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DECLARATION OF CONDOMINIUM PROPERTY

MONTGOMERY CO. OHIO  
RECORDED

FOR

NANTUCKET LANDING CONDOMINIUM

I hereby certify that copies of the within Declaration, together with the drawings attached as an Exhibit thereto, have been filed in the Office of the Auditor, Montgomery County, Ohio.

Dated: FEB 23 1985

By: *Robert L. Roderer*  
Montgomery County Auditor

Plat Reference: Book 123, Page 48TH 48B

THIS INSTRUMENT PREPARED BY:

Hans H. Soltau  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

1985 FEB 25 AM 11:05  
TRANSFERRED  
ROBERT L. RODERER  
MONT. COUNTY AUDITOR

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**ARTICLE I**  
**DEFINITIONS**

The following terms used herein are defined as follows:

1.01 Additional Property, shall mean adjacent or adjoining property which is described in Exhibit "D" of this Declaration, and which, together with improvements thereon may be added in the future to the Condominium.

1.02 Agent, shall mean any person who represents or acts for or on behalf of the Developer in selling or offering to sell a Condominium Ownership Interest, but shall not include an attorney-at-law whose representation of another person consists solely of rendering legal services.

1.03 Amendment, shall mean an instrument executed with the same formalities of the Declaration and recorded with the Recorder of Montgomery County, Ohio for the purpose of amending the Declaration or any of the exhibits thereto.

1.04 Articles and Articles of Incorporation, shall mean the articles, filed with the Secretary of State of Ohio, incorporating the Association as an Ohio not-for-profit corporation under the provisions of Chapter 1702 of the Ohio Revised Code, as the same may be lawfully amended from time to time.

1.05 Association, shall mean Nantucket Landing Condominium Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

1.06 Board of Managers, shall mean those persons who, as a group, serve as the board of trustees of the Association.

1.07 By-Laws, shall mean the By-laws of the Association, as the same may be lawfully amended from time to time, created under and pursuant to the provision of Chapter 5311 of the Ohio Revised Code for the Condominium, and which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702 of the Ohio Revised Code.

1.08 Common Areas and Facilities, shall mean all the Condominium Property except that which is specifically defined and referred to as a Unit.

1.09 Common Assessments, means the assessments charged proportionately on the basis of percentage of interest against all Units for common purposes.

1.10 Common Expenses, means those expenses designated as such by Chapter 5311 of the Ohio Revised Code, or in accordance with the provisions of the Declaration, or both.

1.22 Limited Common Areas and Facilities, means and includes those Common Areas and Facilities designated in this Declaration, and any amendment thereto, as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

1.23 Person, shall mean a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

1.24 Unit, shall mean a part of the Condominium Property consisting of one (1) or more rooms on one (1) or more floors of a building which are designated a Unit by this Declaration or amendment thereto, and are delineated on the drawings in Exhibit "B" attached hereto, and in the drawings attached to an amendment of this Declaration.

1.25 Unit Owner, means a person who owns a Condominium Ownership Interest in a Unit.

## ARTICLE II

### NAME AND PURPOSE

2.01 Name. The Condominium Property shall be known as Nantucket Landing Condominium.

2.02 Purpose. The Condominium Property shall be used for single family residence purposes and common recreational purposes auxiliary thereto and for no other purpose, provided, however, that Declarant or its agents may use one or more of the Units for sales, promotional, development, construction and office purposes.

## ARTICLE III

### LEGAL DESCRIPTION OF PREMISES

3.01 The real property subject to this plan for Condominium ownership is described in Exhibit "A" attached hereto.

## ARTICLE IV

### DESCRIPTION AND LOCATION OF BUILDINGS

4.01 Description. Unless or until amended, there are two (2) buildings located on the Condominium Property which are generally described as follows:

- (a) Buildings 1 and 2 are partially one (1) and two (2) stories in height, each containing three (3) townhouse Units and one (1) ranch Unit.

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But excepting therefrom all plumbing, electric, heating, cooling and other utility service lines, pipes, wires, ducts or conduits which are located within the bounds of a Unit but which do not exclusively serve such Unit.

5.02 Type of Units. There are different types of Units which are generally described as follows:

- (a) Type A Unit is a two (2) story townhouse Unit containing approximately 1,200 square feet. The Unit contains two (2) bedrooms, a living room, den, one and one-half (1½) baths, kitchen and an attached one (1) car garage.
- (b) Type B Unit is a one (1) story ranch Unit containing approximately 1,250 square feet. The Unit contains two (2) bedrooms, two (2) baths, a living room, kitchen and an attached two (2) car garage.
- (c) Type C Unit is a two (2) story townhouse Unit containing approximately 1,450 square feet. The Unit contains two (2) bedrooms, two and one-half (2½) baths, a living room, kitchen, loft and an attached two (2) car garage.
- (d) Type D Unit is a two (2) story townhouse Unit containing approximately 1,600 square feet. The Unit contains two (2) bedrooms, two and one-half (2½) baths, a living room, kitchen, loft and an attached two (2) car garage.

5.03 Designation of Units by Type. The following is a listing of the Units by their type:

<u>UNITS</u>	<u>TYPE</u>
2 and 7	A
1 and 8	B
3 and 6	C
4 and 5	D

#### ARTICLE VI

#### DESCRIPTION OF COMMON AREAS AND FACILITIES

6.01 General. The entire balance of the land and improvements thereon, including but not limited to all buildings, foundations, roofs, main and supporting walls, patios, decks, balconies, driveway, parking area, pumps, lakes, detention or retention ponds, trees, lawns, gardens, stoops, wires, conduits, utility lines and ducts, now or hereafter situated on the Condominium Property, are hereby declared and established as the Common Areas and Facilities.

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ARTICLE IX

OWNERSHIP OF COMMON AREAS AND FACILITIES

9.01 Percentage of Ownership. Unless or until amended, the percentage of ownership of the Common Areas and Facilities attributable to the Ownership Interest in each Unit and for the division of Common Profits, Common Surplus and Common Expenses, is as follows:

<u>UNIT NO.</u>	<u>PERCENTAGE OF OWNERSHIP</u>
1	11.36
2	10.91
3	13.18
4	14.55
5	14.55
6	13.18
7	10.91
8	<u>11.36</u>
	100.00

9.02 Computation. Each Unit's percentage of ownership as herein set forth, was determined by comparing the square footage of such Unit to the total square footage of all of the Units on the date when this Declaration is filed for record, or stated in another way, the percentage of ownership of a particular Unit is equal to a fraction, the numerator of which is the square footage of such Unit and the denominator of which is the total square footage of all of the Units.

9.03 Amendment. Except as provided for in Article XXI hereof, the percentage of ownership as herein set forth shall not be altered except by an amendment to the Declaration unanimously approved by all Unit Owners.

ARTICLE X

REGULATION OF COMMON AREAS AND FACILITIES

10.01 No person shall use the Common Areas and Facilities or any part thereof in any manner contrary or not in accordance with such rules and regulations pertaining thereto as from time to time may be adopted by the Board of Managers of the Association. Without in any manner intending to limit the generality of the foregoing, the Board of Managers shall have the right, but not the obligation, to promulgate rules and regulations limiting the use of the Common Areas and Facilities by members of the Association and their respective employees, invitees and servants.

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11.07 Laundry or Rubbish in Common Areas and Facilities. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas and Facilities. The Common Areas and Facilities shall be kept free and clear of rubbish, debris and other unsightly materials.

11.08 Lounging or Storage in Common Areas and Facilities. There shall be no playing, lounging, parking of campers or boats, inoperable vehicles, trucks, motorcycles, baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Areas and Facilities except in accordance with rules and regulations therefor adopted by the Board of Managers.

11.09 Prohibited Activities. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Condominium Property nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted on any part of the Condominium Property. The right is reserved by the Declarant or his agent to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units. In addition, the right is hereby given the Association or its representatives to place "For Sale" or "For Rent" signs on any Unit or on the Condominium Property for the purpose of facilitating the disposal of Units by any Unit Owner, mortgagee or the Association.

11.10 Alteration of Common Areas and Facilities. Nothing shall be altered, constructed in, or removed from the Common Areas and Facilities except as hereinafter provided, and except upon the written consent of the Board of Managers. The Board of Managers may delegate their authority hereunder to an architectural review committee.

11.11 Rental of Units. The respective Unit shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as (i) rental for any period less than sixty (60) days or (ii) any rental if the occupants of the Units are provided customary hotel services such as room service for food and beverage, maid service, and furnishing of laundry and linen services. Other than the foregoing obligations, and subject to such rules and regulations as adopted by the Board of Managers, the Owners of the respective Units shall have the right to lease the same provided that said lease is made subject to the covenants and restrictions in this Declaration.

11.12 Declarant. Notwithstanding the above, the Declarant may do what is reasonably necessary to complete the additional buildings on the Additional Property, including the storage of construction materials, construction office on location, and what is reasonably necessary to promote and sell the Units thereon constructed.

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12.06 Declarant's Rights. Until such time as Declarant shall have sold and conveyed seventy-five percent (75%) of the Condominium Ownership Interests, or for a period of five (5) years from the date on which this Declaration is filed for record, whichever first occurs, the powers, rights, duties and functions of the Association shall be exercised by a Board of Managers selected by the Declarant; provided, however, that no later than the date on which twenty-five percent (25%) of the Condominium Ownership Interests have been sold and conveyed by Declarant, two (2) members shall be elected by the Unit Owners, other than Declarant, pursuant to Section 12.05.

12.07 Computation. For purposes of Sections 12.05 and 12.06, the percentages of Condominium Ownership Interests sold and conveyed by Declarant shall be determined by comparing the Condominium Ownership Interests sold and conveyed to the total number of Condominium Ownership Interests created and which may be created pursuant to Article XXI.

12.08 Turnover. Within thirty (30) days after the expiration of any period during which the Developer exercises control over the Association pursuant to Section 12.06, the Association shall meet and elect all members of the Board of Managers and all other officers of the Association. The persons so elected shall take office immediately from such election. After said meeting, the Declarant shall deliver to such Board of Managers or officers, correct and complete books and records of account as provided by the By-Laws and Section 5311.09(A) of the Ohio Revised Code.

### ARTICLE XIII

#### AMENDMENT OF DECLARATION AND BY-LAWS

13.01 General. Unless otherwise specifically provided for herein, this Declaration and the By-Laws attached hereto as Exhibit "C", may be amended only upon the affirmative vote of the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Any amendment of this Declaration or the By-Laws attached hereto as Exhibit "C", must be filed for record with the Recorder of Montgomery County, Ohio. Such amendment must be executed with the same formalities as this instrument and must refer to the microfiche number in which this instrument and its attached exhibits are recorded.

13.02 Mortgage or Mortgagee. Any amendment which adversely affects the value, or priority, or the security of any mortgagee of record shall require the written consent of such mortgagee of record. Any amendment affecting the underwriting requirements of any mortgagee shall require the written consent of such mortgagee and also F.H.L.M.C. or F.N.M.A., if required by such mortgagee. Any amendment of language specifically referring to mortgages shall require the written consent of all mortgagees of record.

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- (b) To maintain the patios, entranceways and stoops which are designated by this Declaration as Limited Common Areas and Facilities for the exclusive use of such Unit Owner.
- (c) To maintain the air conditioning pad, compressor, duct and conduits thereto which are designated by this Declaration as Limited Common Areas and Facilities for the exclusive use of such Unit Owner.
- (d) To maintain, repair and replace at his expense all portions of the Common Areas and Facilities which may be damaged or destroyed by reason of the willful or uninsured negligent act or neglect of himself, or by the willful or uninsured negligent act or neglect of any invitee, licensee or guest of such Owner.
- (e) To maintain and repair all windows and doors of his Unit and of all associated structures and fixtures therein which are appurtenances to his Unit. The foregoing includes, without limitation, responsibility for all breakage, damage, malfunctions and ordinary wear and tear of such appurtenances.
- (f) To maintain, repair and replace the springs, tracks or any other mechanism relating to the garage doors, including without limitation any garage door opener and the mechanisms associated thereto, whether installed by the Developer or the Unit Owner.
- (g) To perform his responsibilities in such a manner so as not to unreasonably disturb other persons residing within the building.
- (h) Not to paint or otherwise decorate so as to change the appearance of any portion of the building not within the walls of the Unit unless the written consent of the Board of Managers of the Association is obtained.
- (i) To promptly report to the Association or its Agent any defect or need for repairs, the responsibility of which is with the Association.
- (j) Not to make any alterations in the portions of the Unit or the building which are to be maintained by the Association or remove any portion thereof or make any addition thereto, or do anything which would or might jeopardize or impair the safety or soundness of the building, without first obtaining the written consent of the Board of Managers of the Association and of the Owner or Owners of whose benefit such easement exists.

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regard to maintenance, repair and restoration, provided that exercise of this easement, as it affects the individual Units, shall be at reasonable times with reasonable notice to the individual Unit Owners. Any damage resulting to a particular Unit through the provisions of this Article, shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

15.03 Easements Through Walls Within Units. Easements are hereby declared and granted to the Association to install, lay, maintain, repair and replace the pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units, whether or not such walls be in whole or in part within the Unit boundaries. The Owner of each Unit shall have the permanent right and easement to and through the Common Areas and Facilities and walls for the use of water, sewer, power, television antenna and other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of the Unit. Any damage resulting to a particular Unit as a result of the easement herein granted to the Association, shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

15.04 Easements for Certain Utilities and Cable Television. The Association may hereafter grant easements on behalf of Unit Owners to entities for utility and cable television purposes for the benefit of the Condominium Property. Each Unit Owner hereby grants, and the transfer of title to a Unit Owner shall be deemed to grant, the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing.

15.05 Easements For Construction. Declarant hereby reserves, for itself, a right and easement to enter upon the Common Areas and Facilities to do all things necessary to complete construction and to complete development of the Condominium Property, including the Additional Property.

15.06 Tie-In Easements. Declarant reserves the right and easement over, on and under the Common Areas and Facilities, to use, tie into and extend all existing utility lines for purposes of serving the Additional Property and any other adjoining property which it may own or acquire during the period in which it has the right to add the Additional Property.

15.07 Service Easements. An easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all other similar persons, and to the local governmental authorities, but not the public in general, to enter upon the Common Areas and Facilities in the performance of their duties.

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In the event such policy contains coinsurance provisions, such policy shall contain an agreed amount endorsement. Such insurance shall be written in the name of and the proceeds thereof shall be payable to, the Association for each of the Unit Owners and mortgagees for the purpose set forth in Article XVI in accordance with the percentage ownership in the Common Areas and Facilities set forth in Section 9.01. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Said policy shall also provide that despite any clause that gives the insurer the right to restore damage in lieu of a cash settlement, such right shall not exist in case the Condominium Property is removed from the provisions of Chapter 5311 of the Ohio Revised Code pursuant to the provisions of this Declaration. Such policy shall provide coverage for built-in installed fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement value thereof, and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit Owner as hereinafter permitted.

No Unit Owner may purchase an individual policy of fire and extended coverage insurance for his Unit or his interest in the Common Areas and Facilities as real property. If irrespective of this prohibition, a Unit Owner purchases an individual policy insuring such Unit or interest, said Owner shall be responsible to the Association for any loss or expense that such policy may cause in adjusting the Association's insurance, and such amount of loss shall be a lien on his Unit and enforced in the manner provided for in Section 20.04.

Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice, not less than ten (10) days prior to any expiration or cancellation of such coverage, to any mortgagee or mortgagees of any Unit.

Such policy shall also provide for the release by the issuer thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Unit Owner, member of his family, his tenant or other occupant of the Condominium Property, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under such insurance policy.

If the required insurance coverage under this Section 16.01 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Condominium Property may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Association; shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Condominium Property; and shall be due and payable to the mortgagee by the Association immediately. The repayment of said obligation shall be secured by a special assessment against all Unit Owners

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Each Unit Owner shall be deemed to have delegated to the Board of Managers his right to adjust with insurance companies all losses under the insurance policies referred to in Section 16.01.

**16.05** Insurance Trustee. At the option of the Declarant, or upon the written request by any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units, the Association shall select an Insurance Trustee for the purposes herein set forth.

The Trustee shall be selected by the Association from any bank located in Dayton, Ohio, with trust powers and total assets of more than Fifty Million Dollars (\$50,000,000.00). If such selection is prior to any loss the Association shall make all insurance policies under Section 16.01 payable to such Insurance Trustee, for and on behalf of each of the Unit Owners and mortgagees for the purpose set forth in Article XVI in accordance with the percentage of ownership in the Common Areas and Facilities set forth in Section 9.01. All insurance policies shall be deposited with the Insurance Trustee who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof.

If such selection of an Insurance Trustee is after a loss, the Association shall pay over to the Insurance Trustee any funds received under such insurance policies and resulting from any special assessments against the Unit Owners. Said funds to be held by the Insurance Trustee in accordance with the provisions hereof.

The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal of the policies, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Association, the Unit Owners and their respective mortgagees.

**16.06** Procedure for Reconstruction or Repair if an Insurance Trustee Has Been Selected. The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of special assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses, but not more frequently than once in any calendar month. Said Trustee shall make such payments upon the written request of the Association, accompanied by a certificate dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work who shall be selected by the Association, setting forth (1) that the sum then requested either has been paid

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and all persons lawfully in the possession or control of any part of the Condominium Property, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from destruction of property occurring upon, in or about, or arising from the Common Areas and Facilities, such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than One Hundred Thousand Dollars (\$100,000.00) in respect to damage to or destruction of property arising out of any one accident.

Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units, or Limited Common Areas appertaining thereto.

**17.02** Other Insurance. The Association as a Common Expense shall also obtain such additional insurance as the Board of Managers considers necessary, including without limitation, fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association.

The amount of such fidelity bond shall be equal to, at a minimum, the maximum funds that will be in the custody of the Association at any time such bond is in effect. In addition, such fidelity bond coverage must equal the sum of 3 months assessments on the Units in the Condominium together with the reserve funds, if any.

**17.03** Notice of Cancellation or Substantial Changes. Any insurance coverage obtained by the Association shall contain a provision requiring the insurer to notify the Association and any mortgagee named in the mortgage clause, if applicable, in writing of the cancellation or a substantial change of coverage at least 10 days prior to such cancellation or substantial change.

**17.04** Annual Review. The amounts and coverage of each insurance policy obtained by the Association shall be reviewed annually.

## ARTICLE XVIII

### REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY

**18.01** The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part, and elect to have the same renewed and rehabilitated. The Board of Managers of the Association shall thereupon proceed with such renewal and rehabilitation, and the cost thereof shall be a Common Expense. Any Unit Owner who does not vote for such renewal and rehabilitation may elect, in a writing served by him on the President of the Association within five (5) days after receiving notice of such vote,

use or control the Unit owned by him on account of the breach of covenant, and ordering that all the right, title and interest of the Owner in the property shall be sold, subject to the lien of any existing mortgage, at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, and all other expenses of the proceedings, and all such items shall be taxes against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, other than that of the first mortgage, may be paid to the Owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Unit ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession and it shall be a condition of any such sale, and the decree shall so provide that the purchaser shall take the interest in the property sold subject to this Declaration.

**19.03** Civil Action. Declarant, Developer, Agent, Unit Owner, or any person entitled to occupy a Unit of a Condominium Property is liable in a civil action for damages caused to any person by his failure to comply with any lawful provision of the Condominium instruments. Any interested person may commence an action for a declaratory judgment to determine his legal relations under the Condominium instruments or to obtain an injunction against a Declarant, Developer, Agent, Unit Owner, or person entitled to occupy a Unit who refuses to comply, or threatens to refuse to comply, with a provision of the instruments. One or more Unit Owners may bring a class action on behalf of all Unit Owners. The lawful provisions of the Condominium instruments may, if necessary to carry out their purposes, be enforced against the Condominium Property or any person who owns or has previously owned any interest in the Condominium Property.

An action by the Unit Owners' Association under this Article may be commenced by the Association in its own name or in the name of its Board of Managers or in the name of its Managing Agent.

## ARTICLE XX

### ASSESSMENTS AND LIEN OF ASSOCIATION

**20.01** General. Assessments for the maintenance, repair and insurance of the Common Areas and Facilities and for the insurance of the Units, together with the payment of the Common Expenses, shall be made in the manner provided herein, and in the manner provided in the By-Laws.

**20.02** Division of Common Profits and Common Expenses. The proportionate shares of the separate Unit Owners of the respective Units in the Common Profits and Common Expenses of the operation

20.07 Special Individual Unit Assessment. Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense, including without limitation filing fees and/or attorney's fees, for or on account of any item of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission or failure to pay assessments or comply with the provisions of the Declaration or rules and regulations of and by any Owner or his invitees or lessees, such cost of expense shall be borne by such Owner and not by the Association, and if paid by the Association, shall be paid or reimbursed to the Association by such Owner as a special individual Unit assessment forthwith upon the Association's demand.

20.08 Dispute as to Common Expenses. Any Unit Owner who believes that the portion of Common Expenses chargeable to his Unit, for which a certificate of lien has been filed by the Association, has been improperly charged against him or his Unit, may commence an action for the discharge of such lien in the Court of Common Pleas for Montgomery County, Ohio.

20.09 Non-Liability of Foreclosure Sale Purchaser or an Acquirer of Title in Lieu of Foreclosure for Past Due Common Expenses. Where the mortgagee of a first mortgage of record, or other purchaser of a Unit, acquires title to the Unit as a result of a foreclosure of any lien or a deed in lieu of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, his successors or assigns.

20.10 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Unit other than a conveyance in lieu of foreclosure, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Unit for his share of Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request, any such grantee and his mortgagee shall be entitled to a statement from the Board of Managers of the Association, setting forth the amount of all unpaid and current assessments against the grantor due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed by subject to, a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.



need not be compatible with the existing structures on the Condominium Property in terms of principal materials used, architectural style, size or elevation.

21.07 Units. There will be a maximum of two hundred and two (202) Units constructed on the Additional Property, with a density not to exceed sixteen (16) Units per acre. Such Units need not be substantially identical to the Units constructed on the Condominium Property. Unless otherwise specified in this Article, there are no limitations imposed on Declarant as to the types of Units that may be created on the Additional Property.

21.08 Limited Common Areas and Facilities. Declarant reserves the right to designate any portion of the Additional Property as Limited Common Areas and Facilities for the use and enjoyment of any Unit or Units to be constructed thereon.

21.09 Reservation of Right to Amend Declaration. Declarant hereby reserves the right to amend this Declaration, in such respects as Declarant may deem advisable in order to effectuate the generality of the foregoing, the right to amend this Declaration so as (1) to include any or all of the Additional Property and the improvements which may be constructed thereon as part of the Condominium Property, (2) to include descriptions of buildings constructed on said real estate and to add drawings thereof to the appropriate exhibits hereto, and (3) to provide that the Owners of Units in the buildings will have an interest in the Common Areas and Facilities of the Condominium Property, and to amend Article IX so as to establish percentages of interest in the Common Areas and Facilities which the Owners of all Units within the buildings on the Condominium Property will have at the time of such amendment, which percentage shall be, with respect to each Unit, in the proportion that the square footage of each Unit at the date said amendment is filed for record bears to the then aggregate square footage of all of the Units within the Condominium Property, which determination shall be made by Declarant and shall be conclusive and binding upon all Unit Owners.

21.10 Consent and Approval for Annexation Amendments. Declarant, on its own behalf as the Owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such ownership, or a mortgage encumbering such interest, as the case may be, hereby consents and approves the provisions of this Article, including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided in Section 21.11, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate said provisions.

21.11 Power of Attorney, Coupled With an Interest. Each Unit Owner and his respective mortgagees, by the acceptance of a deed conveying such ownership or a mortgage encumbering such interest, as the case may be, hereby irrevocably appoints Declarant his

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**ARTICLE XXIII**  
**MISCELLANEOUS PROVISIONS**

23.01 Each grantee of Declarant, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

23.02 Upon the removal of the Condominium Property from the provisions of Chapter 5311 of the Ohio Revised Code, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the land or any Unit, shall terminate and be of no further force nor effect.

23.03 No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

23.04 The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

23.05 Upon written request to the Board of Managers, the holder of any duly recorded mortgage or trust deed against any Unit Ownership, shall be given a copy of any and all notices and other documents permitted or required by the Declaration or these By-Laws, to be given to the Owner or Owners whose Unit Ownership is subject to such mortgage or trust deed, and a copy of any lien filed by the Association.

23.06 That so long as said Declarant, his successor and assigns, owns one or more of the units established and described herein, said Declarant, his successors and assigns shall be subject to the provisions of this Declaration and of Exhibits "A", "B", "C" and "D" attached hereto; and said Declarant covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other right assigned to the Association by reason of the establishment of the Condominium.

23.07 Unless otherwise provided in this Declaration or by statute, neither Declarant nor his representatives, successors or assigns shall be liable for any claim whatsoever arising out of,

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acceptance of a deed is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with title to the Unit and is irrevocable for a period of two (2) years from the filing date hereof, to amend this Declaration and any of its exhibits and to execute any and all documents deemed necessary or desirable by Declarant to conform to requirements of any lending institution in order to issue a mortgage loan, or to correct scrivener or typographical mistakes.

23.14 Unless otherwise specified, all references to a particular Article or Section shall refer to such Article or Section of the Declaration.

23.15 The Condominium has been created and is existing in full compliance with the requirements of Chapter 5311 of the Ohio Revised Code, and all other applicable law.

IN WITNESS WHEREOF, Charles V. Simms Development Corporation, an Ohio corporation, by its duly authorized officers, has caused the execution of this instrument this 20 day of Feb, 1985.

Signed and acknowledged  
in the presence of:

**CHARLES V. SIMMS  
DEVELOPMENT CORPORATION**

Cynthia L. Larkins

BY:

Charles V. Simms  
Charles V. Simms, President

Patricia D. Walker

BY:

Hans H. Soltau  
Hans H. Soltau, Vice President

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 20 day of Feb, 1985, by Charles V. Simms, President and Hans H. Soltau, Vice President of CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, on behalf of the corporation.

Cynthia L. Larkins  
Notary Public

CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires NOV. 5, 1985

**THIS INSTRUMENT PREPARED BY:**

Hans H. Soltau  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

1985 FEB 25 AM 11:06  
MONT. COUNTY AUDITOR  
ROBERT L. RODERER  
TRANSFERRED

000036

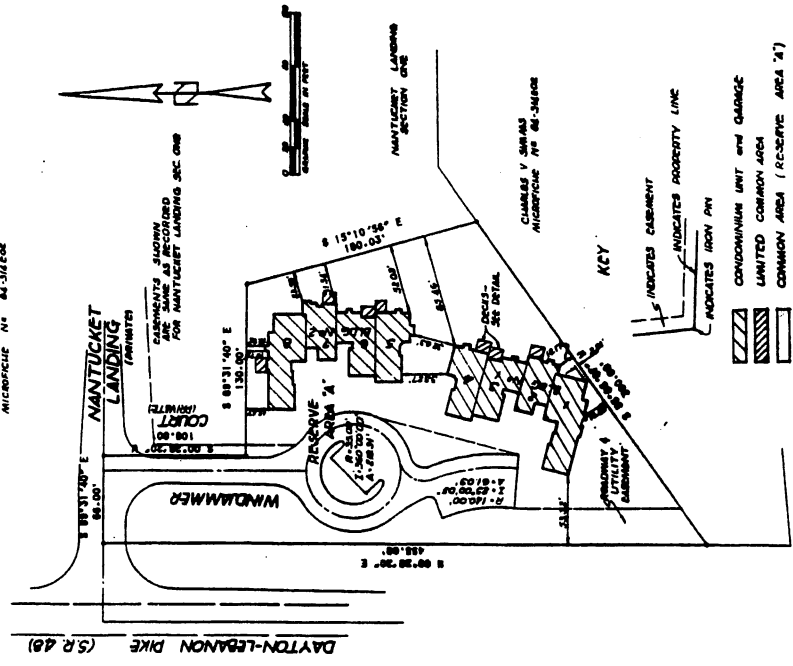
**NANTUCKET LANDING CONDOMINIUMS SECTION ONE**

SEMI PART OF LOT 1 OF NANTUCKET LANDING SECTION ONE AS RECORDED IN PLAT BOOK 122, PAGE 24, IN THE PLAT RECORDS OF MONTGOMERY COUNTY, OHIO

LOCATED IN SECTION 33, TOWNSHIP 10, RANGE 5, M.R.S. MASSACHUSETTS COUNTY, MASSACHUSETTS MONTGOMERY COUNTY, OHIO OCT. 1984 SCALE: 1"=40'

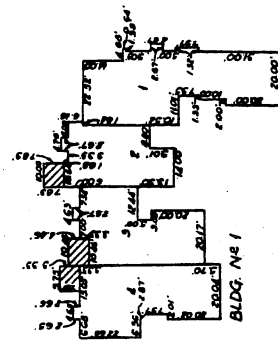
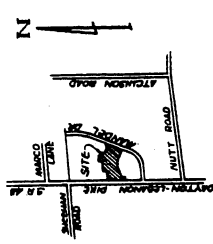
CONTAINING 1328 ACRES

CHARLES V. SIMMS MICROFILME NO. 84-516206

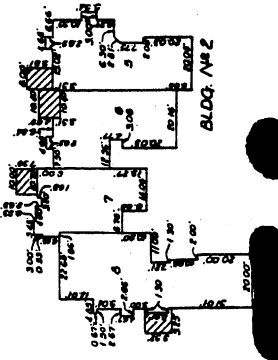


INDICATES CASHEMENT  
INDICATES PROPERTY LINE  
INDICATES IRON PIN  
CONDOMINIUM UNIT AND GARAGE  
LIMITED COMMON AREA  
COMMON AREA (RESERVE AREA)

**WOOLPERT CONSULTANTS**  
Professional Engineers No. 23148



NOTE: ALL DIMENSIONS ARE SITE-SIDE MEASUREMENTS



I, the undersigned, being of the age and legal capacity of the said party, do hereby certify that the above described plan is a true and correct copy of the original plan as shown to the public use hereof. Nantucket Landing and Westmanmer Court are situated upon an old tract of land owned and occupied by Charles V. Simms, and the same is now being subdivided into units and common areas for the purpose of erecting and operating a condominium project. The units and common areas are being sold to the public use hereof. The plan is being recorded in the public records of Montgomery County, Ohio, as set forth in the Declaration of Condominiums attached hereto, and the same is being recorded in the public records of Montgomery County, Ohio, as set forth in the Declaration of Condominiums attached hereto.

Witness my hand and the seal of Charles V. Simms Development Corp. at Dayton, Ohio, this 24th day of July, 1985.

*Charles V. Simms*  
Charles V. Simms - President

I, the undersigned, being of the age and legal capacity of the said party, do hereby certify that the above described plan is a true and correct copy of the original plan as shown to the public use hereof. Nantucket Landing and Westmanmer Court are situated upon an old tract of land owned and occupied by Charles V. Simms, and the same is now being subdivided into units and common areas for the purpose of erecting and operating a condominium project. The units and common areas are being sold to the public use hereof. The plan is being recorded in the public records of Montgomery County, Ohio, as set forth in the Declaration of Condominiums attached hereto, and the same is being recorded in the public records of Montgomery County, Ohio, as set forth in the Declaration of Condominiums attached hereto.

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Witness my hand and the seal of Charles V. Simms Development Corp. at Dayton, Ohio, this 24th day of July, 1985.

*Charles V. Simms*  
Charles V. Simms - President

**CERTIFICATION:**

The above condominium plan is part of Lot 1 in Nantucket Landing, Section One as recorded in Plat Book 122, Page 24 in the Plat Records of Montgomery County, Ohio, containing 1328 acres conveyed to Charles V. Simms by Microfilme No. 84-516206. The plan is being recorded in the public records of Montgomery County, Ohio, as set forth in the Declaration of Condominiums attached hereto, and the same is being recorded in the public records of Montgomery County, Ohio, as set forth in the Declaration of Condominiums attached hereto.

**WOOLPERT CONSULTANTS**  
Professional Engineers No. 23148

*Robert L. Woolpert*  
Robert L. Woolpert - President



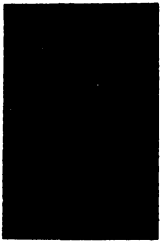
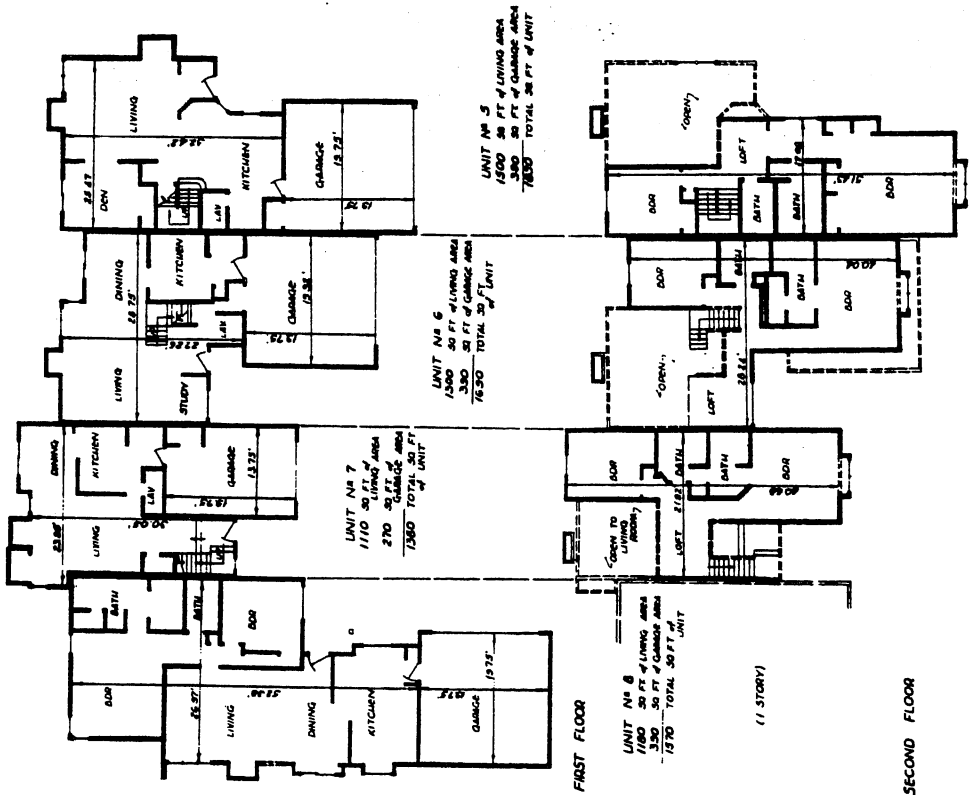
**NANTUCKET LANDING CONDOMINIUMS  
SECTION ONE**

BEING PART OF LOT 1 OF  
NANTUCKET LANDING SECTION ONE  
AS RECORDED IN PLAT BOOK 122,  
PAGE 11, RECORDS OF  
MONTGOMERY COUNTY, OHIO

SECTION 28, LOCATED IN RANGE 5, N.R.S.,  
WASHINGTON TOWNSHIP,  
MONTGOMERY COUNTY, OHIO  
OCT. 1964



**BUILDING No 2**  
SCALE 1/8" = 1'-0"



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**NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC.**

**EXHIBIT "C"**

**CONDOMINIUM ASSOCIATION BY-LAWS**

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**DEEDS 85-0077 D06**

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EXHIBIT "C"

CONDOMINIUM ASSOCIATION BY-LAWS

The within By-Laws are executed and attached to the Declaration of Condominium pursuant to Chapter 5311 of the Ohio Revised Code. Their purpose is to provide for the establishment of a Unit Owners' Association for the administration of the Condominium Property in the manner provided by the Declaration and by these By-Laws. All present or future Owners or tenants or their employees, and any other person who might use the facilities of the Condominium Property in any manner, shall be subject to any restrictions, conditions, or regulations hereafter adopted by the Board of Managers of the Association. The mere acquisition or rental of any of the Units, located within the Condominium Property described in the Declaration, or the mere act of occupancy of any of the Units, will constitute acceptance and ratification of the Declaration and of these By-Laws.

ARTICLE I

THE ASSOCIATION

1.01 Name of Association. The Association shall be an Ohio corporation not-for-profit and shall be called NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC.

1.02 Membership. Each Unit Owner upon acquisition of title to a Unit shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his Unit, at which time the new Owner of such Unit shall automatically become a member of the Association. Membership in the Association is limited to Unit Owners within the Condominium.

1.03 Voting Rights. There shall be one (1) vote for each of the Units comprising the Condominium Property. The Owner or Owners of each Unit shall be entitled to one (1) vote for their Unit. In the event a Unit has been acquired by the Association in its own name or in the name of its agent, designee or nominee on behalf of all Unit Owners, the voting rights of such Unit shall not be exercised so long as it continues to be so held. If two (2) or more persons, whether fiduciaries, tenants in common or otherwise, own undivided interests in a Unit, each may exercise the proportion of the voting power of all the Owners of his Unit that is equivalent to his proportionate interest in the Unit.

1.04 Majority of Owners. As used in these By-Laws, the term "majority of Owners" shall mean those Unit Owners holding fifty-one percent (51%) of the votes in the Association.

1.05 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of Owners as defined in Section 1.04 shall constitute a quorum.

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1.06 Proxies. Votes may be cast in person or by proxy. The person appointed as proxy need not be a Unit Owner. Proxies must be in writing and filed with the Secretary of the Association before the appointed time of each meeting or action taken. Unless otherwise provided, all proxies shall be revocable at any time by delivering written notice of such revocation to the Secretary of the Association. If, by the terms of a first mortgage, a Unit Owner has designated such mortgagee as his proxy, the presentation to the Secretary of the Association by a representative of such mortgagee of a copy of the mortgage containing such proxy designation shall constitute notice of such proxy designation, and if the mortgage so states, notice of the irrevocability of such designation.

1.07 Place of Meetings. Meetings of the Association shall be held at such place upon the Condominium Property, or at such other place, as may be designated by the Board of Managers and specified in the notice of the meeting at 8:00 P.M., or at such other time as may be designated by the Board of Managers and specified in the notice of the meeting.

1.08 First Meeting. The first meeting of members of the Association shall be held within the time limits prescribed by the Declaration and shall be considered the first annual meeting.

1.09 Special Meetings. It shall be the duty of the President of the Association to call a special meeting of the Owners as directed by resolution of the Board of Managers or upon a petition signed by a majority of the Owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the Owners present, either in person or by proxy.

1.10 Notice of Meeting. It shall be the duty of the Secretary of the Association to mail 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, to each Owner of record, at least fourteen (14) days, but not more than twenty-eight (28) days, prior to such meeting. The Owners of record will be determined as of the day preceding the day on which notice is given.

1.11 Waiver of Notice. Notice of the time, place and purposes of any meeting of members of the Association may be waived in writing, either before or at the commencement of such meeting, by any members of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any members of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting.

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1.12 Action by Unanimous Written Consent of the Unit Owners. Any action which may be authorized or taken at a meeting of the Unit Owners, may be authorized or taken without a meeting in a writing or writings signed by all of the Unit Owners. The writing or writings evidencing such action taken by the unanimous written consent of the Unit Owners shall be filed with the records of the Association. Written notice of any action proposed to be taken by the unanimous written consent of the Unit Owners shall be sent to all persons entitled to notice under Section 6.03 of these By-Laws at least five (5) days prior to the circulation of the action for unanimous written consent among the Unit Owners and shall specify the action proposed to be so taken.

1.13 Order of Business. The order of business at all meetings of the Owners of Units shall be as follows:

- (a) Roll Call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Report of committees
- (f) Election of Inspectors of Election
- (g) Election of Managers
- (h) Unfinished business
- (i) New business
- (j) Adjournment

## ARTICLE II

### BOARD OF MANAGERS

2.01 Number and Qualification. The affairs of the Association shall be governed by a Board of Managers composed of five (5) persons, all of whom must be Owners of Units in the project or occupants of a Unit who are related to an Owner by a marital or fiduciary relationship. If, at any one time, one bank or lending institution shall hold mortgages upon more than fifty percent (50%) of the Units, such lending institution may designate its representative who shall be a sixth member of the Board of Managers. Such representative need not be an Owner or occupier of a Unit.

2.02 Election of Managers. The required Managers shall be elected at each annual meeting of members of the Association. Only persons nominated as candidates shall be eligible for election as Managers, and the candidates receiving the greatest number of votes shall be elected. Each member may vote for as many candidates as

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there are vacancies in the Board of Managers, due to the expiration of their terms. Provided, however, that a vacancy in the position of a representative of a lending institution as provided in Section 2.01, if any, shall be filled by such lending institution.

**2.03**      Vacancies During the Term. In the event of the occurrence of any vacancy or vacancies in the Board of Managers during the term of such Manager or Managers, the remaining Managers, though less than a majority of the whole authorized number of Managers, may, by the vote of a majority of their number, fill any such vacancy for the unexpired term; provided, however, that a vacancy in the position of a representative of a lending institution as provided in Section 2.01, if any, shall be filled by such lending institution.

**2.04**      Term of Office; Resignation. Each Manager shall hold office until his term expires, or until his earlier resignation, removal from office or death. Any Manager may resign at any time by oral statement to that effect made at a meeting of the Board of Managers, or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Manager may specify. At the first annual meeting of the members of the Association, the term of office of three (3) Managers shall be fixed so that such term will expire one (1) year from and after the date of the next following annual meeting of members of the Association. The term of office of the remaining two (2) Managers shall be fixed so that such term will expire at the date of the next following annual meeting of members of the Association. At the expiration of such initial term of office of each respective Manager, his successor shall be elected to serve for a term of two (2) years.

**2.05**      Removal of Managers. At any regular or special meeting duly called, any one or more of the Managers may be removed with or without cause by the vote of members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, except the Manager, if any, acting as a representative of a lending institution, may not be removed by such vote. Any Manager whose removal has been proposed by the members of the Association, shall be given an opportunity to be heard at such meeting. In the event that a Manager is removed by such vote, his successor shall then and there be elected to fill the vacancy thus created. This Section shall be subject to the provisions contained in Section 6.01.

**2.06**      Organization Meeting. Immediately after each annual meeting of members of the Association, the newly elected Managers, and those Managers whose terms hold over, shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

**2.07**      Regular Meetings. Regular meetings of the Board of Managers may be held at such times and places as shall be determined by a majority of the Managers, but at least four (4) such meetings shall be held during each year.

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2.08 Special Meetings. Special meetings of the Board of Managers may be held at any time upon call by the President or any three (3) Managers. Written notice of the time and place of each such meeting shall be given to each Manager either by personal delivery, or by mail, or telegram or telephone at least two (2) days before the meeting, which notice shall specify the purpose of the meeting; provided, however, that attendance of any Manager at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting and such notice may be waived in writing either before or at the commencement of such meeting. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

2.09 Board of Managers' Quorum. At all meetings of the Board of Managers, a majority of the Managers shall constitute a quorum for the transaction of business, and the acts of the majority of the Managers present at a meeting at which a quorum is present shall be the acts of the Board of Managers. If, at any meeting of the Board of Managers, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At the continuation of any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

2.10 Action by Unanimous Written Consent of the Board of Managers. Any action which may be authorized to be taken at a meeting of the Board of Managers, may be taken or authorized without a meeting in a writing or writings signed by all of the members of the Board of Managers. The writing or writings evidencing such action taken by the unanimous written consent of the Board of Managers shall be filed with the records of the Association.

2.11 Fidelity Bonds. The Board of Managers 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 paid by the Association.

### ARTICLE III

#### OFFICERS

3.01 Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Managers. The offices of Treasurer and Secretary may be filled by the same person.

3.02 Term of Office; Vacancies. The officers of the Association shall hold office until the next organization meeting of the Board of Managers and until their successors are elected, except in case of resignation, removal from office or death. The Board of Managers may remove any officer at any time, with or without cause, by a majority vote of the Managers then in office. Any vacancy in any office may be filled by the Board of Managers.

3.03 President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Managers. Subject to directions of the Board of Managers, the President shall have general executive supervision over the business and affairs of the Association. He may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Managers or otherwise provided for in the Declaration or in these By-Laws.

3.04 Vice-President. The Vice President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board of Managers.

3.05 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Managers and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Managers may direct; he shall be in charge of sending any notices and he shall, in general, perform all the duties incident to the office of Secretary.

3.06 Treasurer. The Treasurer shall have the responsibility for Association 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 shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Managers.

#### ARTICLE IV

#### GENERAL POWERS OF THE ASSOCIATION

4.01 Payments from Maintenance Funds. The Association shall establish, and shall pay for out of the maintenance funds, the following:

- (a) Utility Services for Common Areas, and to Units When Measured by Common Meter. The cost of water, sewer services, waste removal, electricity, telephone, heat, power or any other necessary utility service to or for the Common Areas, plus the costs or charges for any utility service to individual Units which are being serviced by a common meter, i.e., water and sewer services which are being supplied to all of the Units of a building and measured through one (1) meter. The Association reserves the right to levy additional assessments against any Owner to reimburse it for excessive use, as shall be determined by the Board of Managers by such Owner of any utility service having been charged against or to the maintenance fund.

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- (b) Care of Common Areas and Facilities. The cost of landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Areas.
- (c) Care of Certain Limited Common Areas and Facilities. The cost of maintenance, repair and replacement of those Common Areas which are designated by the Declaration as Limited Common Areas and Facilities for the exclusive use of a particular Unit or Units; excepting, however, those responsibilities for care of the Limited Common Areas and Facilities by Unit Owners as set forth in the Declaration.
- (d) Certain Maintenance of Units. The cost of the maintenance and repair of any Unit or Limited Common Areas and Facilities, if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Areas or any other portion of a building, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided the Association shall levy special assessment against such Unit Owner for the cost of said maintenance or repair.
- (e) Casualty Insurance. The premium upon a policy or policies of fire insurance, with extended coverage, vandalism and malicious endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.
- (f) Liability Insurance. The premium upon a policy or policies insuring the Association, the members of the Board of Managers, and the Owners against any liability to the public or to the Owners of Units, their invitees or tenants, incident to the ownership and/or use of the Common Areas, as provided in the Declaration, the limits of which policy shall be reviewed annually.
- (g) Wages and Fees for Services. The fees for services of any person or firm employed by the Association, including, but not limited to, the services of a person or firm to act as a Manager or managing agent for the Condominium Property and legal and/or accounting services necessary or proper in the operation of the Condominium Property or the enforcement of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.

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- (h) Workmen's Compensation. The costs of Workmen's Compensation insurance to the extent necessary to comply with any applicable law.
- (i) Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Condominium Property or any part thereof which may, in the opinion of the Association, constitute a lien against the entire Condominium Property rather than merely against the interests therein of particular Owners, it being understood, however, that the foregoing authority shall not be in limitation to any statutory provisions relating to the same subject matter. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens shall be specifically assessed to said Owners.
- (j) Additional Expenses. The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, common expenses or assessments which the Association is required to secure to pay for, pursuant to the terms of the Declaration and these By-Laws, or which, in its opinion, shall be necessary or proper for the maintenance and operation of the Condominium Property as a first class condominium project, or for the enforcement of the Declaration and these By-Laws.

**4.02** Capital Additions and Improvements. The Association powers described in Section 4.01 are limited in that the Association shall have no authority to pay for, out of the maintenance fund, any capital additions and improvements having a total cost in excess of Two Thousand Dollars (\$2,000.00), unless it is for the purpose of replacing or restoring portions of the Common Areas. The Association shall not authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring any expenditure in excess of Two Thousand Dollars (\$2,000.00), without, in each case, the prior approval of a majority of the members of the Association.

**4.03** Rules and Regulations. The Board of Managers may, by majority vote, adopt such reasonable rules and regulations and may amend the same which the Board of Managers may deem advisable for the maintenance, conservation and beautification of the Condominium Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Condominium Property. Written notice of such rules and regulations shall be given to all Owners and occupants, and the Condominium Property shall at all times be maintained subject to such rules and regulations. In the event that adopted rules and regulations conflict with any provisions of the Declaration and of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

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4.04 No Active Business to be Conducted for Profit. Nothing herein shall be construed to give the Association authority to conduct active business for profit on behalf of the Owners or any of them.

4.05 Delegation of Duties. The Association, through its Board of Managers and officers, has the authority to delegate to persons, firms or corporations of its choice such duties and responsibilities of the Association as the Board of Managers shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

4.06 Right of Entry. An Owner shall grant the right of entry to the Association or its agent, in case of any emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

4.07 Special Services. The Association may arrange for the providing of any special services and facilities for the benefit of any Unit Owners that may desire to pay for the same. Fees for such special services and facilities shall be determined by the Board of Managers, and will be charged directly to the participating Unit Owners.

## ARTICLE V

### DETERMINATION AND PAYMENT OF ASSESSMENTS

5.01 Obligation of Owners to Pay Assessments. Each Unit Owner shall have the duty to pay his proportionate share of the expenses of administration, maintenance and repair of the Common Areas, and of other expenses provided for herein. Unless otherwise provided for, such proportionate share shall be in the same ratio as his percentage of ownership in the Common Areas as set forth in the Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the Board of Managers of the Association, as hereinafter provided.

5.02 Preparation of Estimated Budget. The Association shall, before or on December 1st of every year, prepare an estimate of the total amounts necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reserve for contingencies and replacements. On or before December 15th, each Owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereof. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Owner shall be obligated to pay to the Association or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section. On or before the date of the annual meeting in each calendar year, the Association shall supply to all Owners, an itemized accounting of the maintenance expenses actually incurred for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated

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in excess of the amount required for actual expenses and reserves shall be credited according to each Owner's percentage of ownership in the Common Areas to the next monthly installment due from Owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's percentage of ownership in the Common Areas to the installments due in the succeeding six (6) months after rendering of the accounting.

**5.03** Reserve for Contingencies and Replacements. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year, shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the same shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Areas. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the reasons therefor, the amounts, and the date or dates when such further assessments are due. At the option of the Board of Managers, such further assessment may be payable in a lump sum or in installments.

**5.04** Limited Common Areas and Facilities Assessments. The expense of maintenance, repair and replacement of the Limited Common Areas and Facilities designated for the use of more than one (1) Unit shall not be Common Expenses, but shared and paid for by those Units for which such Limited Common Areas and Facilities are designated for their use. Each Unit's share shall be equal to the expense of such maintenance, repair and replacement multiplied by a fraction, the numerator of which is the percentage of interest of such Unit and the denominator of which is the total of the percentages of interest of all the Units to which such Limited Common Areas and Facilities are designated. The Board of Managers shall separately state such Limited Common Areas and Facilities Assessments in the annual budget along with the expenses associated therewith. The Board of Managers, in order to collect such assessments, may avail themselves of the lien rights and other rights provided in the Declaration for the collection of assessments for Common Expenses.

**5.05** Periodic Assessments. Notwithstanding any provision in this Article, the Board of Managers may, at its option, elect that certain expenses such as insurance, water and sewer be paid by periodic assessments based on the billing date of such expenses. If the Board of Managers so elects, such expenses shall be separately stated in the budget specifying the amount and due date thereof.

**5.06** Uniform Per Unit Expense. In the event that the Association is billed or charged for certain services hereinbefore described on a non-discriminatory uniform per Unit basis by a third party, i.e., trash, management, water and sewer, the Board of Managers may elect to assess such expenses on a strictly per Unit basis. In such event such expenses shall not be considered Common Expenses to be allocated among the Units on the basis of their percentages of ownership. Such expenses shall be assessed on a uniform per Unit basis. The Board of Managers shall elect to exercise

such option by separately stating and classifying such expenses as per Unit expenses in the annual budget. The Board of Managers, in order to collect such per Unit expenses, may avail themselves of the lien rights and other rights provided in the Declaration for the collection of assessments for Common Expenses.

5.07 Budget for First Year. When the first Board of Managers hereunder take office, the Association shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in Section 5.02.

5.08 Failure to Prepare Annual Budget. The failure or delay of the Association to prepare or serve the annual or adjusted estimate on the Owner, shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined. In the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period, until the first monthly maintenance payment which occurs more than ten (10) days after such annual or adjusted estimate shall have been mailed or delivered.

5.09 Books and Records of the Association. The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Areas and other common receipts and expenses, together with records showing the allocation, distribution, and collection of the common profits, losses and expenses among and from the Unit Owners; minutes of the proceedings of the Unit Owners and Board of Managers; and records of the names and addresses of the Unit Owners and their respective percentages of interest in the Common Areas. Such books and records shall be open for inspection by any Owner, or any representative of an Owner, duly authorized in writing, at reasonable times and upon request by an Owner. In addition, the holder of any first mortgage of record may inspect such books and records, at reasonable times and upon reasonable notice, after presentation to the Secretary of the Association of a duly certified copy of its mortgage. Upon ten (10) days notice to the Board of Managers and upon payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

5.10 Assessments. Monthly assessments shall begin upon the filing of the Declaration with the Recorder of Montgomery County, Ohio. These assessments shall be paid by every Unit Owner of record, including those Units the title of which is vested in Declarant after the filing for record of the Declaration.

5.11 Audit. Upon the written request of any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units,

the books of the Association shall be audited, but not more than once every three (3) years by an independent Registered or Certified Public Accountant, the results of which shall be sent to every Unit Owner of record, and the holder of any duly recorded mortgage against any Unit ownership who requests a copy thereof in writing.

5.12 Remedies for Failure to Pay Assessments. If an Owner is in default in the monthly payment of the aforesaid charges, the members of the Board of Managers may avail themselves of the lien rights and other rights provided for in the Declaration.

**ARTICLE VI**  
**GENERAL PROVISIONS**

6.01 Requirement for Manager or Managing Agent. A Manager or managing agent may be required by any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units. The Association shall provide such mortgagee or mortgagees, as the case may be, with a copy of any management agreement entered into by the Association and such Manager or management company.

6.02 Copies of Notices to Mortgage Lenders. Upon written request to the Board of Managers, the holder of any duly recorded mortgage against any Unit ownership, shall be given a copy of any and all notices and other documents permitted or required by the Declaration or these By-Laws to be given to the Owner or Owners whose Unit ownership is subject to such mortgage, and a copy of any lien filed by the Association.

6.03 Service of Notices on the Board of Managers. Notices required to be given to the Board of Managers or to the Association may be delivered to any member of the Board of Managers or officer of the Association, either personally or by mail, addressed to such member or officer at his Unit.

6.04 Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

6.05 Agreements Binding. All agreements and determinations lawfully made by the Association, in accordance with the procedure established in the Declaration and these By-Laws, shall be deemed to be binding on all Unit Owners, their successors, heirs and assigns.

6.06 Severability. The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

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IN WITNESS WHEREOF, Charles V. Simms Development Corporation, an Ohio corporation, by its duly authorized officers has caused the execution of this instrument this 20 day of Feb, 1985.

Signed and acknowledged in the presence of:

**CHARLES V. SIMMS  
DEVELOPMENT CORPORATION**

Cynthia L. Larkins By: C. V. Simms  
Charles V. Simms, President

Patricia D. Walker By: Hans H. Soltau  
Hans H. Soltau, Vice President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 20 day of Feb, 1985, by Charles V. Simms, President and Hans H. Soltau, Vice President of CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, on behalf of the corporation.

Cynthia L. Larkins  
Notary Public

CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires NOV. 5, 1986



THIS INSTRUMENT PREPARED BY:

Hans H. Soltau  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

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EXHIBIT "D"

March 23, 1984

Description of Proposed Nantucket Landing

Located in Section 29, Town 3, Range 5 M.R.S., Washington Township, County of Montgomery, State of Ohio, and being a tract of land described as follows:

Beginning at the northwest corner of Watkins Glen, Section Two, as recorded in Plat Book 104, page 24 in the Plat Records of Montgomery County, Ohio, said point being in the west line of Mandel Drive in said Watkins Glen, Section Two;

thence with the west line of said Mandel Drive for the following three (3) courses:

on a tangent bearing, South no degrees twenty-eight minutes twenty seconds ( $00^{\circ} 28' 20''$ ) West for twenty-nine and  $69/100$  (29.69) feet;

thence on a curve to the right with a radius of two thousand two hundred sixty-one and  $83/100$  (2261.83) feet for eight hundred twenty-six and  $37/100$  (826.37) feet [long chord bearing, South ten degrees fifty-six minutes twenty seconds ( $10^{\circ} 56' 20''$ ) West for eight hundred twenty-one and  $78/100$  (821.78) feet];

thence on a tangent bearing, South twenty-one degrees twenty-four minutes twenty seconds ( $21^{\circ} 24' 20''$ ) West for six hundred seventy-three and  $64/100$  (673.64) feet;

thence on a new dividing line, North fifty-eight degrees seven minutes fifty-nine seconds ( $58^{\circ} 07' 59''$ ) West for three hundred sixty-four and  $26/100$  (364.26) feet;

thence continuing on a new dividing line, South eighty-four degrees twenty-one minutes fifty seconds ( $84^{\circ} 21' 50''$ ) West for six hundred five and  $00/100$  (605.00) feet to a point in the centerline of State Route 48;

thence with said centerline, North no degrees twenty-eight minutes twenty seconds ( $00^{\circ} 28' 20''$ ) East for one thousand ninety and  $34/100$  (1090.34) feet;

thence on a new dividing line, North eighty-four degrees thirty minutes no seconds ( $84^{\circ} 30' 00''$ ) East for three hundred sixty-one and  $96/100$  (361.96) feet;

thence continuing on a new dividing line, North no degrees twenty-eight minutes twenty seconds ( $00^{\circ} 28' 20''$ ) East for one hundred fifteen and  $00/100$  (115.00) feet to a point in the south line of land conveyed to Silverton Enterprises by deed recorded in Microfiche No. 83-621E07 in the Deed Records of Montgomery County, Ohio;

thence with said south line, North eighty-four degrees thirty minutes no seconds ( $84^{\circ} 30' 00''$ ) East for nine hundred forty-seven and  $61/100$  (947.61) feet to the point of beginning containing 33.217 acres, more or less, subject, however, to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above-described tract of land.

TRANSFERRED  
ROBERT L. RODERER  
MONT. COUNTY AUDITOR  
AM 11:06  
FEB 25 1985

450000

DEEDS

85-0077

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Department of State

# The State of Ohio

**Sherrod Brown**

Secretary of State

649823

## Certificate

It is hereby certified that the Secretary of State of Ohio has custody of the Records of Incorporation and Miscellaneous Filings; that said records show the filing and recording of: ARN

of:

NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC.

United States of America  
State of Ohio  
Office of the Secretary of State

Recorded on Roll F 615 at Frame 1760 of  
the Records of Incorporation and Miscellaneous Filings.

Witness my hand and the seal of the Secretary of State, at the  
City of Columbus, Ohio, this 21ST day of FEB,  
A.D. 1985.



*Sherrod Brown*  
**Sherrod Brown**  
Secretary of State

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Pool 15-1160

ARTICLES OF INCORPORATION  
OF  
NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC.

APPROVED

By..... L.S.  
Date..... 2-21-85  
Amount..... 2500

The undersigned, desiring to form a corporation not-for-profit, under Sections 1702.01, seg., Ohio Revised Code, does hereby certify:

ARTICLE I

NAME

1.01 The name of said corporation shall be NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC., (hereinafter referred to as the "Association").

ARTICLE II

PRINCIPAL OFFICE

2.01 The place in Ohio where the principal office of the Association is to be located is Washington Township, Montgomery County, Ohio.

ARTICLE III

PURPOSE AND POWERS

3.01 The Association has been formed for the specific purpose of acting as the Unit Owners' Association for Nantucket Landing Condominium (hereinafter referred to as the "Condominium"). The Condominium will be created by the filing for record with the Recorder of Montgomery County, Ohio, a Declaration of Condominium Property (hereinafter referred to as the "Declaration"), with attached exhibits, including the By-Laws of the Association. The purpose for which this Association is formed includes providing for the maintenance, preservation and architectural control of the property included in the Condominium, and to promote the health, safety and welfare of the residents of the Condominium. To accomplish such purpose or purposes the Association shall have the following powers:

- (a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in these Articles of Incorporation, the Declaration and By-Laws of the Association;
- (b) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the

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terms of the Declaration or By-Laws, and pay all expenses in connection therewith and other expenses incident to the conduct of the business of the Association;

- (c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (d) Borrow money to fulfill its purpose;
- (e) Administer and enforce terms, conditions, covenants, restrictions and regulations upon, under and subject to which the Condominium or any part thereof may now or hereafter be used, and fix and provide any such terms, conditions, covenants, restrictions and regulations, and administer, enforce, alter, amend, change, add to, extend, waive or terminate, in whole or in part, any of the same;
- (f) Provide the residents and Unit owners of the Condominium with, (i) normal utility services not separately provided to individual Units, (ii) services supplemental to municipal services, and (iii) Common Area maintenance service;
- (g) Be, function and act as the unit owners association of the Condominium, under the provisions of Chapter 5311 of the Ohio Revised Code, and delegate such authority as it desires to a managing agent;
- (h) Have and exercise any and all powers, rights and privileges which a corporation organized under Chapter 1702 of the Ohio Revised Code may now or hereafter have or exercise by law; and
- (i) Take any action necessary, expedient, incidental, appropriate or convenient to the carrying out of the foregoing purposes.

#### ARTICLE IV

#### MEMBERSHIP

4.01 Every person or entity who is a record owner of a fee or undivided fee simple interest in a Unit shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Unit, and transfer of a Unit shall automatically transfer membership to the transferee. Voting rights of members shall be as set forth in the Declaration and By-Laws.

**ARTICLE V****BOARD OF TRUSTEES (MANAGERS)**

5.01 The names and addresses of the persons who are initially to act in the capacity of Trustees, until the selection of their successors, as provided in the Declaration and By-Laws are:

<u>NAME</u>	<u>ADDRESS</u>
Hans H. Soltau	124 East Third Street Dayton, Ohio 45402
Cynthia L. Larkins	124 East Third Street Dayton, Ohio 45402
Charles V. Simms	2785 Orchard Run Road Dayton, Ohio 45449

The number, qualifications, manner and time of selection of successor Trustees and their terms of office shall be as set forth in the Declaration and By-Laws.

The Board of Trustees shall be and act as the board of managers of the Condominium and shall have all of the powers and all of the duties of the board of managers as defined in Chapter 5311 of the Ohio Revised Code and of the board of Trustees as defined in Chapter 1702 of the Ohio Revised Code, except as such powers may be limited or expanded by the provisions of these Articles, the Declaration or the By-Laws.

**ARTICLE VI****NOTICE AND QUORUM**

6.01 Notice and quorum requirements shall be in accordance with the provisions of the By-Laws.

**ARTICLE VII****INDEMNIFICATION**

7.01 The Association shall indemnify every person who is or has been a Trustee, officer, agent or employee of the Association and those persons' respective heirs, legal representatives, successors and assigns, against expenses, including attorneys' fees, and judgments, decrees, fines, penalties and amounts paid in settlement actually and reasonably incurred in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and

whether in an action or proceeding by or in the right of the Association, or otherwise, in which such person is a party or is threatened to be made a party by reason of the fact that person was a Trustee, officer, employee or agent of the Association, or is or was serving in such capacity at the request of the Association, provided that person (i) acted in good faith and in a manner that person believed to be in or not opposed to the best interests of the Association, and (ii) in any manner the subject of a criminal action or proceeding, had no reasonable cause to believe the questioned conduct was unlawful, but provided that in the case of any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor against any such person by reason of that person serving in such capacity, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of a duty to the Association unless and only to the extent that the court in which such action was brought shall determine upon application that in view of all the circumstances of the case that such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

7.02 Unless ordered by the court, the determination of indemnification, pursuant to the foregoing criteria, shall be made by (i) a majority vote of a quorum of Trustees of the Association who were not and are not parties to or threatened with any such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or if a majority of a quorum of disinterested Trustees so direct, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Association or any person to be indemnified within the past five years, or (iii) by the Unit Owners, or (iv) by the court in which such action, suit or proceeding was brought.

7.03 Any such indemnification shall not be deemed exclusive of any other rights to which such person may be entitled under law, any agreement, or any insurance purchased by the Association, or by vote of Unit Owners, or otherwise.

## ARTICLE VIII

### DURATION

8.01 The Association shall exist so long as the condominium regime of the Condominium exists, and no longer.

## ARTICLE IX

### DISSOLUTION

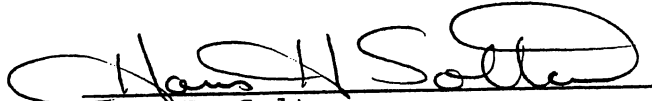
9.01 The Association may be dissolved only with the same consents as are required to terminate the condominium regime, as provided in the Declaration.

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ARTICLE X  
AMENDMENTS

10.01 The Articles may be amended only under the same terms and conditions, and with the same approvals, as are provided in the Declaration for its amendment.

IN WITNESS WHEREOF, I have hereunto subscribed my name  
this 20th day of Feb, 1985.

  
Hans H. Soltau

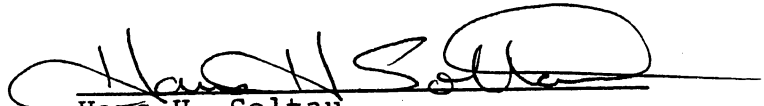
70315-1705

ORIGINAL APPOINTMENT OF AGENT

The undersigned, the sole incorporator of NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC., hereby appoints HANS H. SOLTAU, a natural person resident in the county in which the Corporation has its principal office, upon whom any process, notice or demand required or permitted by statute to be served upon the Corporation may be served. His complete address is 124 East Third Street, Dayton, Montgomery County, Ohio 45402.

IN WITNESS WHEREOF, I have hereunto subscribed my name at Dayton, Ohio this 20th day of February, 1985.

NANTUCKET LANDING CONDOMINIUM  
ASSOCIATION, INC.

  
Hans H. Soltau

NANTUCKET LANDING CONDOMINIUM ASSOCIATION, INC.

Gentlemen:

I hereby accept appointment as Agent of your Corporation upon whom process, tax notices or demands may be served.

  
Hans H. Soltau

000004

12343

JICKI D. PEGG  
RECORDER

124 00  
155 B

FIRST AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION TWO)

JUL 19 3 47 PM '85  
MONTGOMERY CO., OHIO  
RECORDED

I hereby certify that copies of the within First Amendment, together with the drawings attached as Exhibits thereto, have been filed in the Office of the Auditor, Montgomery County, Ohio.

MONTGOMERY COUNTY AUDITOR

Dated: JUL 19 1985

By: *Robert L. Roderer*

PLAT REFERENCE: Book 125, Pages 7, 7A+7B

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

1985 JUL 19 PM 3:05  
MONT. COUNTY AUDITOR  
ROBERT L. RODERER  
TRANSFERRED

**FIRST AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION TWO)**

---

THIS FIRST AMENDMENT TO DECLARATION, hereinafter referred to as the "First Amendment", made on the date hereinafter set forth by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as "Declarant".

**RECITALS**

A. On February 5, 1985, certain premises located in the Township of Washington, County of Montgomery and State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Montgomery County Recorder a legal instrument with attached exhibits titled "Declaration of Condominium Property for Nantucket Landing Condominium", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Montgomery County, Ohio.

B. The Declaration was filed at Microfiche No. 85-077-A01, et seq., of the deed records of Montgomery County, Ohio.

C. The Declarant is the owner of adjacent property.

D. The present owners and mortgagees of each Unit for which provision is made in the Declaration are hereinafter respectively referred to as "Parcel A Unit Owners" and "Parcel A Mortgagees", with Parcel A being those premises described in Item 3 of the Declaration, along with any buildings or any other improvements thereon.

E. The Declarant has determined to submit a certain part of the premises described in "Exhibit D" of the Declaration, said part being hereinafter referred to as "Parcel B", together with the buildings and any other improvements thereon constructed and hereinafter described, to the provisions of the Declaration and to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership.

F. Declarant is, pursuant to the provisions of Section 21.11 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Unit Owners and Parcel Mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Parcel A Unit Owner such amendment to the Declaration as is contemplated by Article XXI thereof, and in the name of each Parcel A Mortgagee, a consent to such amendment.

NOW, THEREFORE, Declarant hereby declares that:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration unless specifically hereinafter amended.

2. Declarant is the owner of Parcel B, together with the Parcel B building and all improvements thereon, all easements, rights, appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners, all of which is hereby submitted to the provisions of the Declaration and is hereby included and made a part of the Condominium Property.

3. The Declaration is hereby amended in accordance with the provisions of Article XXI in the following respects:

A. The legal description referred to in Article III is hereby amended by adding thereto, and to Exhibit "A" of the Declaration, the real estate described in Exhibit "A" attached hereto.

B. Section 4.01(a) is hereby amended by deleting the entire provisions thereof and substituting therefor the following:

4.01 Description. Unless or until amended, the following buildings are located on the Condominium Property which are generally described as follows:

(a) Buildings 1, 2, 4 and 5 are partially one (1) and two (2) stories in height, each containing three (3) townhouse Units and one (1) ranch Unit.

(b) Building 6 is two (2) stories in height containing four (4) townhouse Units.

C. Section 4.03 is hereby amended by adding thereto the following:

(b) Buildings 4, 5 and 6 face Nantucket Landing.

D. Section 5.03 is hereby amended by deleting the unit and type designations and substituting therefor the following:

<u>UNITS</u>	<u>TYPE</u>
2,7,15,19	A
1,8,16,20	B
3,6,14,18,21,23	C
4,5,13,17,22,24	D

000067



E. Section 9.01, titled "Percentage of Ownership" is hereby amended by deleting the unit designations and their percentages and substituting the following:

<u>UNIT DESIGNATION</u>	<u>PERCENTAGE OF OWNERSHIP</u>
1	4.448
2	4.271
3	5.160
4	5.694
5	5.694
6	5.160
7	4.271
8	4.448
13	5.694
14	5.160
15	5.694
16	4.448
17	4.271
18	5.160
19	4.271
20	4.448
21	5.160
22	5.694
23	5.160
24	5.694

F. The drawings, attached as Exhibit "B" to the Declaration are hereby amended by adding thereto and making a part thereof the drawings attached to this First Amendment as Exhibit "B", relating to Parcel B, the Parcel B building and all other improvements thereon.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration and the By-Laws, and the drawings shall be and hereby are declared to remain in full force and effect.

5. Consent to this First Amendment on behalf of Parcel A Owners and on behalf of Parcel A Mortgagees is hereby granted by Declarant in its capacity as attorney-in-fact pursuant to the provisions of Section 21.11 of the Declaration.

IN WITNESS WHEREOF, CHARLES V. SIMMS DEVELOPMENT CORPORATION, as Declarant of Parcel B, as owner of a Unit or Units in Parcel A and as attorney-in-fact for all other Parcel A Unit Owners, and for Parcel A Mortgagees, has caused this instrument to be executed on this 15<sup>th</sup> day of JULY, 1985.

Signed and acknowledged  
in the presence of:

Patricia D. Walker

**CHARLES V. SIMMS  
DEVELOPMENT CORPORATION**

By: Hans H. Soltau  
Its Vice President

Jennifer L. Shafor

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this  
15<sup>th</sup> day of July, 1985 by Hans H. Soltau, Vice Presi-  
dent of Charles V. Simms Development Corporation, an Ohio corpora-  
tion, on behalf of the corporation.



Jennifer L. Shafor  
Notary Public  
JENNIFER L. SHAFOR, Notary Public  
In and for the State of Ohio  
My Commission Expires May 23, 1988

**THIS INSTRUMENT PREPARED BY:**

**HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402**

1985 JUL 19 PM 3:05  
MONT. COUNTY AUDITOR  
ROBERT L. RODERER  
TRANSFERRED

DEED 85-0360 A05

# EXHIBIT "A"



WOOLPERT

## Description of Nantucket Landing Condominiums Section Two July 8, 1985

Located in Section 29, Town 3, Range 5, M.R.S., Washington Township, County of Montgomery, State of Ohio, and being part of Lot Number One of Nantucket Landing Section One as recorded in Plat Book 122, page 24, of the Plat Records of Montgomery County, Ohio, and being described as follows:

Beginning at the northwest corner of said Lot Number One, said corner being at the intersection of the east right-of-way line of Dayton-Lebanon Pike (State Route 48) and the centerline of Nantucket Landing (a Private Drive as recorded with Nantucket Landing Section One), said corner also being in the south line of land conveyed to Charles V. Simms by deed recorded in Deed Microfiche No. 84-314E02 of the Deed Records of Montgomery County, Ohio;

thence with the centerline of Nantucket Landing (a Private Drive) and the south line of said Simms land, South eighty-nine degrees thirty-one minutes forty seconds (89° 31' 40") East for two hundred fifteen and 10/100 (215.10) feet to the TRUE POINT OF BEGINNING;

thence continuing with the south line of said Simms land for the following three (3) courses:

South eighty-nine degrees thirty-one minutes forty seconds (89° 31' 40") East for eighty-four and 90/100 (84.90) feet;

thence North no degrees twenty-eight minutes twenty seconds (00° 28' 20") East for eighty-one and 50/100 (81.50) feet;

thence North eighty-seven degrees fifty-eight minutes twenty seconds (87° 58' 20") East for one hundred sixty-three and 00/100 (163.00) feet;

thence on a new division line through said Lot Number One for the following two (2) courses:

South no degrees fifty-one minutes six seconds (00° 51' 06") West for ninety-four and 80/100 (94.80) feet;

thence South three degrees fifty-three minutes forty-five seconds (03° 53' 45") West for two hundred forty-four and 32/100 (244.32) feet to an angle point in the south line of said Lot Number One, said line being also the north line of land conveyed to Charles V. Simms by deed recorded in Deed Microfiche No. 84-314E02 of the Deed Records of Montgomery County, Ohio;

thence with the south line of said Lot Number One and the north line of said Simms land for the following two (2) courses:

South eighty-nine degrees thirty-two minutes no seconds (89° 32' 00") West for one hundred sixty-two and 79/100 (162.79) feet;

thence South fifty-five degrees five minutes seven seconds (55° 05' 07") West for forty-nine and 41/100 (49.41) feet to the southeast corner of Nantucket Landing Condominiums Section One;

DEED 85-0360 A06

000070

Description of  
Nantucket Landing Condominiums  
Section Two  
Page Two

thence with the east line of Nantucket Landing Condominiums Section One, North fifteen degrees ten minutes fifty-six seconds ( $15^{\circ} 10' 56''$ ) West for one hundred eighty and 03/100 (180.03) feet to a northeast corner thereof;

thence on a new division line through said Lot Number One, North ten degrees thirty minutes no seconds ( $10^{\circ} 30' 00''$ ) East for one hundred nine and 68/100 (109.68) feet to the TRUE POINT OF BEGINNING containing 1.740 acres, more or less, subject however, to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

DLW:clc  
#10-13317-01

DEED 85-0360 A07

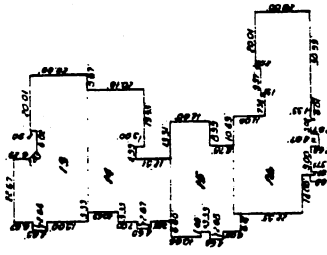
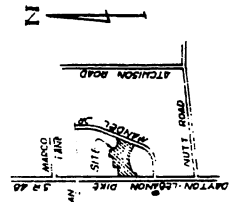
000071

# EXHIBIT "B"

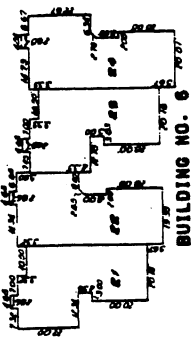
## MANTUCKET LANDING CONDOMINIUMS SECTION TWO

BEING PART SEC. 02 OF  
 HANCOCK PLANNING SECTION ONE  
 AS RECORDED IN PLAT BOOK 122,  
 PAGE 24, IN THE PLAT RECORDS  
 OF MONTGOMERY COUNTY, OHIO

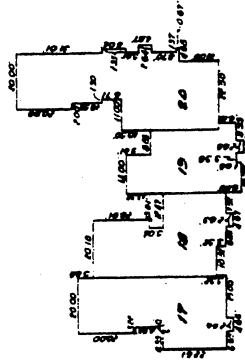
LOCATED IN  
 SECTION 28, TOWN 3, RANGE 5, H. R. S.  
 MONTGOMERY COUNTY, OHIO  
 MAY 1985 SCALE: 1"=40'  
 CONTAINING 1.740 ACRES



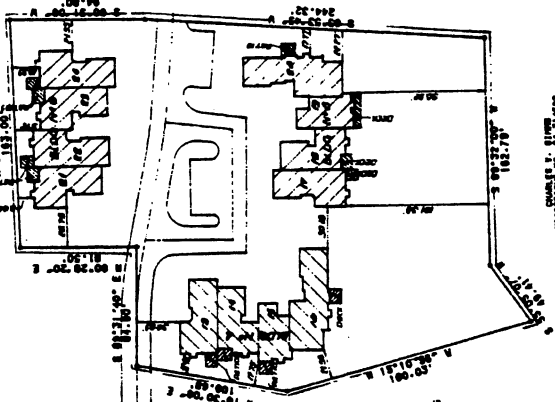
BUILDING NO. 4



BUILDING NO. 6



BUILDING NO. 5



MANTUCKET LANDING

- INDICATES PAVEMENT
- INDICATES PROPERTY LINE
- INDICATES ROOF PITCH
- CONDOMINIUM UNIT AND CHANGE
- UNITED COMMONS AREA
- RESERVE AREA

We the undersigned, being all the owners and leaseholders of the land herein shown do hereby acknowledge the making and signing of this deed and the common plan to the public use forever. Mantucket Landing is a privately maintained, non-dedicated street.

Elements shown are for the construction, operation, maintenance, repair, utility lines or services and for the express privilege of removing any or all trees or other obstructions to the free use of said utilities and for providing ingress to and egress from the premises for said purposes and are to be maintained.

The undersigned owners and leaseholders hereby consent to and join in the submission of the lands herein described and their interests therein to the Condominium Plan for the Condominiums to be filed with the Recorder of Montgomery County, Ohio under the Condominium statute of the State of Ohio. For Declaration see Microfiche No.

Spelled and acknowledged  
 in the presence of:

Witness  
*Charles V. Simms*  
 Charles V. Simms - President

State of Ohio, s.s.  
 Be it remembered, that on this 22 day of July, 1985, before me,  
 the undersigned, Notary Public for Montgomery County, Ohio,  
 President of the Hunter Saving Association, by Charles V. Simms, its  
 President who acknowledged that he did when this condominium and that  
 the same is the free and voluntary act of him personally and as such  
 affirms the testimony whereof, I have hereunto set my hand and official seal  
 on the day and date above written.

State of Ohio, s.s.  
 Charles V. Simms being duly sworn says that all parties, to the best of  
 his knowledge, interest, in this land either as owners or as leaseholders,  
 have entered in its execution.

In testimony whereof, I have hereunto set my hand and official seal on the  
 day and date above written.

Witness  
*John J. Muehleisen*  
 John J. Muehleisen  
 Notary Public in and for the State of Ohio  
 by commission expires: 1-22-88

Spelled and acknowledged  
 in the presence of:

Witness  
*John J. Muehleisen*  
 John J. Muehleisen  
 Notary Public in and for the State of Ohio  
 by commission expires: 1-22-88

Witness  
*John J. Muehleisen*  
 John J. Muehleisen  
 Notary Public in and for the State of Ohio  
 by commission expires: 1-22-88

**CERTIFICATION:**  
 The within condominium plan is part of lot 1 in Mantucket Landing, Section  
 One as recorded in Plat Book 122, Page 24 in the Plat Records of Montgomery  
 County, Ohio. Containing 1.740 acres of land in the County of Montgomery,  
 Ohio. We hereby certify, as of the within date, that this condominium plan  
 correctly shows the location of all buildings and structures situated on the  
 premises. Measurements are certified correct and true and will be set as shown.  
 Curved distances are measured on the arc.

**WOOLPERT CONSULTANTS**  
 Richard L. Thomas, Surveyor No. 2484  
 Robert F. Wolfenden, Engineer No. 21217

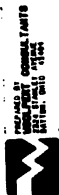


*A. Frueh*  
**PREPARED FOR RECORDATION AND OWNERSHIP**  
 7-19-85  
 MONTGOMERY COUNTY ENGINEER  
 CHECKED BY: *RENE*

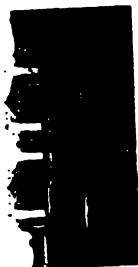
**NANTUCKET LANDING TWO**  
**SECTION TWO**

BEING PART OF LOT 1 OF  
 NANTUCKET LANDING SECTION ONE  
 AS RECORDED IN PLAT RECORD  
 21-10-10-10-10-10-10-10-10-10  
 OF HANTUCKET COUNTY, OHIO  
 JUNE 1995

LOCATED IN  
 SECTION 29, TOWN 3, RANGE 5, H.R.S.  
 WASHINGTON TOWNSHIP,  
 HANTUCKET COUNTY, OHIO  
 JUNE 1995



CONTRACT CONSULTANTS  
 1000 WEST 10TH STREET  
 CLEVELAND, OHIO 44115



REAR - NORTH



EAST END



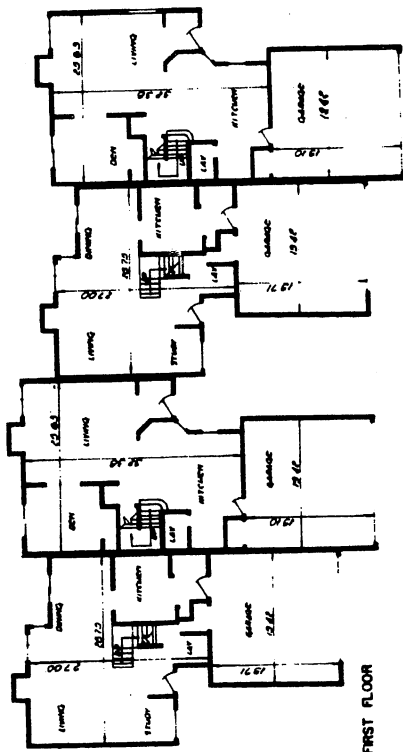
FRONT - SOUTH



WEST END

**BUILDING NO. 6**

SCALE 1/8" = 1'-0"



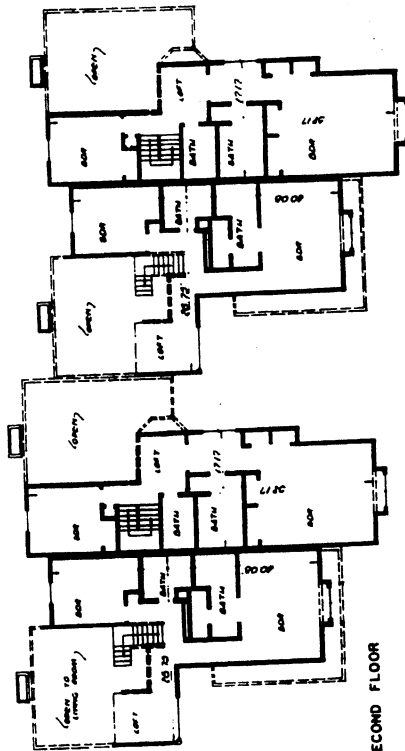
FIRST FLOOR

UNIT # 21  
 1400 SQ FT LIVING AREA  
 350 SQ FT GARAGE AREA  
 1850 TOTAL SQ FT # UNIT

UNIT # 22  
 1480 SQ FT LIVING  
 370 SQ FT GARAGE  
 1850 TOTAL SQ FT # UNIT

UNIT # 23  
 1500 SQ FT LIVING  
 390 SQ FT GARAGE  
 1890 TOTAL SQ FT # UNIT

UNIT # 24  
 1400 SQ FT LIVING AREA  
 320 SQ FT GARAGE AREA  
 1720 TOTAL SQ FT # UNIT



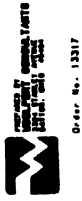
SECOND FLOOR

000073

**NANTUCKET LANDING CONDOMINIUMS  
SECTION TWO**

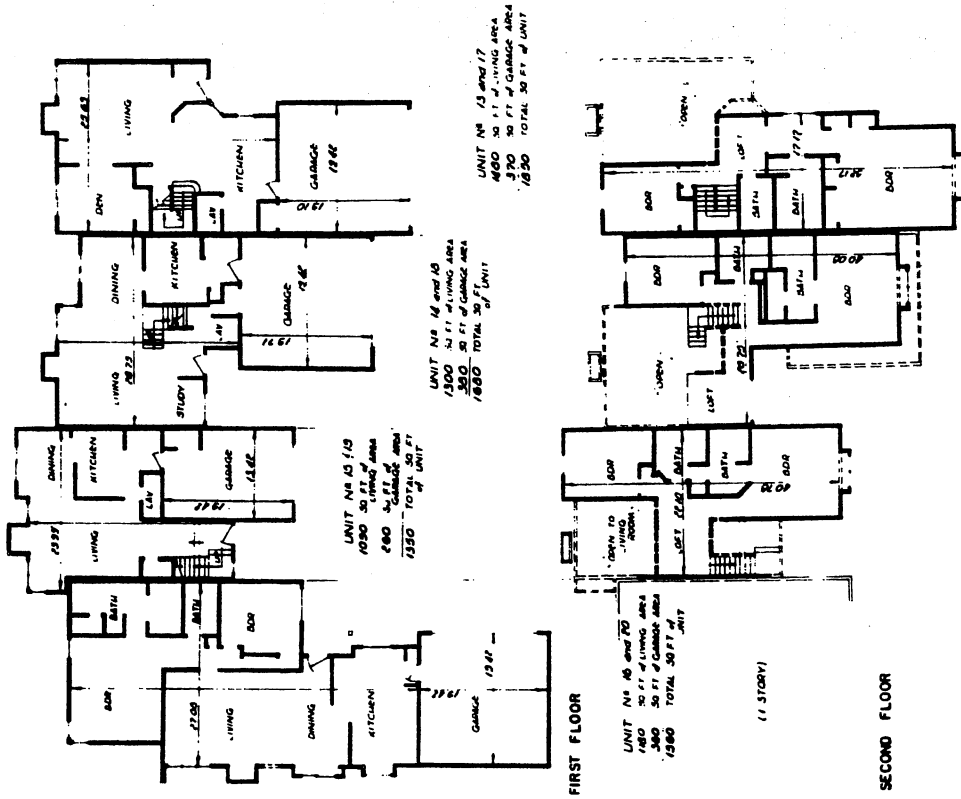
BEING PART OF LOT 1 OF  
NANTUCKET LANDING SECTION ONE  
AS RECORDED IN PLAT BOOK 122 OF  
MONTGOMERY COUNTY, OHIO

LOCATED IN  
SECTION 29, TOWN OF RANGE 5, N. R. S.  
WASHINGTON TOWNSHIP  
MONTGOMERY COUNTY, OHIO  
JUNE 1985



Sheet No. 13317

**BUILDINGS NO. 4 & 5**  
SCALE 1/8" = 1'-0"



000074

20980

71  
RECORDED  
RECORDER

153.60  
C

SECOND AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION THREE)

NOV 15 10 56 AM '85  
MONTGOMERY CO. OHIO  
RECORDED

N  
153.60  
305

I hereby certify that copies of the within Second Amendment, together with the drawings attached as Exhibits thereto, have been filed in the Office of the Auditor, Montgomery County, Ohio.

MONTGOMERY COUNTY AUDITOR

Dated: NOV 15 1985

By: *Robert L. Roberer*

PLAT REFERENCE: Book 126, Pages 646A46B

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

1985 NOV 15 AM 9:29  
MONT. COUNTY AUDITOR  
ROBERT L. ROBERER

DEED 85-0606 C02

000078



**SECOND AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION THREE)**

---

THIS SECOND AMENDMENT TO DECLARATION, hereinafter referred to as the "Second Amendment", made on the date hereinafter set forth by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as "Declarant".

**RECITALS**

A. On February 5, 1985, certain premises located in the Township of Washington, County of Montgomery and State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Montgomery County Recorder a legal instrument with attached exhibits titled "Declaration of Condominium Property for Nantucket Landing Condominium", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Montgomery County, Ohio.

B. The Declaration has been subsequently amended for the purpose of adding additional property to the provisions thereof. For purposes hereof, the term Declaration shall refer to the Declaration as amended by any subsequent amendment thereto filed with the Recorder of Montgomery County, Ohio.

C. The Declaration was filed at Microfiche No. 85-077-A01, et seq., and the First Amendment thereto at Microfiche No. 85-360-A01, et seq., of the deed records of Montgomery County, Ohio.

D. The Declarant is the owner of adjacent property.

E. The present owners and mortgagees of each Unit for which provision is made in the Declaration are hereinafter respectively referred to as "Parcel A Unit Owners" and "Parcel A Mortgagees", with Parcel A being those premises described in Item 3 of the Declaration, along with any buildings or any other improvements thereon.

F. The Declarant has determined to submit a certain part of the premises described in "Exhibit D" of the Declaration, said part being hereinafter referred to as "Parcel B", together with the buildings and any other improvements thereon constructed and hereinafter described, to the provisions of the Declaration and to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership.

G. Declarant is, pursuant to the provisions of Section 21.11 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Unit Owners and Parcel Mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Parcel A Unit Owner such amendment to the Declaration as is contemplated by Article XXI thereof, and in the name of each Parcel A Mortgagee, a consent to such amendment.

NOW, THEREFORE, Declarant hereby declares that:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration unless specifically hereinafter amended.

2. Declarant is the owner of Parcel B, together with the Parcel B building and all improvements thereon, all easements, rights, appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners, all of which is hereby submitted to the provisions of the Declaration and is hereby included and made a part of the Condominium Property.

3. The Declaration is hereby amended in accordance with the provisions of Article XXI in the following respects:

A. The legal description referred to in Article III is hereby amended by adding thereto, and to Exhibit "A" of the Declaration, the real estate described in Exhibit "A" attached hereto.

B. Section 4.01(a) is hereby amended by adding thereto the following:

(c) Building 7 is partially one (1) and two (2) stories in height, containing one (1) town-house Unit and one (1) ranch Unit.

(d) Building 8 is partially one (1) and two (2) stories in height containing four (4) town-house Units and one (1) ranch Unit.

C. Section 4.03 is hereby amended by adding thereto the following:

(c) Buildings 7 and 8 face Whalers Wharf.

D. Section 5.03 is hereby amended by deleting the unit and type designations and substituting therefor the following:

<u>UNITS</u>	<u>TYPE</u>
2,7,15,19,26,32,33	A
1,8,16,20,25,34	B
3,6,14,18,21,23,31	C
4,5,13,17,22,24,30	D

E. Section 9.01, titled "Percentage of Ownership" is hereby amended by deleting the unit designations and their percentages and substituting the following:

<u>UNIT DESIGNATION</u>	<u>PERCENTAGE OF OWNERSHIP</u>
1	3.355
2	3.221
3	3.893
4	4.296
5	4.296
6	3.893
7	3.221
8	3.355
13	4.296
14	3.893
15	4.296
16	3.355
17	3.221
18	3.893
19	3.221
20	3.355
21	3.893
22	4.296
23	3.893
24	4.296
25	3.355
26	3.221
30	4.296
31	3.893
32	3.221
33	3.221
34	3.355

F. The drawings, attached as Exhibit "B" to the Declaration are hereby amended by adding thereto and making a part thereof the drawings attached to this Second Amendment as Exhibit "B", relating to Parcel B, the Parcel B building and all other improvements thereon.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration and the By-Laws, and the drawings shall be and hereby are declared to remain in full force and effect.

5. Consent to this Second Amendment on behalf of Parcel A Owners and on behalf of Parcel A Mortgagees is hereby granted by Declarant in its capacity as attorney-in-fact pursuant to the provisions of Section 21.11 of the Declaration.

IN WITNESS WHEREOF, CHARLES V. SIMMS DEVELOPMENT CORPORATION, as Declarant of Parcel B, as owner of a Unit or Units in Parcel A and as attorney-in-fact for all other Parcel A Unit Owners, and for Parcel A Mortgagees, has caused this instrument to be executed on this 11th day of NOVEMBER, 1985.

Signed and acknowledged  
in the presence of:

**CHARLES V. SIMMS  
DEVELOPMENT CORPORATION**

Cynthia L. Larkins  
Patricia D. Walker

By: Hans H. Soltau  
Its Vice President

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 11th day of NOVEMBER, 1985 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Cynthia L. Larkins  
Notary Public

CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires NOV. 3, 1988

**THIS INSTRUMENT PREPARED BY:**

**HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402**

1585 NOV 15 AM 9:29  
ROBERT L. ROBERER  
MONT. COUNTY AUDITOR

EXHIBIT "A"



Description of Nantucket Landing Condominiums  
Section Three  
November 7, 1985

Located in Section 29. Town 3. Range 5. M.R.S., Washington Township, County of Montgomery, State of Ohio, and being part of Lot Number One of Nantucket Landing Section One as recorded in Plat Book 122, page 24 of the Plat Records of Montgomery County, Ohio and being described as follows:

Beginning at the northeast corner of Nantucket Landing Condominiums Section Two, said corner being an angle point in the north line of said Lot Number One and in the south line of land conveyed to Charles V. Simms by deed recorded in Deed Microfiche No. 84-314E02 of the Deed Records of Montgomery County, Ohio.

thence continuing with the north line of said Lot Number One and the south line of said Simms Land for the following four (4) courses: thence North twenty-nine degrees forty-five minutes forty-five seconds (29-45'45") East for ninety-three and 00/100 (93.00) feet;

thence South seventy-one degrees twenty minutes forty-five seconds (71-20'45") East for one hundred nine and 00/100 (109.00) feet;

thence South thirteen degrees twenty minutes eight seconds (13-20'08") West for forty-seven and 00/100 (47.00) feet;

thence South fifty-one degrees eight minutes twenty seconds (51-08'20") East for two hundred forty and 00/100 (240.00) feet;

thence leaving said line on a new division line through said Lot Number One for the following three (3) courses:

South twenty-one degrees twenty-four minutes twenty seconds (21-24'20") West for ninety and 00/100 (90.00) feet;

thence North forty-five degrees fifty-nine minutes twenty-six seconds (45-59'26") West for sixty-one and 63/100 (61.63) feet;

thence on a radial line South sixty-four degrees twenty-seven minutes ten seconds (64-27'10") West for one hundred forty and 00/100 (140.00) feet to a point in the centerline of Whalers Wharf ( a Private Drive as recorded with Nantucket Landing Section One );

thence with the centerline of Whalers Wharf (a Private Drive) on a curve to the right with a radius of two hundred fifty and 00/100 (250.00) feet for an arc distance of one hundred sixty-nine and 66/100 (169.66) feet, [long chord bearing North six degrees six minutes twenty-one seconds (06-06'21") West for one hundred sixty-six and 42/100 (166.42) feet, central angle of said curve being thirty-eight degrees fifty-two minutes fifty-eight seconds (38-52'58")];

thence continuing with the centerline of Whalers Wharf (a Private Drive) on a tangent bearing North thirteen degrees twenty minutes eight seconds (13-20'08") East for fifty-nine and 94/100 (59.94) feet;

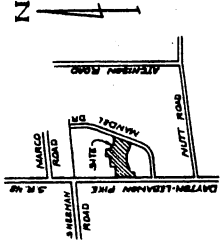
thence leaving said centerline on a new division line through said Lot Number One North seventy-six degrees thirty-nine minutes fifty-two seconds (76-39'52") West for one hundred twenty-one and 39/100 (121.39) feet to the point of beginning, containing no and 994/1000 (.994) acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

000083

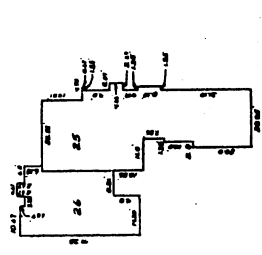
**NANTUCKET LANDING CONDOMINIUMS  
SECTION THREE**

BEING PART OF LOT 1 OF  
NANTUCKET LANDING SECTION ONE  
AS SHOWN IN THE PLAT RECORDS  
PAGE 24 IN THE PLAT RECORDS  
OF MONTGOMERY COUNTY, OHIO

LOCATED IN  
SECTION 29, TOWN 3, RANGE 5, N.R.S.  
WASHINGTON TOWNSHIP  
MONTGOMERY COUNTY, OHIO  
OCT. 1985 SCALE: 1"=40'  
CONTAINING 0.994 ACRES

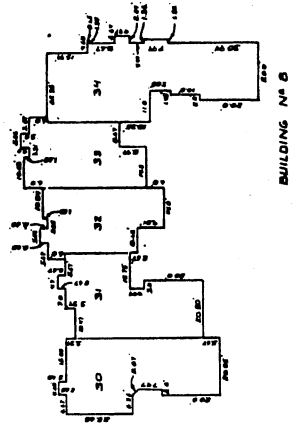


VICINITY MAP  
NO SCALE

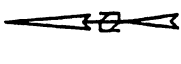


BUILDING NO. 7

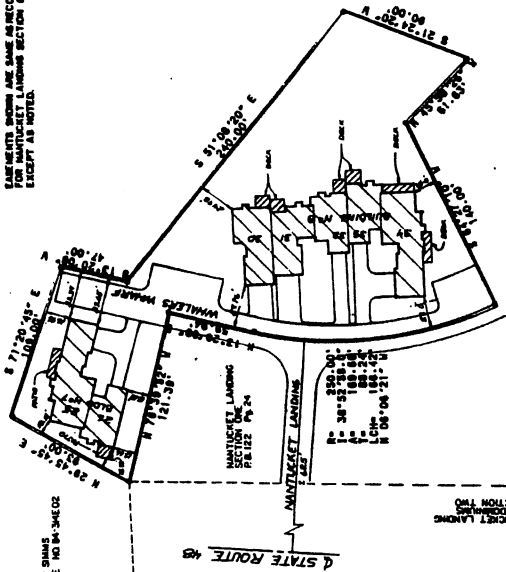
NOTE: BUILDING DIMENSIONS ARE EXTERIOR MEASUREMENTS



BUILDING NO. 8



ELEMENTS SHOWN ARE SAME AS RECORDED  
EXCEPT AS NOTED.



KEY

- INDICATES EASEMENT
- INDICATES PROPERTY LINE
- INDICATES IRON PIN
- CONDOMINIUM UNIT and GARAGE
- LIMITED COMMON AREA
- COMMON AREA

We, the undersigned, being all the owners and lienholders of the land herein shown do hereby acknowledge the making and signing of the within condominium plan to be our voluntary act and deed and do hereby dedicate the easements shown to the public use forever. Witness Myself this 1st day of October, 1985.

Examinations shown are for the construction, operation, maintenance, repair, replacement, or removal of water, sewer, gas, electric, telephone or other utility lines or services and for the repairs and improvements for providing easements to and across from the premises for said utilities and for providing as such forever.

The undersigned owners and lienholders hereby consent to and join in the submission of the herein as Nantucket Landing Condominiums Section Three, as set forth in the Declaration of such Condominiums to be filed with the Recorder of Montgomery County, Ohio under the condominium statute of the State of Ohio. For Declaration see Microfiche No. \_\_\_\_\_

State of Ohio, ss.  
I, \_\_\_\_\_, County Clerk, do hereby certify that the within and foregoing is a true and correct copy of the original as the same is in the files and records of this office.

State of Ohio, ss.  
I, \_\_\_\_\_, County Clerk, do hereby certify that the within and foregoing is a true and correct copy of the original as the same is in the files and records of this office.

State of Ohio, ss.  
I, \_\_\_\_\_, County Clerk, do hereby certify that the within and foregoing is a true and correct copy of the original as the same is in the files and records of this office.

State of Ohio, ss.  
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I, \_\_\_\_\_, County Clerk, do hereby certify that the within and foregoing is a true and correct copy of the original as the same is in the files and records of this office.

State of Ohio, ss.  
I, \_\_\_\_\_, County Clerk, do hereby certify that the within and foregoing is a true and correct copy of the original as the same is in the files and records of this office.

State of Ohio, ss.  
I, \_\_\_\_\_, County Clerk, do hereby certify that the within and foregoing is a true and correct copy of the original as the same is in the files and records of this office.

Woolpert Consultants  
Richard E. Thomas, Surveyor No. 4444  
Michael W. Carter, Engineer No. 40788



RECORDED BY MONTGOMERY COUNTY, OHIO  
INDEXED BY MONTGOMERY COUNTY, OHIO

DEED 85-0606 C08

CH. BY: K.A.L. DR. BY: M.L.W.

19-12117-01

00008A

**NANTUCKET LANDING CONDOMINIUMS**

**SECTION THREE**  
 BEING PART OF SECTION ONE  
 AS RECORDED IN PLAT BOOK 132  
 PAGE 24, IN THE PLAT RECORDS  
 OF MONTGOMERY COUNTY, OHIO

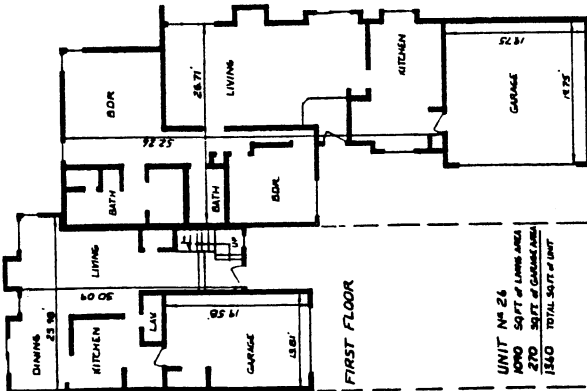
LOCATED IN  
 SECTION 29, TOWN 3, RANGE 5, N.R.S.  
 WASHINGTON TOWNSHIP  
 MONTGOMERY COUNTY, OHIO  
 OCT. 1983

DEED 85-0606 C09

ORDER NO. 10-12117-0

SHEET 2 OF 3

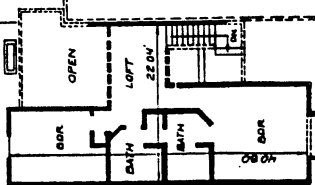
**BUILDING N° 7**  
 SCALE 3/16"



FIRST FLOOR

**UNIT N° 26**  
 1490 SQ FT of LIVING AREA  
 270 SQ FT of GARAGE AREA  
 1320 TOTAL SQ FT of UNIT

**UNIT N° 25**  
 1180 SQ FT of LIVING AREA  
 390 SQ FT of GARAGE AREA  
 1570 TOTAL SQ FT of UNIT



SECOND FLOOR

(1 STORY)



NORTH END



SOUTH END



FRONT - EAST



REAR - WEST

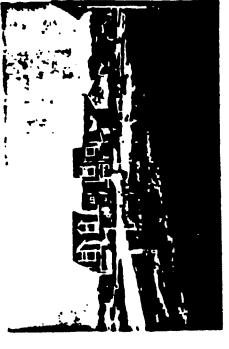
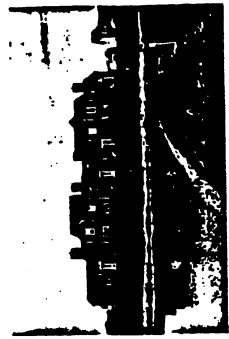
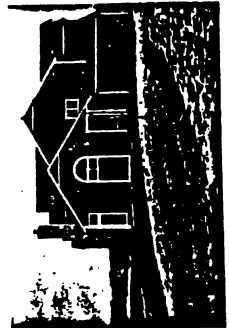
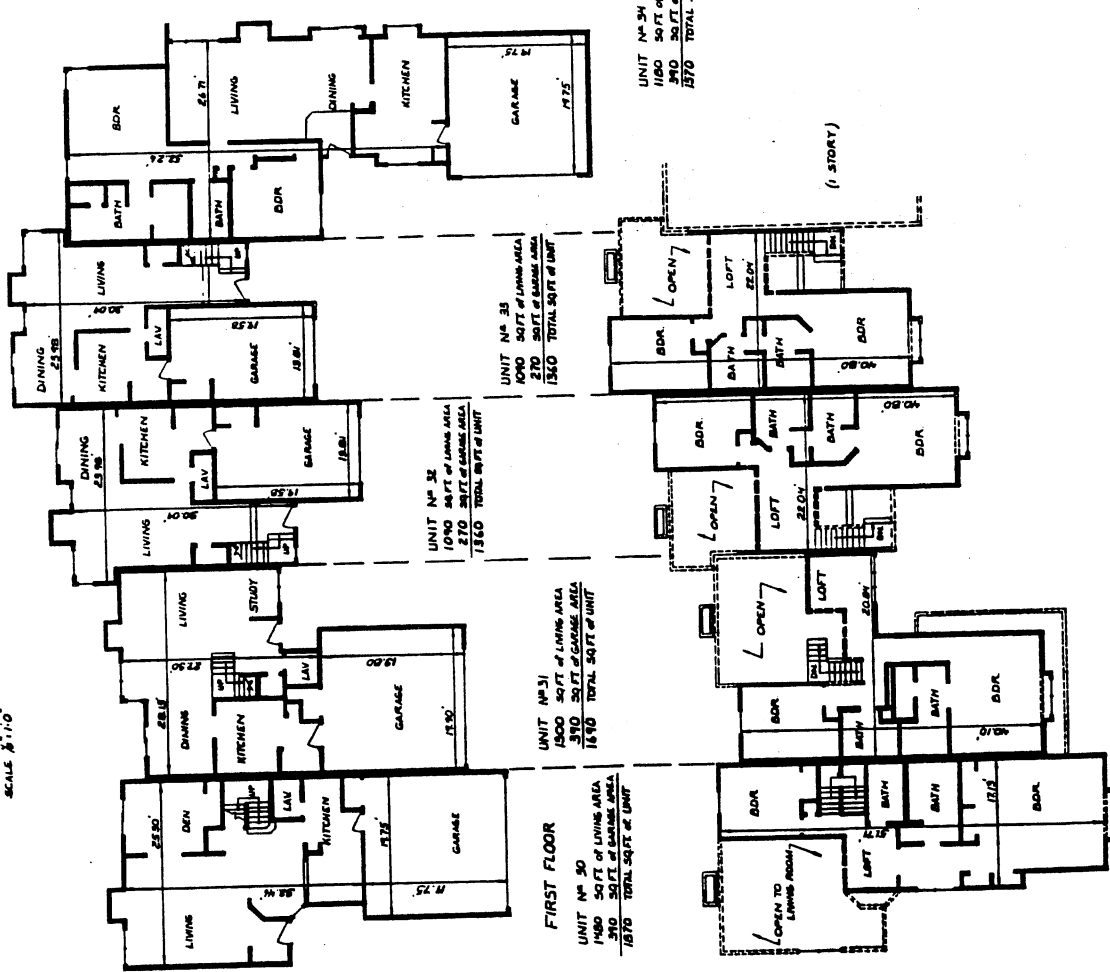
000085

**NANTUCKET LANDING CONDOMINIUMS**

**SECTION THREE**  
 OF  
 NANTUCKET LANDING SECTION ONE  
 AS RECORDED IN PLAT BOOK 122,  
 PAGE 24, IN THE PLAT RECORDS  
 OF MONTGOMERY COUNTY, OHIO

LOCATED IN  
 SECTION 29, TOWN 3, RANGE 5, M.R.S.  
 WASHINGTON TOWNSHIP,  
 MONTGOMERY COUNTY, OHIO  
 OCT. 1985

**BUILDING N° 8**  
 SCALE 3/16"



980000

DEED 85-0606 C10

SHEET 3 OF 3 ORDER NO. 18-13317-0

DR. JAMES W. ...  
 151 E. ...  
 ...



4853

VICKI D. PEGG  
RECORDER

15.60  
15/11

THIRD AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION FOUR)

MAR 25 1 15 PM '86

MONTGOMERY CO. OHIO  
RECORDED

I hereby certify that copies of the within Third Amendment,  
together with the drawings attached as Exhibits thereto, have  
been filed in the Office of the Auditor, Montgomery County, Ohio.

MONTGOMERY COUNTY AUDITOR

Dated: MAR 25 1986

By: *Robert L. Roderer*

PLAT REFERENCE: Book 127, Pages 545A+5B

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

1986 MAR 25 AM 11:59

TRANSFERRED  
ROBERT L. RODERER  
MONT. COUNTY AUDITOR

000087

DEED 86-0150 C09

**THIRD AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION FOUR)**

---

THIS THIRD AMENDMENT TO DECLARATION, hereinafter referred to as the "Third Amendment", made on the date hereinafter set forth by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as "Declarant".

**RECITALS**

A. On February 5, 1985, certain premises located in the Township of Washington, County of Montgomery and State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Montgomery County Recorder a legal instrument with attached exhibits titled "Declaration of Condominium Property for Nantucket Landing Condominium", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Montgomery County, Ohio.

B. The Declaration has been subsequently amended for the purpose of adding additional property to the provisions thereof. For purposes hereof, the term Declaration shall refer to the Declaration as amended by any subsequent amendment thereto filed with the Recorder of Montgomery County, Ohio.

C. The Declaration and amendments thereto have been recorded in the deed and plat records of Montgomery County, Ohio as follows:

<u>Instrument</u>	<u>Deed Records</u>	<u>Plat Records</u>
Declaration	85-077-A01	123-48
First Amendment	85-360-A01	125-07
Second Amendment	85-606-C02	126-06

D. The Declarant is the owner of adjacent property.

E. The present owners and mortgagees of each Unit for which provision is made in the Declaration are hereinafter respectively referred to as "Parcel A Unit Owners" and "Parcel A Mortgagees", with Parcel A being those premises described in Item 3 of the Declaration, along with any buildings or any other improvements thereon.

F. The Declarant has determined to submit a certain part of the premises described in "Exhibit D" of the Declaration, said part being hereinafter referred to as "Parcel B", together with the buildings and any other improvements thereon constructed and hereinafter described, to the provisions of the Declaration and to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership.

G. Declarant is, pursuant to the provisions of Section 21.11 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Unit Owners and Parcel Mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Parcel A Unit Owner such amendment to the Declaration as is contemplated by Article XXI thereof, and in the name of each Parcel A Mortgagee, a consent to such amendment.

NOW, THEREFORE, Declarant hereby declares that:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration unless specifically hereinafter amended.

2. Declarant is the owner of Parcel B, together with the Parcel B building and all improvements thereon, all easements, rights, appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners, all of which is hereby submitted to the provisions of the Declaration and is hereby included and made a part of the Condominium Property.

3. The Declaration is hereby amended in accordance with the provisions of Article XXI in the following respects:

A. The legal description referred to in Article III is hereby amended by adding thereto, and to Exhibit "A" of the Declaration, the real estate described in Exhibit "A" attached hereto.

B. Section 4.01(a) is hereby amended by adding thereto the following:

(e) Building 9 is two (2) stories in height, containing four (4) townhouse Units.

(f) Building 10 is partially one (1) and two (2) stories in height containing three (3) townhouse Units and one (1) ranch Unit.

C. Section 4.03 is hereby amended by adding thereto the following:

(d) Buildings 9 and 10 face Whalers Wharf.

000089

D. Section 5.03 is hereby amended by deleting the unit and type designations and substituting therefor the following:

<u>UNITS</u>	<u>TYPE</u>
2,7,15,19,26,32 33,35,36,40,41	A
1,8,16,20 25,34,39	B
3,6,14,18,21 23,31,37,42	C
4,5,13,17 22,24,30,38	D

E. Section 6.01, titled "General", is hereby amended by adding thereto the pool, its fixtures, decking, pool house and any attendant facilities.

F. Section 9.01, titled "Percentage of Ownership" is hereby amended by deleting the unit designations and their percentages and substituting the following:

<u>UNIT DESIGNATION</u>	<u>PERCENTAGE OF OWNERSHIP</u>
1	2.7972
2	2.4239
3	3.0111
4	3.3321
5	3.3321
6	3.0111
7	2.4239
8	2.7972
13	3.3321
14	3.0111
15	3.3321
16	2.7972
17	2.4239
18	3.0111
19	2.4239
20	2.7972
21	3.0111
22	3.3321
23	3.0111
24	3.3321
25	2.7972
26	2.4239
*	
30	3.3321
31	3.0111
32	2.4239
33	2.4239
34	2.7972

000090

UNIT DESIGNATION

PERCENTAGE OF OWNERSHIP

35	2.4239
36	2.4239
37	3.0111
38	3.3321
39	2.7972
40	2.4239
41	2.4239
42	3.0111

\* Please note, there are no Units numbered 27, 28 or 29.

G. The drawings, attached as Exhibit "B" to the Declaration are hereby amended by adding thereto and making a part thereof the drawings attached to this Third Amendment as Exhibit "B", relating to Parcel B, the Parcel B building and all other improvements thereon.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration and the By-Laws, and the drawings shall be and hereby are declared to remain in full force and effect.

5. Consent to this Third Amendment on behalf of Parcel A Owners and on behalf of Parcel A Mortgagees is hereby granted by Declarant in its capacity as attorney-in-fact pursuant to the provisions of Section 21.11 of the Declaration.

\*\*\*\*\*

000091

IN WITNESS WHEREOF, CHARLES V. SIMMS DEVELOPMENT CORPORATION, as Declarant of Parcel B, as owner of a Unit or Units in Parcel A and as attorney-in-fact for all other Parcel A Unit Owners, and for Parcel A Mortgagees, has caused this instrument to be executed on this 20 day of March, 1986.

Signed and acknowledged  
in the presence of:

**CHARLES V. SIMMS  
DEVELOPMENT CORPORATION**

Cynthia L. Larkins  
Carolyn J. Summers

By: Hans H. Soltau  
Its Vice President

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 10 day of March, 1986 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Cynthia L. Larkins  
Notary Public

CYNTHIA L. LARKINS, Notary Public  
In and for the State of Ohio  
My Commission Expires NOV. 5, 1986

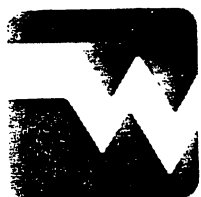


**THIS INSTRUMENT PREPARED BY:**

**HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402**

000092

EXHIBIT "A"



Description of Nantucket Landing Condominiums  
Section Four  
March 14, 1986

WOOLPERT

Located in Section 29, Town 3, Range 5, M.R.S., Washington Township, County of Montgomery, State of Ohio, and being part of Lot Number One of Nantucket Landing Section One as recorded in Plat Book 122, page 24 of the Plat Records of Montgomery County, Ohio and being described as follows:

Beginning at the northeast corner of Nantucket Landing Condominiums Section Two, said corner being an angle point in the north line of said Lot Number One and in the south line of land conveyed to Charles V. Simms by deed recorded in Deed Microfiche No. 84-314E02 of the Deed Records of Montgomery County, Ohio, said point being also a west corner of Nantucket Landing Condominiums Section Three:

thence with a south line of said Nantucket Landing Condominiums Section Three South seventy-six degrees thirty-nine minutes fifty-two seconds (76-39'52") East for one hundred twenty-one and 39/100 (121.39) feet to a northeast corner of said Nantucket Landing Condominiums Section Three, said corner being in the centerline of Whalers Wharf ( a Private Drive as recorded with Nantucket Landing Section One );

thence with the centerline of said Whalers Wharf on a tangent bearing South thirteen degrees twenty minutes eight seconds (13-20'08") West for fifty-nine and 94/100 (59.94) feet;

thence continuing with the centerline of Whalers Wharf on a curve to the left with a radius of two hundred fifty and 00/100 (250.00) feet for an arc distance of two hundred seventy-seven and 35/100 (277.35) feet, [long chord bearing South eighteen degrees twenty-six minutes forty-seven seconds (18-26'47") East for two hundred sixty-three and 35/100 (263.35) feet, central angle of said curve being sixty-three degrees thirty-three minutes fifty-one seconds (63-33'51")];

thence leaving said centerline on a new division line through said Lot Number One on a radial line bearing South thirty-nine degrees forty-six minutes seventeen seconds (39-46'17") West for one hundred eleven and 67/100 (111.67) feet to a point on the south line of said Nantucket Landing Section One and a north line of land conveyed to Charles V. Simms by deed recorded in Deed Microfiche No. 84-314E02 of the Deed Records of Montgomery County, Ohio;

thence with the south line of said Section One and the north line of said Simms land North fifty-eight degrees seven minutes fifty-nine seconds (58-07'59") West for one hundred fifty-eight and 00/100 (158.00) feet to the southeast corner of Nantucket Landing Condominiums Section Two;

thence with the east line of Nantucket Landing Condominiums Section Two for the following two (2) courses:

North three degrees fifty-three minutes forty-five seconds (03-53'45") East for two hundred forty-four and 32/100 (244.32) feet;

thence North no degrees fifty-one minutes six seconds (00-51'06") East for ninety-four and 80/100 (94.80) feet to the point of beginning, containing one and 132/10000 (1.132) acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

DEED -0150 D03

D.L.W. 10-13317-01

WOOLPERT CONSULTANTS • 2324 STANLEY AVENUE • DAYTON, OHIO 45404-1285 • 513/461-5660

TRANSFERRED  
ROBERT L. ROEDER  
MONT. COUNTY AUDITOR  
APR 25 1986

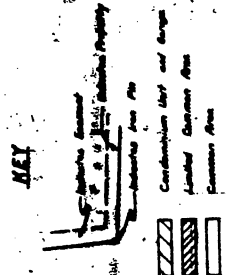
000093

NANTUCKET LANDING CONDOMINIUMS

SECTION FOUR

BEING PART OF LOT 1 OF NANTUCKET LANDING SECTION ONE AS RECORDED IN PLAT BOOK 102, PAGE 25, COUNTY OF MONTGOMERY, OHIO

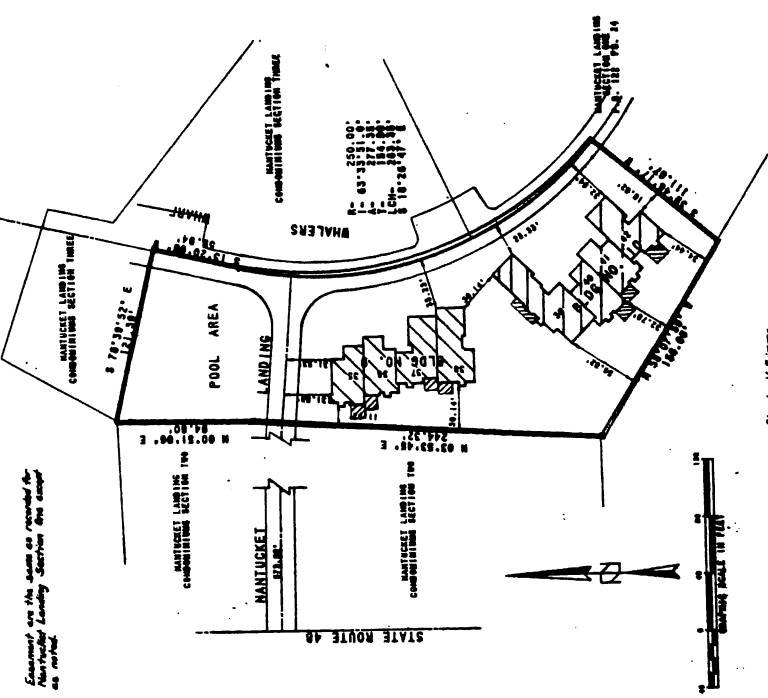
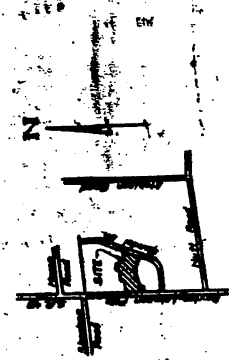
LOCATED IN RANGE S, M.R.S. SECTION 29, TOWNSHIP 12 NORTH, MONTGOMERY COUNTY, OHIO MARCH, 1986 SCALE: 1"=40' CONTAINING 1.132 ACRES



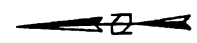
KEY

- Condominium Unit and Garage
Landscaping
Easement Area

VICINITY MAP



Easement on the same as recorded in Nantucket Landing Section One as noted.



Charles V. Simms
Montgomery, N.Y. 89-49886

DEED NO. 86-0150

In the undersigned being of the age and legal capacity of the land herein shown, to-wit: Charles V. Simms, Montgomery, N.Y., do hereby certify that the above described premises are owned by me and that I have duly executed this deed in full payment of the purchase price of the same and that I have duly executed this deed in full payment of the purchase price of the same and that I have duly executed this deed in full payment of the purchase price of the same...

CHARLES V. SIMMS, MONTGOMERY, N.Y.

Charles V. Simms, President

Notary Public in and for the State of Ohio

State of Ohio, ss: I, Notary Public in and for the State of Ohio, do hereby certify that the above described premises are owned by me and that I have duly executed this deed in full payment of the purchase price of the same and that I have duly executed this deed in full payment of the purchase price of the same...

Notary Public in and for the State of Ohio

Charles V. Simms, President

In testimony whereof, I have hereunto set my hand and official seal on the day and date above written.

Notary Public in and for the State of Ohio

Charles V. Simms, President

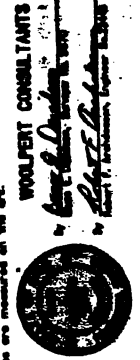
Notary Public in and for the State of Ohio

Charles V. Simms, President

CERTIFICATION: The within condominium plan is part of Lot 1, Nantucket Landing, Section One as recorded in Plat Book 102, Page 24 in the Plat Book of the Montgomery County, Ohio, containing 1.132 acres of Montgomery County, Ohio, and is a valid and enforceable instrument under the laws of the State of Ohio...

Notary Public in and for the State of Ohio

Charles V. Simms, President



WOLFERT CONSULTANTS
Montgomery, N.Y.

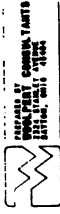
FFA
FRED F. REIDER, P.E., P.S. 3-26-86



**NANTUCKET LANDING CONDOMINIUMS**

BEING PART OF LOT 1 OF  
NANTUCKET LANDING SECTION ONE  
AS RECORDED IN PLAT BOOK 122,  
PAGE 24, IN THE PLAT RECORDS  
OF MONTGOMERY COUNTY, OHIO

LOCATED IN RANGE 5, M.R.S.  
SECTION 28, TOWNSHIP 10 NORTH,  
MONTGOMERY COUNTY, OHIO  
MARCH, 1988



UNITS 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100



REAR - WEST



SOUTH - END

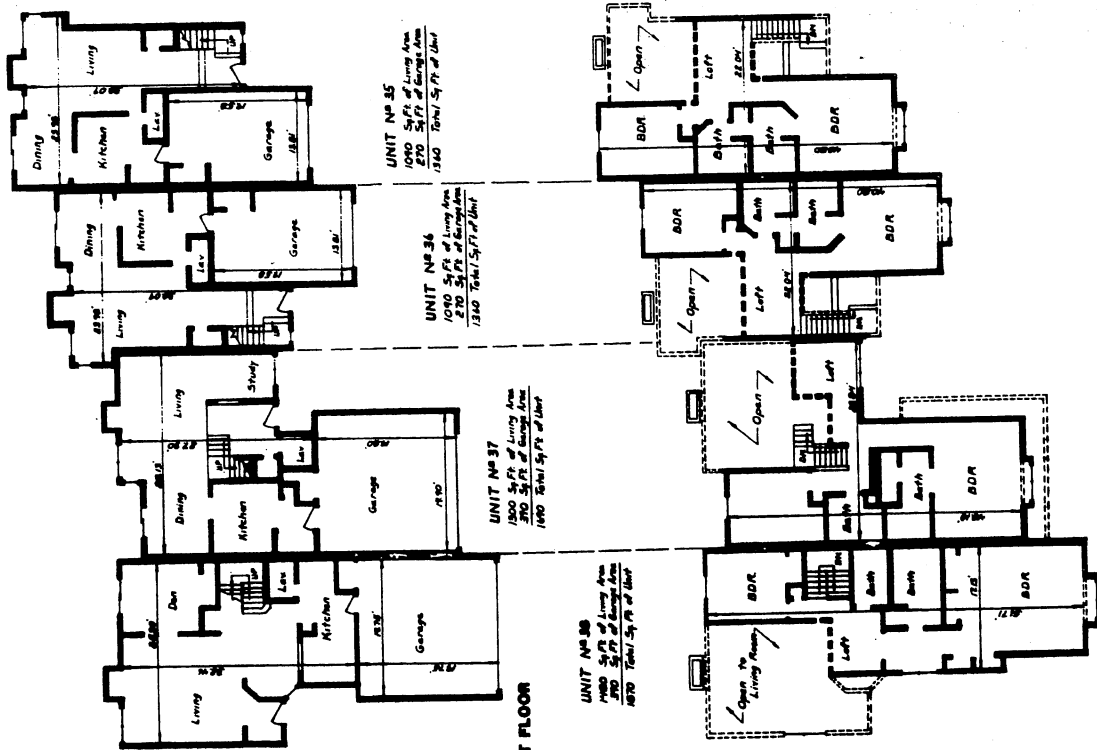


FRONT - EAST



NORTH - END

**BUILDING #9**  
A-100002



FIRST FLOOR

SECOND FLOOR

Dayton, Ohio 45405  
 E. Third St., Suite 300  
 000 211-2115

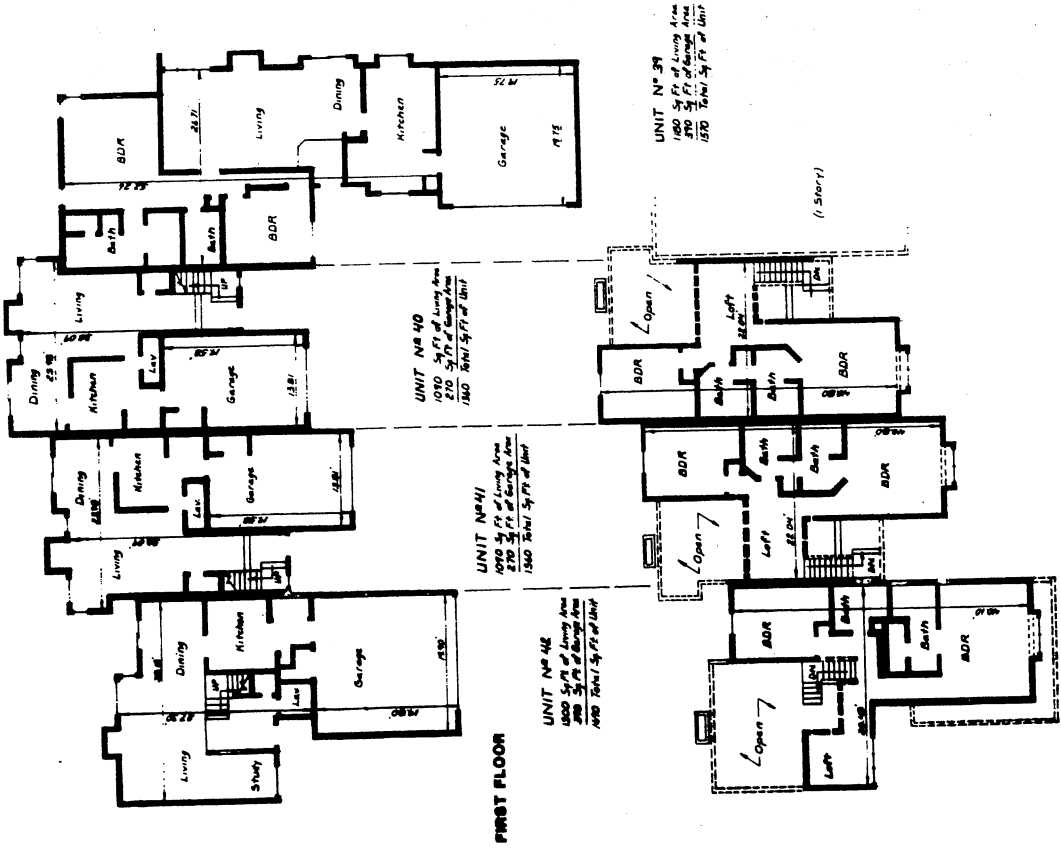
**NANTUCKET LANDING CONDOMINIUMS**

**SECTION FOUR**  
 BEING PART OF PLAT ONE  
 AS RECORDED IN PLAT BOOK 122,  
 PAGE 24, IN THE PLAT RECORDS  
 OF MONTGOMERY COUNTY, OHIO

LOCATED IN  
 SECTION 29, TOWN 3, RANGE 5, M. R. S.  
 WASHINGTON TOWNSHIP,  
 MONTGOMERY COUNTY, OHIO  
 MARCH, 1988

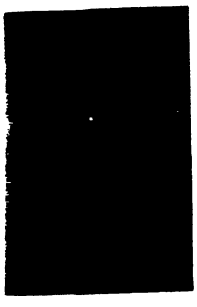
PREPARED BY CONSULTANTS  
 STEVE SMALL, VICE  
 SERVICE, OHIO STATE

**BUILDING #10**



**FIRST FLOOR**

**SECOND FLOOR**



**REAR - WEST**



**FRONT - EAST**



**SOUTH - END**



**NORTH - END**

12000

VICKI S. PEARSON  
RECORDED



FOURTH AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION FIVE)

110-40  
JUL 2 12 42 PM '86  
MONTGOMERY CO., OHIO  
RECORDED

I hereby certify that copies of the within Fourth Amendment, together with the drawings attached as Exhibits thereto, have been filed in the Office of the Auditor, Montgomery County, Ohio.

MONTGOMERY COUNTY AUDITOR

Dated: JUL - 2 1986

By: *Robert L. Roberer*

PLAT REFERENCE: Book 127, Pages 44+44A

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402

1986 JUL - 2 PM 12: 25

TRANSFERRER  
ROBERT L. ROBERER  
MONT. COUNTY AUDITOR

**FOURTH AMENDMENT TO DECLARATION  
FOR  
NANTUCKET LANDING CONDOMINIUM  
(SECTION FIVE)**

---

THIS FOURTH AMENDMENT TO DECLARATION, hereinafter referred to as the "Fourth Amendment", made on the date hereinafter set forth by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as "Declarant".

**RECITALS**

A. On February 5, 1985, certain premises located in the Township of Washington, County of Montgomery and State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Montgomery County Recorder a legal instrument with attached exhibits titled "Declaration of Condominium Property for Nantucket Landing Condominium", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Montgomery County, Ohio.

B. The Declaration has been subsequently amended for the purpose of adding additional property to the provisions thereof. For purposes hereof, the term Declaration shall refer to the Declaration as amended by any subsequent amendment thereto filed with the Recorder of Montgomery County, Ohio.

C. The Declaration and amendments thereto have been recorded in the deed and plat records of Montgomery County, Ohio as follows:

<u>Instrument</u>	<u>Deed Records</u>	<u>Plat Records</u>
Declaration	85-077-A01	123-48
First Amendment	85-360-A01	125-07
Second Amendment	85-606-C02	126-06
Third Amendment	86-150-C09	127-5

D. The Declarant is the owner of adjacent property.

E. The present owners and mortgagees of each Unit for which provision is made in the Declaration are hereinafter respectively referred to as "Parcel A Unit Owners" and "Parcel A Mortgagees", with Parcel A being those premises described in Item 3 of the Declaration, along with any buildings or any other improvements thereon.

F. The Declarant has determined to submit a certain part of the premises described in "Exhibit D" of the Declaration, said part being hereinafter referred to as "Parcel B", together with the buildings and any other improvements thereon constructed and hereinafter described, to the provisions of the Declaration and to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership.

G. Declarant is, pursuant to the provisions of Section 21.11 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Unit Owners and Parcel Mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Parcel A Unit Owner such amendment to the Declaration as is contemplated by Article XXI thereof, and in the name of each Parcel A Mortgagee, a consent to such amendment.

NOW, THEREFORE, Declarant hereby declares that:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration unless specifically hereinafter amended.

2. Declarant is the owner of Parcel B, together with the Parcel B building and all improvements thereon, all easements, rights, appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners, all of which is hereby submitted to the provisions of the Declaration and is hereby included and made a part of the Condominium Property.

3. The Declaration is hereby amended in accordance with the provisions of Article XXI in the following respects:

A. The legal description referred to in Article III is hereby amended by adding thereto, and to Exhibit "A" of the Declaration, the real estate described in Exhibit "A" attached hereto.

B. Section 4.01(a) is hereby amended by adding thereto the following:

(g) Building 12 is partially one (1) and two (2) stories in height, containing three (3) town-house Units and two (2) ranch Units.

C. Section 4.03 is hereby amended by adding thereto the following:

(e) Building 12 faces Whalers Wharf.

D. Section 5.03 is hereby amended by deleting the unit and type designations and substituting therefor the following:

<u>UNITS</u>	<u>TYPE</u>
2,7,15,19,26,32 33,35,36,40,41,48,50	A
1,8,16,20 25,34,39,47,51	B
3,6,14,18,21 23,31,37,42,49	C
4,5,13,17 22,24,30,38	D

E. Section 9.01, titled "Percentage of Ownership" is hereby amended by deleting the unit designations and their percentages and substituting the following:

<u>UNIT DESIGNATION</u>	<u>PERCENTAGE OF OWNERSHIP</u>
1	2.466
2	2.136
3	2.654
4	2.93725
5	2.93725
6	2.654
7	2.136
8	2.466
*	
13	2.93725
14	2.654
15	2.93725
16	2.466
17	2.136
18	2.654
19	2.136
20	2.466
21	2.654
22	2.93725
23	2.654
24	2.93725
25	2.466
26	2.136
*	
30	2.93725
31	2.654
32	2.136
33	2.136
34	2.466

000100

UNIT DESIGNATION

PERCENTAGE OF OWNERSHIP

35	2.136
36	2.136
37	2.654
38	2.93725
39	2.466
40	2.136
41	2.136
42	2.654
*	
47	2.466
48	2.136
49	2.654
50	2.136
51	2.466

\* Units to be added at a later date.

F. The drawings, attached as Exhibit "B" to the Declaration are hereby amended by adding thereto and making a part thereof the drawings attached to this Fourth Amendment as Exhibit "B", relating to Parcel B, the Parcel B building and all other improvements thereon.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration and the By-Laws, and the drawings shall be and hereby are declared to remain in full force and effect.

5. Consent to this Fourth Amendment on behalf of Parcel A Owners and on behalf of Parcel A Mortgagees is hereby granted by Declarant in its capacity as attorney-in-fact pursuant to the provisions of Section 21.11 of the Declaration.

\*\*\*\*\*

IN WITNESS WHEREOF, CHARLES V. SIMMS DEVELOPMENT CORPORATION, as Declarant of Parcel B, as owner of a Unit or Units in Parcel A and as attorney-in-fact for all other Parcel A Unit Owners, and for Parcel A Mortgagees, has caused this instrument to be executed on this 30th day of June, 1986.

Signed and acknowledged  
in the presence of:

**CHARLES V. SIMMS  
DEVELOPMENT CORPORATION**

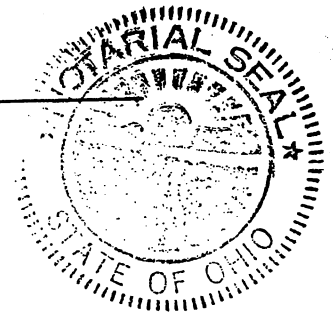
Kathy A. Taxis  
Patricia D. Walker

By: Hans H. Soltau  
Its Vice President

**STATE OF OHIO, COUNTY OF MONTGOMERY, SS:**

The foregoing instrument was acknowledged before me this 30th day of June, 1986 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Kathy A. Taxis  
Notary Public  
KATHY A. TAXIS, Notary Public  
In and for the State of Ohio  
My Commission Expires August 29, 1990



**THIS INSTRUMENT PREPARED BY:**

**HANS H. SOLTAU  
Attorney at Law  
124 East Third Street  
Dayton, Ohio 45402**

1986 JUL -2 PM 12: 26  
MONT. COUNTY AUDITOR  
ROBERT L. RODERER  
TRANSFERRED



N

EXHIBIT A

264  
357

CELEBRATING OUR 75TH YEAR • 1911-1986



WOOLPERT

DESCRIPTION OF NANTUCKET LANDING  
CONDOMINIUMS SECTION FIVE  
June 25, 1986

Located in Section 29, Town 3, Range 5, M.R.S., Washington Township, County of Montgomery, State of Ohio, and being part of Lot Number One of Nantucket Landing Section One as recorded in (Plat Book 122, page 24) of the Plat Records of Montgomery County, Ohio and being described as follows:

Beginning at the southwest corner of Nantucket Landing Condominiums Section Three as recorded in Plat Book 126, Pages 6-6B in the Plat Records of Montgomery County, Ohio, said point being in the centerline of Whalers Warf, a privately maintained, non-dedicated street;

thence with the south line of said Section Three North sixty-four degrees twenty-seven minutes ten seconds (64-27'10") East for one hundred forty and 00/100 (140.00) feet to an angle point in said south line;

thence continuing with said south line and its southeastward extension South forty-five degrees fifty-nine minutes twenty-six seconds (45-59'26") East for one hundred thirty-six and 63/100 (136.63) feet;

thence South thirty-one degrees fourteen minutes twenty seconds (31-14'20") West for one hundred twenty-seven and 77/100 (127.77) feet to a point in the centerline of said Whalers Warf;

thence with said centerline on a tangent bearing North fifty-eight degrees forty-five minutes forty seconds (58-45'40") West for seventy-three and 00/100 (73.00) feet;

thence continuing with said centerline on a curve to the right with a radius of two hundred fifty and 00/100 (250.00) feet for an arc distance of one hundred forty-four and 92/100 (144.92) feet, [long chord bearing North forty-two degrees nine minutes fifteen seconds (42-09'15") West for one hundred forty-two and 90/100 (142.90) feet, central angle of said curve being thirty-three degrees twelve minutes fifty seconds (33-12'50")] to the point of beginning, containing no and 5708/10000 (0.5708) acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

R.E.T. 10-13317-01

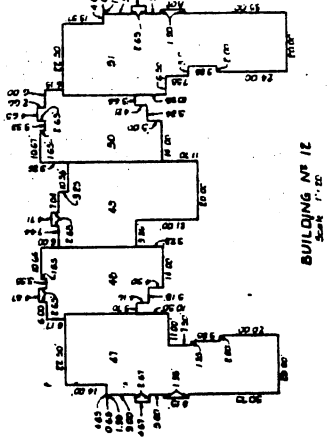
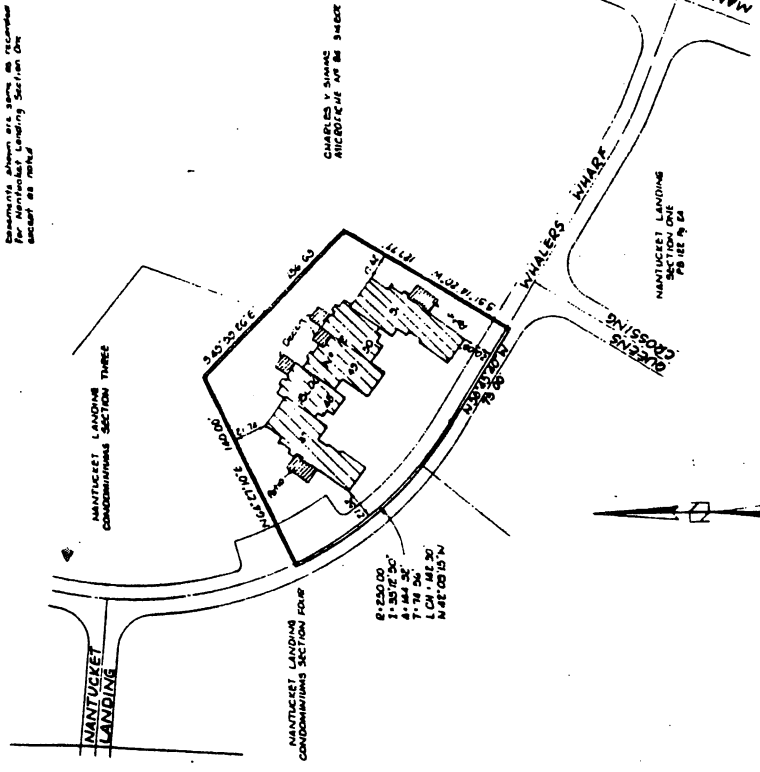
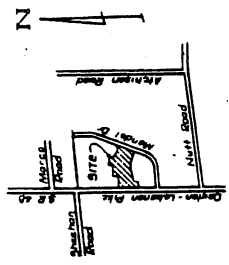
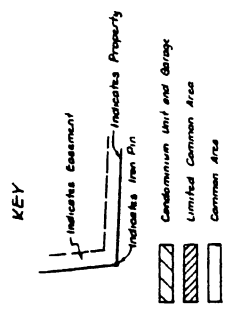
000103

**NANTUCKET LANDING CONDOMINIUMS SECTION FIVE**

BEING PART OF LOT 1 OF  
NANTUCKET LANDING SECTION ONE  
AS RECORDED IN BOOK 127  
PAGE 24 IN THE PLAT RECORDS  
OF MONTGOMERY COUNTY, OHIO

LOCATED IN  
SECTION 29, TOWN 3, RANGE 5, M. R. S.  
WASHINGTON TOWNSHIP  
MONTGOMERY COUNTY, OHIO  
MONTGOMERY SCALE: 1"=40'  
CONTAINING 0.5708 ACRES

WOLPERT CONSULTANTS  
100 WEST  
12111 W. 11TH AVE.  
DENVER, CO 80202



NOTE: Building Dimensions are Exterior Measurements

We the undersigned, being all the owners and holders of the land herein shown do hereby acknowledge the making and signing of the within condominium plan to be our voluntary act and deed and do hereby dedicate the easements shown on the plan as forever, where there is a private maintenance, easements shown are for the construction, operation, maintenance, repair, replacement, or removal of water, sewer, gas, electric, telephone or other utility lines or structures to be used in the future use of said utility and for grading, drainage and access from the premises for said purpose and are to be maintained as such forever.

The undersigned owners and holders of the land herein shown do hereby certify that the within plan is a true and correct copy of the original plan as set forth in the Subdivision of such Condominiums to be filed with the Recorder of Montgomery County, Ohio under the condominium statute of the State of Ohio. For Subdivision see Microfilm No. \_\_\_\_\_

CHARLES V. SWANN DEVELOPMENT CORP.  
BY: *Charles V. Swann*  
Charles V. Swann - President

*Paul Lloyd*  
Witness

State of Ohio, s.s.: that on the 27th day of March, 1986, before me, the undersigned, a Notary Public in and for the State of Ohio, personally appeared Charles V. Swann, his President and acknowledged that he did sign this condominium and that the same is the free and voluntary act of him personally and as such officer.

In testimony whereof, I hereunto set my hand and official seal on the day and date above written.

*Charles V. Swann*  
Charles V. Swann

State of Ohio, s.s.: that on the 27th day of March, 1986, before me, the undersigned, a Notary Public in and for the State of Ohio, personally appeared Charles V. Swann, his President and acknowledged that he did sign this condominium and that the same is the free and voluntary act of him personally and as such officer.

In testimony whereof, I hereunto set my hand and official seal on the day and date above written.

*Charles V. Swann*  
Charles V. Swann

In testimony whereof, I hereunto set my hand and official seal on the day and date above written.

*Charles V. Swann*  
Charles V. Swann

Witness

*Charles V. Swann*  
Charles V. Swann

Witness

*Charles V. Swann*  
Charles V. Swann

Witness

*Charles V. Swann*  
Charles V. Swann

Witness

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Charles V. Swann

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Charles V. Swann

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Charles V. Swann

Witness

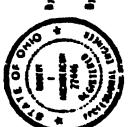
*Charles V. Swann*  
Charles V. Swann

Witness

*Charles V. Swann*  
Charles V. Swann



WOLPERT CONSULTANTS  
BY: *Paul Lloyd*  
Paul Lloyd - President



WOLPERT CONSULTANTS  
BY: *Paul Lloyd*  
Paul Lloyd - President

**FF**

MONTGOMERY COUNTY ENGINEER  
7-2-86  
CREDIT: *W. L. WELLS*

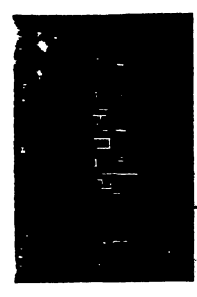
**BUILDING #12**  
Scale 1/8"=1'-0"

**NANTUCKET LANDING CONDOMINIUMS  
SECTION FIVE**

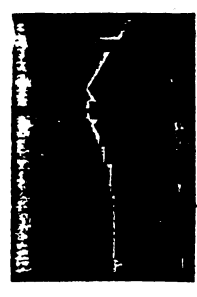
BEING PART OF LOT 1 OF  
NANTUCKET LANDING SECTION ONE  
RECORDING PLAT BOOK 22,  
PAGE 2 IN THE PLAT RECORDS  
OF MONTGOMERY COUNTY, OHIO

LOCATION IN  
SECTION 29, TOWN 3, RANGE 5, M.R.S.,  
WASHINGTON TOWNSHIP,  
MONTGOMERY COUNTY, OHIO  
JUNE, 1986 SCALE: 1/8"=1'-0"  
CONTAINING 0.5708 ACRES

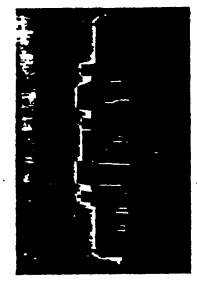
PROFESSIONAL CONSULTANTS  
2225 STATE AVENUE  
ANN ARBOR, MICH 48106



SOUTH - FRONT



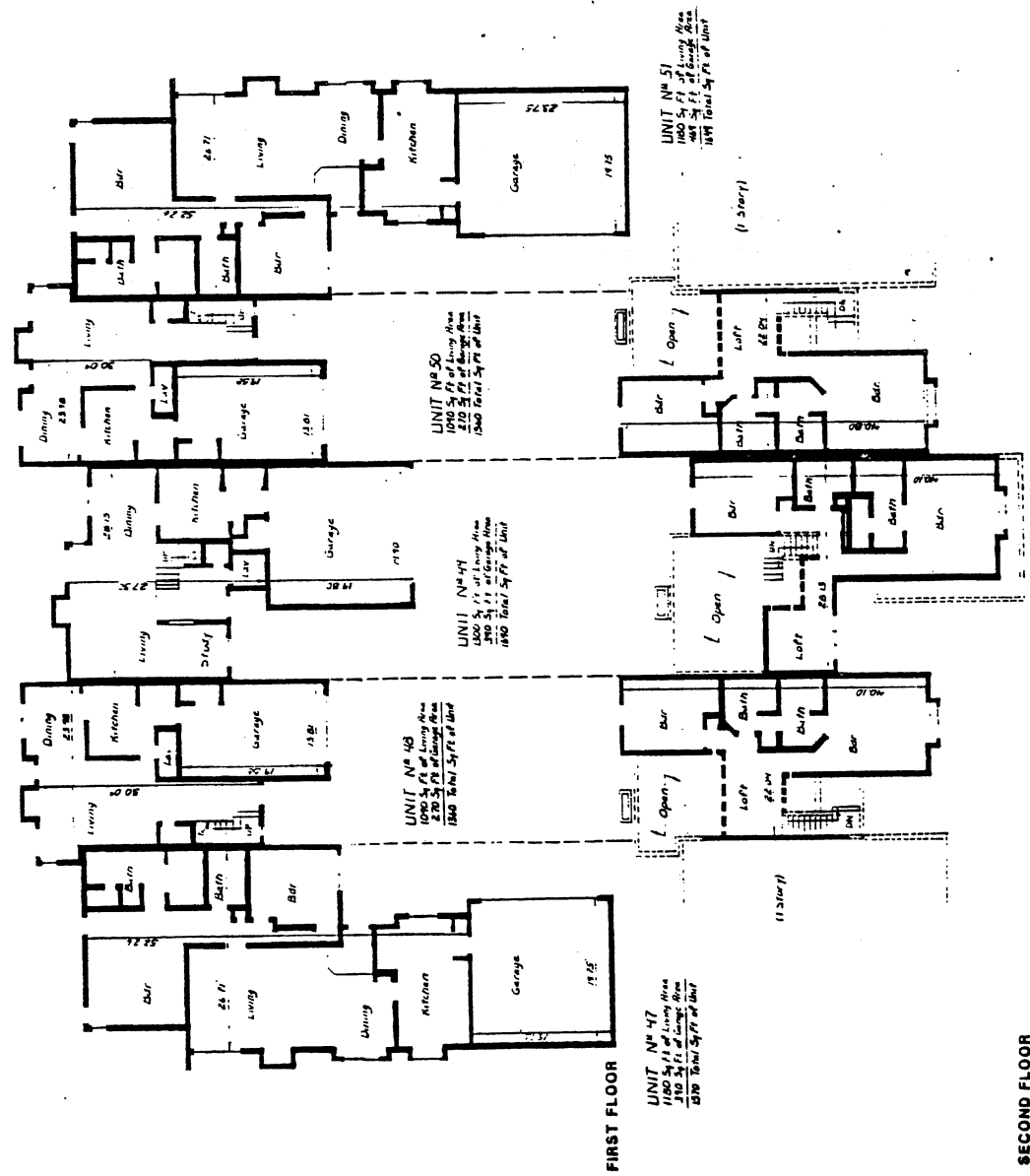
WEST - END



NORTH - REAR



EAST - END



FIRST FLOOR

SECOND FLOOR

000105