, administrative rules issued under the authority of the Act, or any provision of an agreement or a master deed may take action in a court with jurisdiction. The court may award costs to the prevailing party.

A co-owner may take action against the association of co-owners to compel the association to enforce the condominium documents. To the extent that the condominium documents expressly provide, the court shall determine costs of the proceeding and the successful party shall recover those costs.

A co-owner may take action against another co-owner for injunctive relief or for damages for noncompliance with the terms of the condominium documents or the Act.

The bylaws must contain a provision that disputes relating to the interpretation of the condominium documents or arising out of disputes among co-owners may be resolved through arbitration. Both parties must consent to arbitration and give written notice to the association. The decision of the arbitrator is final and the parties are prohibited from petitioning the courts regarding that dispute.

A developer and a co-owner, or association of co-owners, may execute a contract to settle by arbitration for any claim



against the developer that might be the subject of a civil action. A purchaser or co-owner has the exclusive option to execute a contract to settle by arbitration for any claim against the developer that might be the subject of a civil action and involves less than $2,500. All costs will be allocated in the manner provided by the arbitration association. A contract to settle by arbitration must specify that the arbitration association will conduct the arbitration. The method of appointment of the arbitrator will be pursuant to rules of the arbitration association. Arbitration will be in accordance with sections 5001 to 5065 of Act No. 236 of 1961, MCL 600.5001 to 5065, which may be supplemented by rules of the arbitration association. An arbitration award is binding on the parties to the arbitration.

A condominium developer may be required to be a licensed residential builder under the Occupational Code. If a person has violated the Occupational Code or administrative rules, a complaint must be made within 18 months after completion, occupancy or purchase of a residential structure. Conduct subject to penalty is described in Article 24 of the Occupational Code. Complaints concerning construction may be filed with:

Michigan Department of Consumer & Industry Services

Bureau of Commercial Services
Enforcement Division
P. O. Box 30018
Lansing, MI 48909
Phone: (517) 241-9202
www.cis.state.mi.us/bcs



The Michigan Consumer Protection Act prohibits certain methods, acts, and practices, provides for certain investigations and prescribes penalties. Complaints regarding an alleged violation of the Consumer Protection Act may be filed with:

Michigan Department of Attorney General
Consumer Protection Division
P. O. Box 30213
Lansing, MI 48909
Phone: (517) 373-1140
www.ag.state.mi.us

The Act provides the right to notify the agency in a governmental unit responsible for administration and enforcement of construction regulations of an alleged violation of the state construction code, other applicable building code, or construction regulation.

A person who willfully aids in the advertisement of a statement or representation that misrepresents the facts concerning a condominium project, as described in the recorded master deed, is guilty of a misdemeanor and shall be punished by a fine or imprisonment or both. An action under this section shall be brought by the prosecuting attorney of the county in which the property is located, or by the department of attorney general.

A person can not take action arising out of the development or construction of the common elements, or the management, operation, or control of a condominium project, more than three years from the transitional control date or two years from the date of the cause of the action, whichever



occurs later. The transitional control date is the date the board of directors takes office by an election where the co-owners' votes exceed the developer's votes for the board members.

Legal References
Condominium Act, P.A. 59 of 1978, as amended, MCL 559.101 et seq.
Condominium Rules, R559.101 et seq, 1985 Michigan Administrative Code
Occupational Code, P.A. 299 of 1980, MCL 339.101 et seq.
Consumer Protection Act, P.A. 331 of 1976, MCL 445.901 et seq.
Stille-Derossett-Hale Single State Construction Code Act, P.A. 230 of 1972, MCL 125.1501 et seq.

DISCLOSURE STATEMENT

ORCHARD VILLAS

DEVELOPER

Jahn Construction, L.L.C.
32800 Lahser Road
Beverly Hills, Michigan 48025
(248) 866-4481

Orchard Villas is a 6 Unit single-family homesite condominium subdivision containing detached residences.

THIS DISCLOSURE STATEMENT IS NOT A SUBSTITUTE FOR THE MASTER DEED, THE CONDOMINIUM BUYERS HANDBOOK OR OTHER APPLICABLE LEGAL DOCUMENTS AND BUYERS SHOULD READ ALL SUCH DOCUMENTS TO FULLY ACQUAINT THEMSELVES WITH ORCHARD VILLAS AND THEIR RIGHTS AND RESPONSIBILITIES RELATING THERETO.

IT IS RECOMMENDED THAT PROFESSIONAL ASSISTANCE BE SOUGHT PRIOR TO PURCHASING A CONDOMINIUM UNIT.

September, 2005

ORCHARD VILLAS

TABLE OF CONTENTS

		Page
I.	Introduction	1
II.	The Condominium Concept	1
	A. General	1
	B. Condominium Building Sites	2
	C. Other Information	2
III.	Description of the Condominium Project	2
	A. Size, Scope and Physical Characteristics of the Project	2
	B. Utilities	2
	C. Roadways	2
	D. Reserved Rights of Developer	3
IV.	Legal Documentation	4
	A. General	4
	B. Bylaws	4
	C. Condominium Subdivision Plan	5
	D. Easement and Maintenance Agreement	5
	E. Amended and Restated Grant of Easement	5
V.	The Developer and Related Matters	5
	A. Developer's Background and Experience	5
	B. Builder's Background and Experience	5
	C. Legal Proceedings Involving the Condominium Project or the Developer	5
VI.	Operation and Management of the Condominium Project	5
	A. The Condominium Association	5
	B. Percentages of Value	6
	C. Project Finances	6
	D. Management of Condominium	7
	E. Insurance	7
	F. Restrictions on Ownership, Occupancy and Use	8
VII.	Rights and Obligations as Between Developer and Owners	9
	A. Before Closing	9
	B. At Closing	9
	C. After Closing	9
VIII.	Purpose of Disclosure Statement	10

Appendix I - Association Initial Operating Budget

DISCLOSURE STATEMENT

ORCHARD VILLAS

I. Introduction

Condominium development in Michigan is governed largely by Act 59 of the Michigan Public Acts of 1978, as amended (the Condominium Act).

This Disclosure Statement, together with copies of the legal documents required for the creation and operation of Orchard Villas as a condominium, are furnished to each purchaser pursuant to the requirement of Michigan law that the Developer of a condominium project disclose to prospective purchasers the characteristics of the condominium units that are offered for sale.

II. The Condominium Concept

A. General. Condominium is a method of subdividing, describing and owning real property. A condominium unit has the same legal attributes as any other form of real property under Michigan law and may be sold, mortgaged or leased subject only to such restrictions as are contained in the condominium documents and as otherwise may be applicable to the property.

Each owner receives a deed to his individual condominium unit containing his residence. Each owner also owns, in addition to his unit, an undivided interest in the other components ("common elements") of the project. Title to the common elements is included as part of, and is inseparable from, title to the individual condominium units. Each owner's proportionate share of the common elements is determined by the percentage of value assigned to his unit in the Master Deed described in Section IV of this Disclosure Statement. In Orchard Villas, all percentages of value are equal.

All portions of the project not included within the units constitute the common elements. A limited common element is an element that is set aside for use by a single unit owner, such as the driveway or mailbox appurtenant to each unit. General common elements are all common elements other than limited common elements.

The project is administered generally by a non-profit corporation of which all owners are members (the "Association"). The nature and duties of the Association are described more fully in Section VI of this Disclosure Statement.

Except for the year in which the project is established, real property taxes and assessments are levied individually against each unit in the project. The separate taxes and assessments cover the unit and its proportionate share of the common elements. No taxes or assessments are levied independently against the common elements. In the year in which the project is established, the taxes and assessments for the units covered by the Master Deed are sometimes billed to the Association and are paid by the owners of such units in proportion to the percentages of value assigned to the units owned by them.

B. Condominium Building Sites. Orchard Villas is different from many condominium projects because the condominium units in this project consist of only the individual building sites, and the common elements do not include the buildings and other improvements to be constructed on the sites. Each condominium unit consists of the land contained within the unit boundaries as shown in the Condominium Subdivision Plan. In the more traditional form of condominium project, the units consist of the air space enclosed within each of the buildings, and the common elements include the exterior structural components of the buildings. In Orchard Villas, each owner holds an absolute and undivided title to his or her unit and to the dwelling and other improvements located thereon. Each unit owner is responsible for all decoration, maintenance, repair and replacement of the dwelling and its appurtenances located within his or her unit. The Association will be responsible, at a minimum, for performing landscaping maintenance and snow plowing/shoveling of drives and walks within the homesites and may also undertake other maintenance functions at its election.

C. Other Information. Although the foregoing is generally accurate as applied to most condominium developments of the Orchard Villas type, the details of each development may vary substantially. Accordingly, each purchaser is urged to review carefully all of the documents contained in the Orchard Villas Purchaser Information Booklet as well as any other documents that the Developer has delivered to the purchaser in connection with this development. Any purchaser having questions pertaining to the legal aspects of the project is advised to consult his own lawyer or other professional advisor.

III. Description of the Condominium Project

A. Size, Scope and Physical Characteristics of the Project. Orchard Villas is a residential condominium subdivision located in the Village of Beverly Hills, Oakland County, Michigan. The condominium consists of 6 single-family building sites, each of which is a separate residential site condominium unit, together with appurtenant limited and general common element areas as described in the Master Deed.

B. Utilities. Orchard Villas is served by public water supply and sanitary sewer systems. Gas service is furnished by Consumers Energy Company; electricity is furnished by DTE Energy Company; telephone service is provided by SBC Communications; and cable facilities are furnished by Comcast Cable Services. All utilities, other than any utilities provided to service the common elements, will be separately metered for payment by the individual unit owners; utilities furnished to the common elements will be billed directly to the Association. The sanitary sewer mains and water mains serving the Project will be dedicated to the Village of Beverly Hills. The storm sewer system is required to be maintained by the Association.

C. Roadways. Orchard Place, the street within the Condominium which provides access to each of the units, is a private road and, as a general common element must be maintained, repaired and replaced by the Association at its expense. It is impossible to estimate with any degree of accuracy future roadway repair or replacement costs. It will be the Association's responsibility to

inspect and to perform preventative maintenance on the condominium roadway on a regular basis in order to maximize the life of the roadway and to minimize repair and replacement costs. In addition to Orchard Place, the Condominium relies for its access to Lahser Road upon certain rights of ingress and egress over a small portion of one of the roads within the adjoining Village Pines Condominium as more particularly described in Section IV.E of this Disclosure Statement.

D. Reserved Rights of Developer.

(1) Subdivision, Consolidation and Convertibility. The Developer has reserved the right to redefine the condominium units by subdivision and consolidation and to otherwise modify the units and common elements within the convertible areas identified as such. Each purchaser should carefully read Articles VI and VIII of the Master Deed to become acquainted with the Developer's reserved rights in such regard.

(2) Right to Approve Improvements. No dwelling, structure or other improvement may be constructed, nor may exterior modifications of any type be made without the Developer's approval.

(3) Conduct of Commercial Activities. The Developer has reserved the right, until all of the units in the Project have been sold, to maintain on the condominium premises a sales office, a business office, model units, storage areas, reasonable parking incident to the use of such areas, and such access to, from and over the condominium premises as may be reasonable to enable development and sale of the entire Project.

(4) Right to Amend. The Developer has reserved the right to amend the Master Deed without approval from owners and mortgagees for the purpose of correcting errors and for any other purpose. Any such amendment that would materially alter the rights of an owner or mortgagee may be made only with the approval of 66-2/3% of the owners and first mortgagees. Further, certain provisions of the Master Deed cannot be amended without the Developer's approval.

(5) Easements.

(a) For Maintenance, Repair, Replacement, Development, Marketing and Construction. The Developer has reserved such easements over the condominium project (including all units and common elements) as may be required to fully develop, construct, market and service the subdivision and to perform or exercise any of the Developer's or Association's maintenance, repair, decoration or replacement obligations or rights.

(b) For Use of Utilities. The Developer has reserved easements to utilize, tap, tie into, extend, enlarge, maintain, repair and replace all utility mains in the project. The Developer has also reserved the right to grant easements for utilities to appropriate governmental agencies or public utilities.

(c) **For Use of Common Elements**. The Developer has reserved easements and rights of use over the common elements in the Project for the purpose of ingress and egress to and from all units and common elements in furtherance of its rights and obligations of development, construction, marketing, maintenance, service and operation.

(d) **Dedication**. The Developer has reserved the right to dedicate any roads and utilities within the condominium to the public.

(e) **Other Easements**. The Condominium is subject to a certain recorded Easement and Maintenance Agreement relative to maintenance of the common elements between the Developer, the Association and the Village of Beverly Hills. It is also benefitted by and subject to a certain recorded Amended and Restated Grant of Easement which provides access by the Condominium unit owners to Lahser Road. Both of these documents are described in greater detail in Section IV. E below and have been included in their entirety in the Purchaser Information Booklet.

(6) **Enforcement of Bylaws**. The Developer has reserved the right to enforce the Bylaws as long as the Developer owns any unit in the Project that it offers for sale.

(7) **General**. In the condominium documents and in the Condominium Act, certain rights and powers are granted or reserved to the Developer to facilitate the development and sale of the Project as a condominium, including the power to approve or disapprove a variety of proposed acts and uses and the power to secure representation on the Board of Directors of the Association.

IV. Legal Documentation

A. General. Orchard Villas exists as a condominium project pursuant to the Master Deed (sometimes hereinafter called "Master Deed") therefor as recorded in the Oakland County Records and set forth in the Orchard Villas Purchaser Information Booklet. The Master Deed includes the Bylaws as Exhibit "A" and the Condominium Subdivision Plan as Exhibit "B." The Master Deed contains the definitions of certain terms used in the condominium documents, the percentage of value assigned to each unit in the condominium project, a general description of the units and common elements included in the Project and a statement regarding the relative responsibilities for maintaining the common elements. Article VI of the Master Deed contains the convertible area provisions, Article VIII contains provisions relating to subdivision, consolidation and other modification of Units, Article IX covers easements, Article X includes provisions for amending the Master Deed and Article XI provides that the Developer may assign to the Association or to another entity any or all of its rights and powers granted or reserved in the condominium documents or by law.

B. Bylaws. The Bylaws contain provisions relating to the operation, management and fiscal affairs of the condominium and, in particular, set forth the provisions relating to assessments of Association members for the costs of operating the condominium project. Article VI contains certain

restrictions upon the ownership, occupancy and use of the condominium project. Article VI also contains provisions permitting the adoption of rules and regulations governing the common elements. At the present time no rules and regulations have been adopted by the Board of Directors of the Association.

C. **Condominium Subdivision Plan**. The Condominium Subdivision Plan is a two dimensional survey depicting the physical location and boundaries of each of the units and all of the common elements in the project.

D. **Easement and Maintenance Agreement**. This instrument sets forth certain obligations of the Developer and the Association to the Village of Beverly Hills with regard to (i) maintenance of the common elements, (ii) preservation of certain trees, (iii) granting of easements, (iv) maintenance of common elements by the Village if the Association fails to do so adequately, (v) indemnification of the Association under certain circumstances and (vi) liability insurance coverages.

E. **Amended and Restated Grant of Easement**. This document contains the provisions by which the owners of units in Orchard Villas enjoy rights of ingress and egress to and from their homes to and from Lahser Road over a street in the adjoining Village Pines Condominium. In addition to granting easements of access, the instrument provides for the allocation of costs of maintenance of the Village Pines road between the Village Pines Condominium unit owners and the Orchard Villas unit owners. Certain other rights and obligations of the parties are also included.

V. The Developer and Related Matters

A. **Developer's Background and Experience**. The Developer of Orchard Villas is Jahn Construction, L.L.C., a Michigan limited liability company (herein referred to as the "Developer"). Although that entity has not previously developed any condominium projects, its Member, James C. Merritt, is a broker and builder, licensed as such in the State of Michigan, and has extensive experience in the development of other condominium projects.

B. **Builder's Background and Experience**. It is planned that Curtis-Patrick Developments, Ltd., a Michigan corporation, will build the homes in Orchard Villas. Its principal operating member, James C. Merritt, is a broker and builder as indicated above. The corporation is also licensed as a residential builder in the State of Michigan. Mr. Merritt has significant experience in building of attached and detached residences in condominium developments.

C. **Legal Proceedings Involving the Condominium Project or the Developer**. The Developer is not aware of any pending judicial or administrative proceedings involving the condominium project or the Developer.

VI. Operation and Management of the Condominium Project

A. **The Condominium Association**. The responsibility for management and maintenance of the project is vested in the Orchard Villas Homeowners Association, which has been

incorporated as a non-profit corporation under Michigan law. The Articles of Incorporation of the Association are contained in the Purchaser Information Booklet. The Bylaws include provisions that govern the procedural operations of the Association. The Association is governed by its Board of Directors, the initial members of which are designees of the Developer.

Within 120 days after closing the sales of 2 of the units, one of the Directors will be selected by the non-developer owners; and within 120 days after closing the sales of 5 of the units, the non-developer owners will elect all Directors, except that the Developer will have the right to designate at least one Director as long as it owns at least 1 of the units in the project. Regardless of the number of units conveyed, 54 months after the first conveyance, non-developer owners may elect Directors in proportion to the number of units which they own.

Within 120 days after closing the sales of 2 of the units or one year from the date of the first conveyance, whichever first occurs, the Developer must establish an advisory committee to serve as liaison between the non-developer owners and the Developer.

The First Annual Meeting of members may be convened at any time after 3 of the units have been sold and must be held on or before the expiration of 120 days after 5 of the units have been sold or within 54 months after conveyance of the first unit, whichever first occurs. Prior to the First Annual Meeting, individual Co-owners have no voting rights but, at and after the First Annual Meeting, the Co-owner members of the Association will vote to elect Directors, and the Directors in turn will elect officers for the Association. The Developer's voting rights are set forth in Article VIII, Section 2 of the Bylaws.

B. Percentages of Value. All of the units in Orchard Villas have equal percentages of value. The percentage of value assigned to each unit determines each owner's voting rights, allocation of common expenses of administration and respective shares of the common elements of the Project.

C. Project Finances.

(1) Budget. Article II of the Bylaws requires the Board of Directors to adopt an annual budget for the operation of the Project. The initial budget formulated by the Developer is intended to provide for the normal and reasonably predictable expenses of administration of the Project and includes a reserve for major repairs to and replacement of common elements. Inasmuch as the budget must necessarily be prepared in advance, it reflects estimates of expenses made by the Developer. To the extent that estimates prove inaccurate during actual operation and to the extent that the goods and services necessary to service the condominium project change in cost in the future, the budget and the expenses of the Association also will require revision. The current budget of the Association has been included as Appendix I to this Disclosure Statement.

(2) Assessments. Each owner of a unit, including the Developer, must contribute to the Association to defray expenses of administration; while the Developer is obligated to contribute to the Association for such purpose, its contributions are determined differently than the

other owners' contributions are determined and are, accordingly, less. See Article II, Section 3 of the Bylaws. The Board of Directors may also levy special assessments in accordance with the provisions of Article II, Section 2 of the Bylaws.

(3) **Foreclosure of Lien**. The Association has a lien on each unit to secure payment of Association assessments. The Bylaws provide that the Association may foreclose its lien in the same fashion that mortgages may be foreclosed by action or by advertisement under Michigan law. By closing on the purchase of a unit, each purchaser will be deemed to have waived notice of any proceedings brought by the Association to foreclose its lien by advertisement and notice of a hearing prior to the sale of his unit.

(4) **Other Possible Liabilities**. Each purchaser is advised of the following possible liability of each owner under Section 58 of the Condominium Act:

> If the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium unit as a result of foreclosure of the first mortgage, that mortgagee or purchaser and his or her successors and assigns are not liable for the assessments by the administering body chargeable to the unit that became due prior to the acquisition of title to the unit by that mortgagee or purchaser and his or her successors and assigns.

D. Management of Condominium. The Association has not entered into an agreement with a management agent for management of the condominium. The Developer will administer the Condominium or cause it to be administered until the First Annual Meeting of Members without charging a management fee to the Association. The Developer does not believe that professional management will be required thereafter. If the Association elects to engage a management agent, however, the Association budget and Unit owner maintenance assessments will have to be increased to so reflect.

E. Insurance.

(1) **Title Insurance**. The Purchase Agreement provides that the Developer shall furnish each purchaser a commitment for an owner's title insurance policy issued by Security Union Title Insurance Company through its agent, Philip R. Seaver Title Company, Inc. or by some other duly qualified underwriter and/or agent at or prior to closing, and that the policy itself shall be provided within a reasonable time after closing. The cost of the commitment and policy is to be borne by the Developer. Each purchaser should review the title insurance commitment with a qualified advisor of his choice prior to closing to make certain that it conforms to the requirements of the Purchase Agreement. The individual unit owners' title insurance policies will insure each purchaser's title to his unit and his or her appurtenant share of the common elements together with the private road easement over the road lying outside the Condominium which provides access to and from Lahser Road.

(2) **Other Insurance**. The condominium documents require that the Association carry fire and extended coverage for vandalism and malicious mischief and liability insurance and workers' compensation insurance, to the extent applicable, with respect to the general common elements in the Condominium. The insurance policies have deductible clauses and, to the extent thereof, losses will be borne by the Association. The Board of Directors is responsible for obtaining insurance coverage for the Association. Each owner's *pro rata* share of the annual Association insurance premiums is included in the regular assessment. The Association insurance policies are available for inspection during normal working hours. A copy of the certificate of insurance with respect to the condominium project will be furnished to each owner upon request.

Each owner is responsible for obtaining fire and extended coverage insurance on his unit and the residence and other improvements located thereon and on the limited common elements appurtenant thereto, as well as personal property, liability and other individual insurance coverage to the extent indicated in Article IV of the Bylaws. Each owner must deliver a certificate of insurance to the Association to confirm that the required insurance coverage is being maintained. If an owner fails to maintain any such insurance coverage or to provide evidence thereof to the Association, the Association may obtain such insurance and collect the cost thereof from the delinquent owner. The Association should periodically review all insurance coverage to be assured of its continued adequacy and owners should each do the same with respect to their individual insurance.

F. Restrictions on Ownership, Occupancy and Use. Article VI of the Bylaws sets forth restrictions on the ownership, occupancy and use of a unit in the condominium project. It is impossible to paraphrase these restrictions without risking the omission of some provision that may be of significance to a purchaser. Consequently, each purchaser should examine the restrictions with care to be sure that they do not infringe upon an important intended use. The following is a list of certain of the more significant restrictions:

(1) Units are to be used for residential purposes only in accordance with the ordinances of the Village of Beverly Hills.

(2) There are substantial limitations upon physical changes that may be made to the common elements and to the units in the condominium, and upon the uses to which the common elements and units may be put.

(3) The Developer has retained architectural control over the construction and alteration of all buildings and other improvements in the project.

(4) Reasonable regulations may be adopted by the Board of Directors of the Association concerning the use of common elements, without vote of the owners.

None of the restrictions apply to the commercial activities or signs of the Developer.

VII. Rights and Obligations as Between Developer and Owners

A. Before Closing. The respective obligations of the Developer and the purchaser of a unit in the Project prior to closing are set forth in the Purchase and Building Agreement between the parties. That document should be closely examined by each purchaser in order to ascertain the disposition at closing of earnest money deposits advanced by the purchaser, anticipated closing adjustments, and other important matters. There exists, in addition, a master Escrow Agreement which provides, pursuant to Section 103b of the Condominium Act, that the Escrow Agent shall maintain sufficient funds or other security to complete those common element improvements shown as "must be built" on the Condominium Subdivision Plan until such improvements are substantially complete. This provision does not, however, pertain to any dwelling or other improvements to be constructed on any building site, but relates only to the improvements (such as utilities, roadways and general common element landscaping) requisite to placing each residential building site unit in a condition suitable for issuance of a building permit for a dwelling to be constructed thereon. Funds thus retained in escrow are not to be released to the Developer until conveyance to a purchaser of title to a unit and confirmation by the Escrow Agent that all improvements labeled "must be built" are substantially complete unless other adequate security has been provided to the Escrow Agent. Only minimal amounts will be placed in escrow in Orchard Villas and no funds of a purchaser will be retained by the Escrow Agent after the closing of the sale of such purchaser's building site since all common element improvements will either be complete by such time or will be otherwise secured by means satisfactory to the Escrow Agent and the public agencies involved.

B. At Closing. Each purchaser will receive by warranty deed fee simple title to his or her unit subject to no liens or encumbrances other than the condominium documents and those other easements and restrictions that are specifically set forth in the condominium documents and title insurance commitment.

C. After Closing.

(1) General. Subsequent to the purchase of the unit, relations between the Developer and the owner are governed by the Master Deed and the Condominium Act, except to the extent that any contractual provisions of the Purchase Agreement are intended to survive the closing.

(2) Obligations of Developer and Builder. It is intended that the homes in Orchard Villas will be built by Curtis-Patrick Developments, Ltd., a Michigan corporation, an affiliate of the Developer. That is not necessarily the case, however, and it is a possibility that some homes may be constructed by one or more other builders. In any event, Jahn Construction, L.L.C., as Developer, is warranting only that roadways, utility mains and other common elements have been or will be installed in accordance with the site plan for the Condominium as approved by the Village of Beverly Hills and is not warranting any aspects of home construction. Curtis-Patrick Developments, Ltd. will warrant each home which it builds as provided in its standard form of limited warranty delivered to each purchaser but neither it nor the Developer will have any responsibility with respect to any home constructed by another builder.

VIII. Purpose of Disclosure Statement

The Developer has prepared this Disclosure Statement in good faith, in reliance upon sources of information believed to be accurate and in an effort to disclose material facts about the Project. Each purchaser is urged to engage a competent lawyer or other advisor in connection with deciding whether to purchase a unit. In accepting title to a unit, each purchaser shall be deemed to have waived any claim or right arising out of or relating to any immaterial defect, omission or misstatement in this Disclosure Statement. The terms used herein are defined in the Condominium Act.

The Commercial Services Bureau of the Michigan Department of Labor & Economic Growth publishes The Condominium Buyers Handbook that the Developer has delivered to you. The Developer assumes no obligation, liability, or responsibility as to the statements contained in or omitted from The Condominium Buyers Handbook.

The descriptions of the Master Deed and other instruments contained herein are summary only and may or may not completely and adequately express the content of the various condominium documents. Each purchaser is referred to the original Master Deed and other original instruments as contained in the Purchaser Information Booklet. In accordance with the rules of the Commercial Services Bureau of the Michigan Department of Labor & Economic Growth, legal phraseology, technical terms and terms of art have been minimized and brevity has been the objective to the extent consistent with the purposes of the Disclosure Statement and rules of the Commercial Services Bureau of the Michigan Department of Labor & Economic Growth.

ORCHARD VILLAS HOMEOWNERS ASSOCIATION
ESTIMATED BUDGET FOR INITIAL YEAR OF OPERATIONS
COVERING 6 UNITS

ADMINISTRATIVE:

Legal and auditing	$ 500	
General administrative expense	300	
Association Insurance - General Common Elements and Liability	2,000	
Commonly metered utilities	3,800	
	6,600	

LAND SERVICES:

Ground maintenance (including snow plowing)	8,000	
Tree trimming and spraying	2,000	
Miscellaneous repairs and maintenance of entrance area and sprinkler system	2,500	
		12,500

RESERVES:

Replacement and deferred maintenance reserves for the common elements (Roads & Driveways- $50,000 estimate/20 year life)	2,500	
		2,500
Total operating expenses and reserves		$ 21,600
Monthly Maintenance Assessment per Unit (rounded)		$300

NOTE: The foregoing budgetary analysis is based upon assumptions pertinent to the operation of a fully constructed and operating 6-unit condominium development. Operations prior to full development will involve a lesser number of units and, therefore, a smaller gross expenditure. It is, nevertheless, assumed that the allocable maintenance charges per unit will be approximately the same, but not necessarily proportionate to the number of units in existence from time to time.

If professional management is engaged by the Association, the budget will be revised upward to so reflect. None is presently planned nor have estimated costs thereof been included in the budget.

OAKLAND COUNTY TREASURER'S CERTIFICATE
I HEREBY CERTIFY that there are no TAX LIENS or TITLES held by the state or any individual against the within description and all TAXES on same are paid for five years previous to the date of this instrument as appears by the records in the office except as stated.

MAR 24 2008

2.00 PATRICK M. DOHANY, County Treasurer
Sec. 135, Act 206, 1893 as amended

53473
LIBER 40136 PAGE 329
$25.00 MISC RECORDING
$4.00 REMONUMENTATION
03/24/2008 02:23:43 P.M. RECEIPT# 26847

PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

FIRST AMENDMENT TO MASTER DEED OF

ORCHARD VILLAS

Jahn Construction, L.L.C., a Michigan limited liability company (hereinafter referred to as "Developer"), the address of which is 32800 Lahser Road, Beverly Hills, Michigan 48025, being the Developer of Orchard Villas, a Condominium Project established pursuant to the Master Deed thereof, recorded on March 10, 2004, in Liber 32439 at Pages 678 through 733, Oakland County Records, and known as Oakland County Condominium Subdivision Plan No. 1611, hereby amends the Master Deed of Orchard Villas pursuant to the authority reserved in Article X, Section 3 of the Master Deed for the purpose of establishing the as-built locations of Units and Common Elements of the Condominium Project in accordance with the requirements of Section 52(5) of the Michigan Condominium Act. Upon the recording of this Amendment in the office of the Oakland County Register of Deeds, the Condominium Subdivision Plan recorded as Exhibit B to the original Master Deed shall be amended in the following manner: 24-04-278-000 ent

1. The following sentence shall be hereby added to Article IX, Section 10 of the Master Deed: "All of the foregoing principles of this Section 10 shall likewise apply to the gas service easement over Unit 5 for the benefit of Unit 6 as depicted on the Utility Plan of the Condominium Subdivision Plan and shall also apply to any other utility services as now or hereafter installed over any Units for the benefit of other Units and the Association pursuant to Section 3 of this Article IX as are deemed reasonable and necessary by the Developer or the Association". 24-04-278-005 - Unit 5
24-04-278-006 - Unit 6

2. Amended Sheets 1, 2, 3 and 4 of the Condominium Subdivision Plan of Orchard Villas, as attached hereto, shall replace and supersede Sheets 1, 2, 3 and 4 of the Condominium Subdivision Plan of Orchard Villas as originally recorded, and the originally recorded Sheets 1, 2, 3 and 4 shall be of no further force or effect.

69 R ST

In all respects, other than as hereinabove indicated, the original Master Deed of Orchard Villas, including the Bylaws attached as Exhibit A thereto, recorded as aforesaid, is hereby ratified, confirmed and re-declared.

CHECKING COMPLETED AT REGISTER OF DEEDS
MAR 24 2008
Ruth Johnson Register of Deeds
Oakland County, MI

[Signature and acknowledgment appear on following page]

353783 MAR 19 2008

RECEIVED
MAR 20 2008
Ruth Johnson Register of Deeds
Oakland County, MI

O.K. - LG

OK-C.K.

IN WITNESS WHEREOF, this First Amendment to Master Deed was executed as of the 11th day of March, 2008.

JAHN CONSTRUCTION, L.L.C.,
a Michigan limited liability company, Developer

By: _____
James C. Merritt, Member

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing First Amendment to Master Deed of Orchard Villas was acknowledged before me in Oakland County, Michigan on this 11th day of March, 2008, by James C. Merritt, a Member of Jahn Construction, L.L.C., a Michigan limited liability company, on behalf of the company.

William T. Myers
Notary Public, Oakland County, Michigan
My commission expires: August 29, 2011
Acting in Oakland County

First Amendment to Master Deed of Orchard Villas drafted by:

William T. Myers of
MYERS NELSON DILLON & SHIERK, PLLC
40701 Woodward Avenue, Suite 235
Bloomfield Hills, Michigan 48304-2221

When recorded, return to drafter

REPLAT NO. 1
OAKLAND COUNTY CONDOMINIUM SUBDIVISION
PLAN NUMBER 1611
EXHIBIT B TO THE MASTER DEED OF

Orchard Villas

VILLAGE OF BEVERLY HILLS, OAKLAND COUNTY, MICHIGAN

DEVELOPER

JAHN CONSTRUCTION, L.L.C.,
A MICHIGAN LIMITED LIABILITY COMPANY
32800 LAHSER ROAD
BEVERLY HILLS, MI. 48025

SURVEYOR

NOWAK AND FRAUS, P.L.L.C.
1310 N. STEPHENSON HWY.
ROYAL OAK, MICHIGAN 48067
PHONE: (248) 399-0886
FAX: (248) 399-0805

LIBER4 0136 P0331

INDEX

*1 ..... TITLE SHEET
*2 ..... SURVEY/FLOOD PLAIN PLAN
*3 ..... SITE PLAN
*4 ..... UTILITY PLAN

NOTE

THE ASTERISK (*) AS SHOWN IN THE SHEET INDEX INDICATES AMENDED DRAWINGS WHICH ARE DATED: 3/12/2008. THESE DRAWINGS ARE TO REPLACE THOSE PREVIOUSLY RECORDED.

LEGAL DESCRIPTION

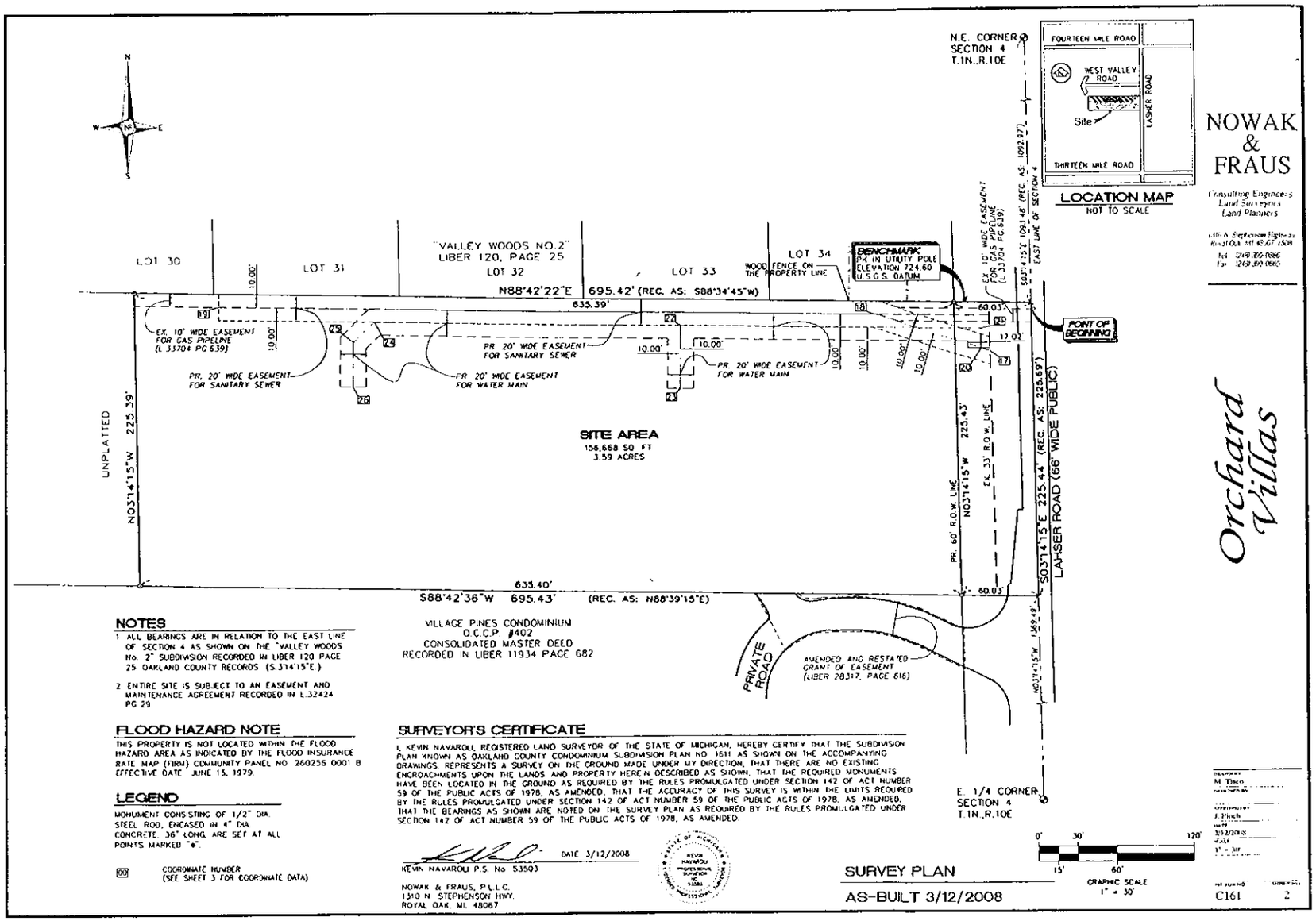
PART OF THE NORTHEAST 1/4 OF SECTION 4, TOWN 1 NORTH, RANGE 10 EAST, VILLAGE OF BEVERLY HILLS, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT ON THE EAST LINE OF SECTION 4, DISTANT S.03°14'15"E., 1093.48 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 4, SAID LINE ALSO BEING THE CENTERLINE OF LAHSER ROAD (66.00 FEET WIDE); THENCE CONTINUING ALONG SAID EAST LINE OF SECTION 4, S.03°14'15"E., 225.44 FEET TO A POINT ON THE NORTH LINE OF VILLAGE PINES CONDOMINIUM (CONDOMINIUM SUBDIVISION PLAN No. 402); THENCE S.88°42'36"W., 695.43 FEET ALONG SAID NORTH LINE OF VILLAGE PINES CONDOMINIUM; THENCE N.03°14'15"W., 225.39 FEET TO A POINT ON THE SOUTH LINE OF VALLEY WOODS No. 2 SUBDIVISION, AS RECORDED IN LIBER 120 OF PLATS, PAGE 25, OAKLAND COUNTY RECORDS; THENCE N.88°42'22"E., 695.42 FEET ALONG SAID SOUTH LINE OF VALLEY WOODS No. 2 SUBDIVISION TO THE POINT OF BEGINNING.

CONTAINING 156,668 SQUARE FEET OR 3.59 ACRES.

TITLE SHEET
AS-BUILT 3/12/2008

ISSUED 3/12/2008
C161
SHEET No. 1

LIBER40136 PG332



NOTES

1. ALL BEARINGS ARE IN RELATION TO THE EAST LINE OF SECTION 4 AS SHOWN ON THE "VALLEY WOODS No. 2" SUBDIVISION RECORDED IN LIBER 120 PAGE 25 OAKLAND COUNTY RECORDS (S.3°14'15"E.)
2. ENTIRE SITE IS SUBJECT TO AN EASEMENT AND MAINTENANCE AGREEMENT RECORDED IN L.32424 PG 29

FLOOD HAZARD NOTE

THIS PROPERTY IS NOT LOCATED WITHIN THE FLOOD HAZARD AREA AS INDICATED BY THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 260256 0001 B EFFECTIVE DATE JUNE 15, 1979.

LEGEND

MONUMENT CONSISTING OF 1/2" DIA. STEEL ROD, ENCASED IN 4" DIA. CONCRETE, 36" LONG, ARE SET AT ALL POINTS MARKED "●".

(00) COORDINATE NUMBER (SEE SHEET 3 FOR COORDINATE DATA)

SURVEYOR'S CERTIFICATE

I, KEVIN NAVAROLI, REGISTERED LAND SURVEYOR OF THE STATE OF MICHIGAN, HEREBY CERTIFY THAT THE SUBDIVISION PLAN KNOWN AS OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 1611 AS SHOWN ON THE ACCOMPANYING DRAWINGS, REPRESENTS A SURVEY ON THE GROUND MADE UNDER MY DIRECTION, THAT THERE ARE NO EXISTING ENCROACHMENTS UPON THE LANDS AND PROPERTY HEREIN DESCRIBED AS SHOWN, THAT THE REQUIRED MONUMENTS HAVE BEEN LOCATED IN THE GROUND AS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED, THAT THE ACCURACY OF THIS SURVEY IS WITHIN THE LIMITS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED, THAT THE BEARINGS AS SHOWN ARE NOTED ON THE SURVEY PLAN AS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED.

DATE 3/12/2008

KEVIN NAVAROLI P.S. No. 53503

NOWAK & FRAUS, P.L.L.C.
1310 N. STEPHENSON HWY.
ROYAL OAK, MI. 48067

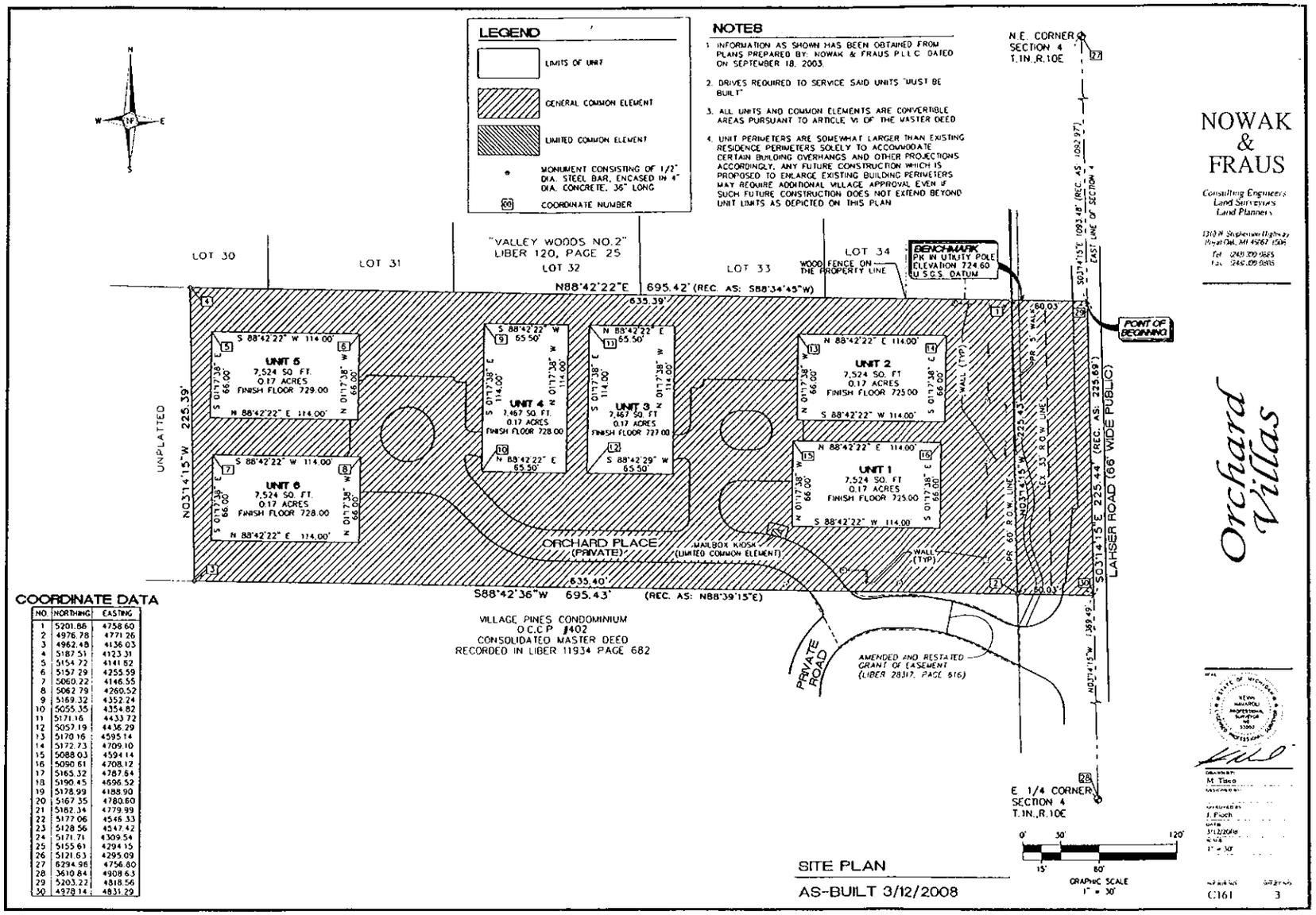
SURVEY PLAN

AS-BUILT 3/12/2008

M. Tisco
J. Pinch
3/12/2008
1" = 30'

C161 2

LIBER4 0136 PG333



COORDINATE DATA

NO.	NORTHING	EASTING
1	5201.88	4758.60
2	4976.78	4771.26
3	4962.48	4136.03
4	5187.51	4123.31
5	5154.72	4141.82
6	5157.29	4255.59
7	5060.22	4146.55
8	5062.79	4260.52
9	5159.32	4352.24
10	5055.35	4354.82
11	5171.16	4433.72
12	5057.19	4436.29
13	5170.16	4595.14
14	5172.73	4709.10
15	5088.03	4594.14
16	5090.61	4708.12
17	5165.32	4787.84
18	5190.45	4696.52
19	5178.99	4188.90
20	5167.35	4780.60
21	5182.34	4779.99
22	5177.06	4546.33
23	5128.56	4547.42
24	5171.71	4309.54
25	5155.61	4294.15
26	5121.63	4295.09
27	6294.98	4756.80
28	3610.84	4908.63
29	5203.22	4818.56
30	4978.14	4831.29

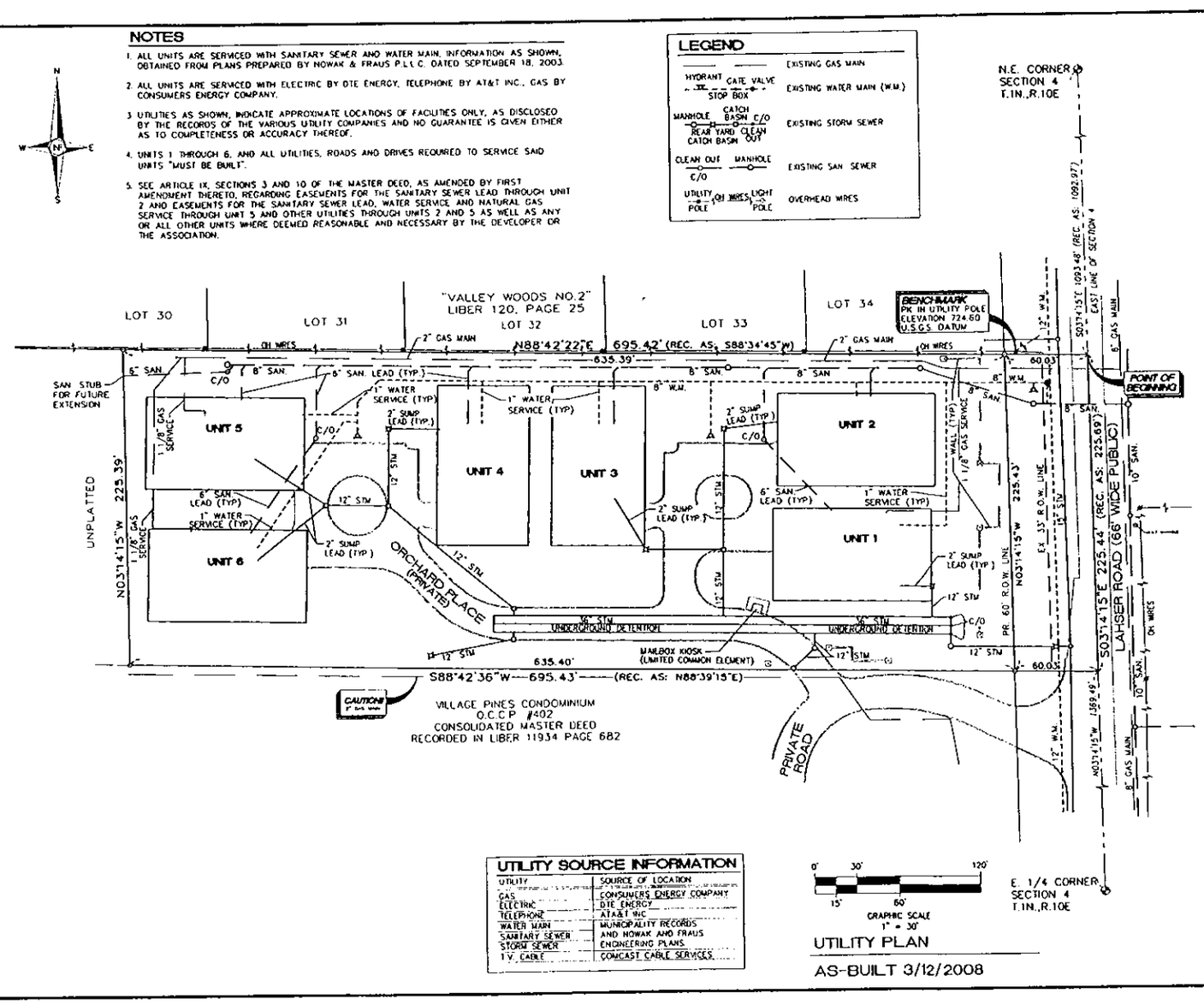
LIBER40136 PG334

NOTES

1. ALL UNITS ARE SERVICED WITH SANITARY SEWER AND WATER MAIN. INFORMATION AS SHOWN, OBTAINED FROM PLANS PREPARED BY NOWAK & FRAUS P.L.L.C. DATED SEPTEMBER 18, 2003.
2. ALL UNITS ARE SERVICED WITH ELECTRIC BY DTE ENERGY, TELEPHONE BY AT&T INC., GAS BY CONSUMERS ENERGY COMPANY.
3. UTILITIES AS SHOWN, INDICATE APPROXIMATE LOCATIONS OF FACILITIES ONLY, AS DISCLOSED BY THE RECORDS OF THE VARIOUS UTILITY COMPANIES AND NO GUARANTEE IS GIVEN EITHER AS TO COMPLETENESS OR ACCURACY THEREOF.
4. UNITS 1 THROUGH 6, AND ALL UTILITIES, ROADS AND DRIVES REQUIRED TO SERVICE SAID UNITS "MUST BE BUILT".
5. SEE ARTICLE IX, SECTIONS 3 AND 10 OF THE MASTER DEED, AS AMENDED BY FIRST AMENDMENT THERETO, REGARDING EASEMENTS FOR THE SANITARY SEWER LEAD THROUGH UNIT 2 AND EASEMENTS FOR THE SANITARY SEWER LEAD, WATER SERVICE AND NATURAL GAS SERVICE THROUGH UNIT 5 AND OTHER UTILITIES THROUGH UNITS 2 AND 5 AS WELL AS ANY OR ALL OTHER UNITS WHERE DEEMED REASONABLE AND NECESSARY BY THE DEVELOPER OR THE ASSOCIATION.

LEGEND

- EXISTING GAS MAIN
- HYDRANT, GATE VALVE, STOP BOX — EXISTING WATER MAIN (W.M.)
- MANHOLE, CATCH BASIN, C/O, REAR YARD CATCH BASIN, CLEAN OUT — EXISTING STORM SEWER
- CLEAN OUT, MANHOLE — EXISTING SAN. SEWER
- UTILITY POLE, OH WIRES, LIGHT POLE — OVERHEAD WIRES



UTILITY SOURCE INFORMATION

UTILITY	SOURCE OF LOCATION
GAS	CONSUMERS ENERGY COMPANY
ELECTRIC	DTE ENERGY
TELEPHONE	AT&T INC.
WATER MAIN	MUNICIPALITY RECORDS AND NOWAK AND FRAUS ENGINEERING PLANS
SANITARY SEWER	
STORM SEWER	
T.V. CABLE	COMCAST CABLE SERVICES

UTILITY PLAN

AS-BUILT 3/12/2008

NOWAK & FRAUS

Consulting Engineers
Land Surveyors
Land Planners

1310 N. Stephenson Highway
Royal Oak, MI 48067-1508
Tel 248.399.0836
Fax 248.399.0875

Orchard Villas

M. Thien
J. Pioch
3/12/2008
1" = 30'

C161 4