

DECLARATION OF CONDOMINIUM PROPERTY
FOR
PEBBLE CREEK OF MASON CONDOMINIUM

I hereby certify that copies of the within Declaration, together with the drawings attached as Exhibits, have been filed in the office of the Auditor, Warren County, Ohio.

Dated: OCTOBER 24, 2000

By: Nick Nelson
Warren County Auditor

012 12-25-426-008 - 10.000 SIDWELL NUMBERS

<u>Unit No.</u>	<u>Sidwell No.</u>	<u>Unit No.</u>	<u>Sidwell No.</u>
4058	<u>12-25-426-009</u>	4080	<u>12-25-426-018</u>
4060	<u>12-25-426-010</u>	4082	<u>12-25-426-019</u>
4062	<u>12-25-426-011</u>	4084	<u>12-25-426-020</u>
4064	<u>12-25-426-012</u>	4086	<u>12-25-426-021</u>
4066	<u>12-25-426-013</u>	4088	<u>12-25-426-022</u>
0468	<u>12-25-426-014</u>	4090	<u>12-25-426-023</u>
4070	<u>12-25-426-015</u>	4092	<u>12-25-426-024</u>
4072	<u>12-25-426-016</u>	4094	<u>12-25-426-025</u>

COMMON AREA Ph. 1 12-25-426-017

COMMON AREA Ph. 2 12-25-426-026
REM 12-25-426-027 = 8.0418
KW

FOR PHASE 1 PLAT SEE BOOK _____, PAGE(S) _____

FOR PHASE 2 PLAT SEE BOOK _____, PAGE(S) _____

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

PDR BK 1841 P. 789

DECLARATION
TABLE OF CONTENTS

RECITALS	1
DECLARATIONS	1
ARTICLE I	
DEFINITIONS	2
1.01 General	2
1.02 Additional Property	2
1.03 Agent.....	2
1.04 Amendment and/or Amendments.....	2
1.05 Articles and/or Articles of Incorporation.....	2
1.06 Association.....	2
1.07 Board of Managers.....	2
1.08 By-Laws	2
1.09 Common Areas and/or Common Areas and Facilities	2
1.10 Common Assessments	2
1.11 Common Expenses	3
1.12 Common Losses	3
1.13 Common Profits	3
1.14 Common Surplus	3
1.15 Condominium.....	3
1.16 Condominium Development.....	3
1.17 Condominium Instruments	3
1.18 Condominium Ownership Interest.....	3
1.19 Condominium Property	3
1.20 Control Period	3
1.21 Conversion Condominium Development.....	4
1.22 Declarant.....	4
1.23 Declaration.....	4
1.24 Developer.....	4
1.25 Development Period.....	4
1.26 Drawings	4
1.27 Exhibit	4
1.28 Insurance Trustee	4
1.29 Limited Common Areas and/or Limited Common Areas and Facilities	4
1.30 Majority of Unit Owners.....	4
1.31 Managing Agent.....	4

1.32	Member.....	4
1.33	Pebble Creek Maintenance Plan.....	5
1.34	Percentage of Ownership.....	5
1.35	Person.....	5
1.36	Quorum.....	5
1.37	Recorded.....	5
1.38	Rules and Regulations.....	5
1.39	Special Individual Unit Assessment.....	5
1.40	Unit.....	5
1.41	Unit Owner.....	5

**ARTICLE II
NAME, PURPOSE AND ADMINISTRATION..... 5**

2.01	Name.....	5
2.02	Purpose.....	5
2.03	Administration.....	6

**ARTICLE III
LEGAL DESCRIPTION OF PREMISES..... 6**

3.01	Legal Description.....	6
------	------------------------	---

**ARTICLE IV
DESCRIPTION AND LOCATION OF BUILDING(S)..... 6**

4.01	General.....	6
4.02	Specific.....	6
4.03	Location.....	6

**ARTICLE V
DESCRIPTION OF UNITS..... 6**

5.01	General.....	6
5.02	Type of Units.....	7
5.03	Designation of Units by Type.....	7
5.04	Unit Room Configurations.....	8

**ARTICLE VI
DESCRIPTION OF COMMON AREAS..... 8**

6.01	General.....	8
6.02	Easements.....	8
6.03	Status.....	8

ARTICLE VII
DESCRIPTION OF LIMITED COMMON AREAS..... 8

7.01 General Uses 8
7.02 Specific Uses 8

ARTICLE VIII
USE OF COMMON AREAS..... 9

8.01 General 9

ARTICLE IX
OWNERSHIP OF COMMON AREAS 9

9.01 Percentage of Ownership..... 9
9.02 Computation..... 10
9.03 Amendment..... 10

ARTICLE X
REGULATION OF COMMON AREAS..... 10

10.01 General 10
10.02 Penalties and Fines..... 10
10.03 Conflict 10

ARTICLE XI
RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY 10

11.01 Obstruction of Common Areas 10
11.02 Hazardous Uses and Waste..... 11
11.03 Exterior Surfaces of Building(s)..... 11
11.04 Animals and Pets 11
11.05 Nuisances 11
11.06 Impairment of Structural Integrity of Building(s) 11
11.07 Laundry or Rubbish in the Common Areas 11
11.08 Lounging or Storage in Common Areas 12
11.09 Prohibited Activities..... 12
11.10 Alteration of Common Areas 12
11.11 Pebble Creek Floodplain..... 12
11.12 Rental..... 12
11.13 Declarant..... 12

**ARTICLE XII
UNIT OWNERS' ASSOCIATION 13**

12.01	General	13
12.02	Membership in the Association	13
12.03	Voting Rights.....	13
12.04	Service of Process	13
12.05	First Meeting of Association	13
12.06	Declarant's Rights	14
12.07	Computation.....	14
12.08	Turnover.....	14
12.09	Contract Limitations	14
12.10	Limitations.....	14
12.11	No Active Business to be Conducted for Profit.....	14
12.12	Delegation of Duties.....	15
12.13	Special Services	

**ARTICLE XIII
AMENDMENT OF DECLARATION AND BY-LAWS 15**

13.01	General	15
13.02	Mortgage or Mortgagee.....	15
13.03	Declarant's Rights	15
13.04	Pebble Creek Maintenance Plan.....	15
13.05	Limited Declarant's Rights.....	15
13.06	Prohibition	15

**ARTICLE XIV
MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS
AND IMPROVEMENTS 16**

14.01	Association.....	16
14.02	Pebble Creek Maintenance Plan.....	16
14.03	Delegation to Managing Agent.....	16
14.04	Mortgagee	16
14.05	Unit Owner	16
14.06	Exterior Surfaces.....	17
14.07	Failure to Maintain.....	17
14.08	Construction Defects.....	17
14.09	Effect of Insurance or Construction Guarantees	18

**ARTICLE XV
EASEMENTS 18**

15.01	Encroachments	18
15.02	Easements for Repair, Maintenance and Restoration.....	18
15.03	Easements Through Walls Within Units	18
15.04	Easements for Certain Utilities and Cable Television.....	19
15.05	Easements for Construction	19
15.06	Tie-In Easements	19
15.07	Service Easements	19
15.08	City of Mason	19
15.09	Water Easement	19
15.10	Emergency Easement.....	19
15.11	Additional Property Easement.....	20
15.12	Consent to Easements.....	20
15.13	Easements Shall Run With Land.....	20

**ARTICLE XVI
HAZARD INSURANCE 20**

16.01	Fire and Extended Coverage Insurance.....	20
16.02	Prohibition	21
16.03	Unit Owner	21
16.04	Certificates and Notice of Cancellation	21
16.05	Subrogation.....	21
16.06	Mortgagee's Rights	21
16.07	Sufficient Insurance.....	21
16.08	Insufficient Insurance	22
16.09	Procedure for Reconstruction or Repair.....	22
16.10	Construction Funds	22
16.11	Adjustment	22
16.12	Non-Restoration of Damage or Destruction	22
16.13	Deductible	23

**ARTICLE XVII
INSURANCE TRUSTEE..... 23**

17.01	General	23
17.02	Selection Prior to a Loss	23
17.03	Selection After a Loss	23
17.04	Non-Liability	23
17.05	Procedure for Reconstruction or Repair in an Insurance Trustee Has Been Selected	23
17.06	Reliance	24

**ARTICLE XVIII
LIABILITY AND OTHER INSURANCE 24**

18.01 Liability Insurance 24
18.02 Prohibition 25
18.03 Insufficient Liability Insurance 25
18.04 Other Insurance 25
18.05 Amount of Fidelity Coverage 25
18.06 Notice of Cancellation or Substantial Changes 25
18.07 Annual Review 25

**ARTICLE XIX
REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY 25**

19.01 General 25

**ARTICLE XX
REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS 26**

20.01 Abatement and Enjoinment 26
20.02 Involuntary Sale 26
20.03 Civil Action 27
20.04 Proper Party 27

**ARTICLE XXI
ASSESSMENTS AND LIEN OF ASSOCIATION 27**

21.01 General 27
21.02 Division of Common Profits and Common Expenses 27
21.03 Non-Use of Facilities 27
21.04 Acceleration and Late Charges 27
21.05 Lien of Association 28
21.06 Term and Validity of Lien 28
21.07 Priority of Association's Lien 28
21.08 Special Individual Unit Assessment 28
21.09 Dispute as to Common Expenses 29
21.10 Non-Liability of Mortgagee for Past Due Common Expenses 29
21.11 Liability for Assessments upon Voluntary Conveyance 29

**ARTICLE XXII
ADDITIONAL PROPERTY**

22.01 Contemplated Annexation by Declarant 29
22.02 Reservation of Option to Expand 29

22.03 Limitations on Declarant's Option..... 30

22.04 Additional Property..... 30

22.05 Location and Type of Improvements 30

22.06 Structures..... 30

22.07 Units..... 30

22.08 Limited Common Areas..... 30

22.09 Substantial Completion 30

22.10 Reservation of Right to Amend Declaration 30

22.11 Consent and Approval for Annexation Amendments..... 31

22.12 Power of Attorney, Coupled With an Interest..... 31

ARTICLE XXIII
LIMITED WARRANTIES BY DECLARANT.....31

23.01 Two (2) Year Limited Warranty 31

23.02 Commencement of Two (2) Year Limited Warranty 31

23.03 One (1) Year Limited Warranty 32

23.04 Commencement of One (1) Year Limited Warranty 32

23.05 Appliances..... 32

23.06 Assignment 32

ARTICLE XXIV
EMINENT DOMAIN 32

24.01 General 32

24.02 Common Areas 32

24.03 Damages..... 32

24.04 Reallocation 33

ARTICLE XXV
MISCELLANEOUS PROVISIONS 33

25.01 Grantees and Incorporation Into Deeds 33

25.02 Removal 33

25.03 Non-Waiver 33

25.04 Invalidity 33

25.05 Additional Notice Provisions..... 33

25.06 Prior Written Approval 34

25.07 Availability of Condominium Instruments and Financial Statements 34

25.08 No Adverse Action by Declarant 34

25.09 Limitation of Declarant's Liability 35

25.10 Headings..... 35

25.11 Liberal Construction 35

25.12	Deposits or Down Payments	35
25.13	Developer's Interest in Common Areas.....	35
25.14	Rights and Obligations of Developer as a Unit Owner	36
25.15	References.....	36
25.16	Gender and Grammar	36
22.17	Full Compliance	36
SIGNATURES		37

DECLARATION OF CONDOMINIUM OWNERSHIP

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

RECITALS

A. Declarant is the owner in fee simple of the real property hereinbelow described, and it is its desire and intention to enable said real property, together with all building(s), structures, improvements and other permanent fixtures of whatsoever kind situated thereon, and all privileges belonging or in any way appertaining thereto, to be owned under and pursuant to that certain type of ownership commonly known as "Condominium", and to subject and submit such property to the provisions of Chapter 5311 of the Ohio Revised Code.

B. Declarant is further desirous of establishing for the mutual benefit of all future owners, mortgagees or occupants of the Condominium Property or any part thereof, which shall be known as **PEBBLE CREEK OF MASON CONDOMINIUM**, certain easements and rights in, over and upon such Condominium Property, and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof.

C. Declarant desires and intends that the several owners, mortgagees, occupants and other persons hereafter acquiring an interest in the Condominium Property shall at all times enjoy the benefits of, and shall hold their interests therein subject to the rights, easements, privileges and restrictions hereinafter set forth in this Declaration, and in the By-Laws of the Pebble Creek of Mason Condominium Association, Inc. attached hereto as Exhibit "C".

D. Declarant is also the owner of certain real property adjoining the real property submitted hereby and contemplates submitting such property to the provisions of this Declaration by an amendment or amendments hereto.

DECLARATIONS

NOW, THEREFORE, Declarant hereby makes the following Declaration as to the covenants, restrictions, limitations, conditions and uses to which the Condominium Property may be put, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent owners of all or any part of the Condominium Property, together with their respective grantees, heirs, executors, administrators, devisees, successors or assigns.

ARTICLE I
DEFINITIONS

1.01 **General**. The following terms used in the Declaration and By-Laws are defined as hereinafter set forth.

1.02 **Additional Property** shall mean adjacent or adjoining property which is described in Exhibit "D" and which, together with improvements thereon, may be added in the future to the Condominium, excepting therefrom any Property submitted hereby.

1.03 **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.

1.04 **Amendment and/or Amendments** shall mean an instrument executed with the same formalities of the Declaration and Recorded for the purpose of amending the Declaration, the By-Laws or any other Exhibits thereto.

1.05 **Articles and/or 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.

1.06 **Association** shall mean Pebble Creek of Mason Condominium Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

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

1.08 **By-Laws** shall mean the By-Laws of the Association, which are attached as Exhibit "C" as the same may be lawfully amended from time to time, created under and pursuant to the provisions 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.

1.09 **Common Areas and/or Common Areas and Facilities** shall mean all the Condominium Property except that which is specifically defined and referred to as a Unit.

1.10 **Common Assessments** shall mean the assessments charged proportionately on the basis of Percentage of Ownership against all Units for common purposes.

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

1.12 **Common Losses** shall mean the amount by which the Common Expenses during any period of time exceeds Common Assessments and Common Profits during that period.

1.13 **Common Profits** shall mean the amount by which the total income received from assessments charged for special benefits to specific Units, rents received from rentals of equipment or space in Common Areas, and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.

1.14 **Common Surplus** shall mean the amount by which Common Assessments collected during any period exceeds Common Expenses.

1.15 **Condominium** shall mean Pebble Creek of Mason Condominium, the condominium regime for the Condominium Property created under and pursuant to the provisions of Chapter 5311 of the Ohio Revised Code.

1.16 **Condominium Development** shall mean a Condominium Property in which two (2) or more individual Units together with their undivided interests in the Common Areas are offered for sale pursuant to a common promotional plan.

1.17 **Condominium Instruments** shall mean the Declaration, the Drawings and By-Laws attached as Exhibits thereto, any contract pertaining to the management of the Condominium Property, and all other documents, contracts or instruments establishing ownership or exerting control over the Condominium Property or a Unit.

1.18 **Condominium Ownership Interest** shall mean a fee simple estate or a ninety- nine (99) year leasehold estate, renewable forever in a Unit, together with its appurtenant undivided interest in the Common Areas.

1.19 **Condominium Property** shall mean land, all buildings, improvements and structures on the land, all easements, rights and appurtenances belonging to the land, and all articles of personal property submitted to the provisions of Chapter 5311 of the Ohio Revised Code by this Declaration and any Amendment.

1.20 **Control Period** shall mean a period of time five (5) years from the date on which this Declaration is Recorded or a period of time until seventy-five percent (75%) of the Condominium Ownership Interests have been sold and conveyed, whichever first occurs. For purposes hereof, 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 the provisions of the Declaration.

1.21 **Conversion Condominium Development** shall mean a Condominium Development that was originally operated as a rental property occupied by tenants prior to the time that the Condominium Property is or was submitted to the provisions of Chapter 5311 of the Ohio Revised Code and the Units are offered for sale.

1.22 **Declarant** shall mean Charles V. Simms Development Corporation, an Ohio corporation, its successors and assigns.

1.23 **Declaration** shall mean the instrument by which the property hereinafter described is submitted to the provisions of Chapter 5311 of the Ohio Revised Code and any and all Amendments.

1.24 **Developer** shall mean the Declarant, any successor to the Declarant who stands in the same relation to the Condominium Property as the Declarant, and any person who directly or indirectly sells or offers for sale a Condominium Ownership Interest.

1.25 **Development Period** shall mean a period of time seven (7) years from the date on which this Declaration is Recorded.

1.26 **Drawings** shall mean those drawings, as the same may be lawfully amended from time to time, which are attached as Exhibit "B".

1.27 **Exhibit** shall mean any document or instrument attached to the Declaration.

1.28 **Insurance Trustee** shall mean any bank located in Warren County, Ohio with trust powers and total assets in excess of Fifty Million Dollars (\$50,000,000.00), which has been selected by the Association pursuant to the provisions of the Declaration.

1.29 **Limited Common Areas and/or Limited Common Areas and Facilities** shall mean and include those Common Areas designated in this Declaration and in an Amendment as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

1.30 **Majority of Unit Owners** shall mean those Unit Owners holding fifty-one percent (51%) of the voting power of the Association.

1.31 **Managing Agent** shall mean a manager or managing agent retained or employed by the Association pursuant to the provisions of the Declaration.

1.32 **Member** depending on its context, shall mean a Unit Owner that is subjected hereto and/or a member of the Association.

1.33 **Pebble Creek Maintenance Plan** means the Pebble Creek Floodplain Maintenance Plan entered into between the Declarant, on behalf of the Association, and the City of Mason, Ohio attached hereto as Exhibit "E", and any amendment thereto, for the inspection and maintenance next to Muddy Creek for the northern part of the Property which lies within the 100 year designated floodplain.

1.34 **Percentage of Ownership** shall mean the ownership interest of each Unit.

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

1.36 **Quorum** shall mean the presence in person or by proxy of a Majority of Unit Owners.

1.37 **Recorded** shall mean the recording with the Recorder of Warren County, Ohio.

1.38 **Rules and Regulations** shall mean those rules and regulations as may be amended from time to time adopted by the Board of Managers.

1.39 **Special Individual Unit Assessment** shall mean an assessment levied or charged by the Board of Managers against a Unit or Units pursuant to the provisions of the Declaration which provides that a particular Unit or Units may be responsible for expenses, charges or costs which are not chargeable or assessable against all Units in the Condominium.

1.40 **Unit** shall mean a part of the Condominium Property consisting of one or more rooms on one or more floors of a building(s) which are designated a Unit by this Declaration or Amendment thereto and are delineated on the Drawings and in the Drawings attached to an Amendment.

1.41 **Unit Owner** shall mean a Person who owns a Condominium Ownership Interest in a Unit.

ARTICLE II

NAME, PURPOSE AND ADMINISTRATION

2.01 **Name**. The Condominium Property shall be known as Pebble Creek of Mason 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.

2.03 **Administration.** The Condominium Property shall be administered in accordance with the provisions of the Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. Each Unit Owner, tenant or occupant of a Unit shall comply with the provisions of the Declaration, the By-Laws and the Rules and Regulations together with the decisions and resolutions of the Board of Managers.

ARTICLE III
LEGAL DESCRIPTION OF PREMISES

3.01 **Legal Description.** The real property subject to this plan for condominium ownership is described in Exhibit "A" attached hereto.

ARTICLE IV
DESCRIPTION AND LOCATION OF BUILDING(S)

4.01 **General.** Unless or until amended, the following building(s) are located on the Condominium Property. These building(s) are generally described as follows:

- (a) Residential Buildings 2 and 3 are two (2) stories in height, each containing eight (8) Units.
- (b) Garage Buildings 2 and 3 are one (1) story in height, each containing eight (8) garage spaces, which are designated as Limited Common Areas.

4.02 **Specific.** All of the building(s) are constructed on block or poured concrete walls, with frame exterior walls, some brick veneer, stucco and siding, windows, a wood truss roof with asphalt shingle or wood covering, wood floor joints, wall studs and drywall. A specific graphic description of the building(s) is set forth in the Drawings.

4.03 **Location.** The building(s) have access to State Route 741, a public roadway, through Spanish Bay Drive, a public access easement and roadway.

ARTICLE V
DESCRIPTION OF UNITS

5.01 **General.** Each of the Units within this Declaration, or any additional Units brought within the provisions of the Declaration by an Amendment shall consist of all of the space bounded by the undecorated surfaces of the perimeter walls, floors and ceilings of each such Unit, to constitute a complete enclosure of space, the dimensions, layouts and descriptions of each such Unit being shown on the Drawings and in the Drawings attached to an Amendment and including without limitation:

- (a) The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material(s) applied to the interior surface of such perimeter walls, floors and ceilings;
- (b) All windows, screens and doors, including the frames, sashes and jams and the space occupied thereby;
- (c) All fixtures located within the bounds of a Unit, installed in and for the exclusive use of said Unit, commencing at the point of disconnection from the structural body of the building(s) or from the point of disconnection of utility pipes, lines or systems serving the entire building(s) or more than one Unit thereof, whichever may be applicable;
- (d) All control knobs, switches, thermostats and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein;
- (e) All interior walls, floors and ceilings;
- (f) All plumbing, electric, heating, security, alarm, vacuum, cooling and other utility lines, pipes, wires, ducts or conduits which exclusively serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit.

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 several different types of Units that are generally described as follows:

- (a) **Maple** is a two (2) story townhouse containing approximately 1,120 square feet with a rear kitchen.
- (b) **Cypress** is a two (2) story townhouse containing approximately 1,120 square feet with a front kitchen.

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

<u>Unit No.</u>	<u>Type</u>
4058, 4060, 4070, 4072 4080, 4082, 4092, 4094	Maple
4062, 4064, 4066, 4068 4084, 4086, 4088, 4090	Cypress

5.04 **Unit Room Configurations.** Room configurations for a particular Unit are set forth in the Drawings for a particular Unit.

ARTICLE VI
DESCRIPTION OF COMMON AREAS

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, driveways, parking areas, recreational facilities, trees, lawns, stoops, wires, conduits, utility lines and ducts, now or hereafter situated on the Condominium Property, are hereby declared and established as the Common Areas.

6.02 **Easements.** The Common Areas shall include and be subject to any easements granted or reserved on the Condominium Property.

6.03 **Status.** All Common Areas included in the Condominium subjected by the Declaration and any Amendment are fully installed, completed and in operation for the use of the Unit Owners.

ARTICLE VII
DESCRIPTION OF LIMITED COMMON AREAS

7.01 **General Uses.** All plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits that serve only one (1) Unit shall be Limited Common Areas for the exclusive use of the Unit served thereby.

7.02 **Specific Uses.** The areas hereinafter described, included within the Common Areas appurtenant to a Unit, are deemed Limited Common Areas designated as reserved for the exclusive use of the appurtenant Unit or Units as hereinafter set forth.

- (a) The patios and decks are designated as Limited Common Areas for the Unit adjoining such patio and deck.

- (b) The entranceways, stairways and stoops are designated as Limited Common Areas for the Unit(s) adjoining such entranceway, stairway and stoop.
- (c) The garage spaces assigned and designated by the Declarant are designated as Limited Common Areas for the designated Unit.
- (d) The air conditioning pad, compressor, duct and conduits thereto are designated as Limited Common Areas for the Unit being serviced by such equipment.
- (e) Those additional areas shown, delineated and designated on the Drawings as Limited Common Areas for a particular Unit or building(s) are designated as Limited Common Areas for such Unit or Units within such building(s).

ARTICLE VIII
USE OF COMMON AREAS

8.01 **General.** Each Unit Owner shall own an undivided interest in the Common Areas as a tenant in common with all other such Unit Owners and, except as otherwise limited in this Declaration and in the By-Laws, shall have the right to use the Common Areas for all purposes incident to the use and occupancy of his Unit as a place of residence and such other incidental uses as permitted by this Declaration and the By-Laws, including the non-exclusive, perpetual easement, together with other Unit Owners to the use and enjoyment of the Common Areas and for ingress and egress to and from their respective Units, which right shall be appurtenant to and shall run with his Unit.

ARTICLE IX
OWNERSHIP OF COMMON AREAS

9.01 **Percentage of Ownership.** Unless or until amended, the Percentage of Ownership of the Common Areas 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>	<u>Unit No.</u>	<u>Percentage of Ownership</u>
4058	6.25	4080	6.25
4060	6.25	4082	6.25
4062	6.25	4084	6.25

<u>Unit No.</u>	<u>Percentage of Ownership</u>	<u>Unit No.</u>	<u>Percentage of Ownership</u>
4064	6.25	4086	6.25
4066	6.25	4088	6.25
4068	6.25	4090	6.25
4070	6.25	4092	6.25
4072	6.25	4094	6.25

9.02 Computation. Each Unit's Percentage of Ownership as herein set forth was determined and based on a par value approach. The par value for each Unit is equal to the approximate square footage of such Unit. Each Unit's Percentage of Ownership was determined by comparing the par value of such Unit to the total par value of all of the Units on the date when the Declaration is Recorded, or stated in another way, the Percentage of Ownership of a particular Unit is equal to a fraction, the numerator of which is the par value of such Unit and the denominator of which is the total par values of all of the Units.

9.03 Amendment. Except as specifically provided for in this Declaration, the Percentage of Ownership as herein set forth shall not be altered except by an Amendment unanimously approved by all Unit Owners.

ARTICLE X
REGULATION OF COMMON AREAS

10.01 General. The Board of Managers may by majority vote adopt 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 Unit Owners and occupants of the Condominium Property. Written notice of the Rules and Regulations and copies thereof shall be made available to all Unit Owners and occupants of the Condominium Property.

10.02 Penalties and Fines. The Rules and Regulations may establish reasonable fines and penalties for violations of such Rules and Regulations. Any such fines and penalties shall be considered a Special Individual Unit Assessment against the Unit for which it is imposed or charged.

10.03 Conflict. In the event of any conflict between the Rules and Regulations and the provisions of the Declaration and/or By-Laws, the provisions of the Declaration and/or By-Laws shall govern.

ARTICLE XI
RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY

11.01 Obstruction of Common Areas. There shall be no obstruction of the Common Areas nor shall anything be stored in the Common Areas without the prior consent of the Board of Managers, except as hereinafter expressly provided.

11.02 Hazardous Uses and Waste. Nothing shall be done or kept in any Unit or in the Common Areas that will increase the rate of insurance on the building(s) or contents thereof applicable for residential use, without the prior written consent of the Board of Managers. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas which will result in the cancellation of insurance on the building(s) or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Areas.

11.03 Exterior Surfaces of Building(s). Unit Owners shall not cause or permit anything to be hung or displayed on the outside or inside of windows or placed on the outside walls of a building, and no sign, awning, canopy, shutter, radio or television antenna or receiving dish or disk shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent on the Board of Managers, other than those originally provided by Declarant.

11.04 Animals and Pets. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas, except that dogs, cats or other household pets may be kept in Units subject to the Rules and Regulations, provided that they are not kept, bred or maintained for any commercial purpose, and provided further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property subject to these restrictions upon three (3) days written notice from the Board of Managers.

11.05 Nuisances. No noxious or offensive activity shall be carried on in any Unit or in the Common Areas nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

11.06 Impairment of Structural Integrity of Building(s). Nothing shall be done in any Unit or in, on, or to the Common Areas which will impair the structural integrity of the building(s) or which would change the building(s).

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

11.08 **Lounging or Storage in Common Areas.** 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 except in accordance with the Rules and Regulations.

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 Unit. In addition, the right is hereby given to 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.** Nothing shall be altered, constructed in, or removed from the Common Areas 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 **Pebble Creek Floodplain.** Those areas of the Property designated within the Pebble Creek Floodplain Maintenance Plan shall only be used for purposes consistent with such plan.

11.12 **Rental.** The respective Unit shall not be rented by the Unit Owners thereof for transient or hotel purposes, which shall be defined as: (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants of the Unit 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 the Rules and Regulations, the Unit Owners shall have the right to lease the same, provided that the said lease is in writing and is made subject to the covenants and restrictions in this Declaration.

11.13 **Declarant.** Notwithstanding any of the above, the Declarant may do what is reasonably necessary to complete the additional building(s) and improvements 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.

ARTICLE XII
UNIT OWNER'S ASSOCIATION

12.01 **General.** Declarant formed the Association to administer the Condominium Property. The Association shall be governed by this Declaration and the By-Laws. A Board of Managers and the officers of the Association elected as provided in the By-Laws shall exercise the powers, discharge the duties, and be vested with the rights conferred by operation of law, the By-Laws and by this Declaration, upon the Association, except as otherwise specifically provided; provided however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by or vested in an officer or member of the Board of Managers, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of this Declaration and the By-Laws.

12.02 **Membership in the Association.** Membership in the Association is limited to Unit Owners. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a Member. Such membership shall terminate upon the sale or other disposition by such Member of his Condominium Ownership Interest, at which time the new Unit Owner shall automatically become a Member. Declarant shall be a Member as long as it retains title to any Unit.

12.03 **Voting Rights.** There shall be one (1) vote for each of the Units comprising the Condominium Property. The Unit Owner or Unit 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 individual interests in a Unit, each may exercise the proportion of the voting power of all of the owners of the Unit that is equivalent to his proportionate interest in the Unit.

12.04 **Service of Process.** The person to receive service of process for the Association shall be the president of the Association. Until such time as a president is elected, service may be made upon Hans H. Soltau, 6776 Loop Road, Centerville, Ohio 45459.

12.05 **First Meeting of Association.** A first meeting of the Association shall be held no later than the date on which twenty-five percent (25%) of the Condominium Ownership Interests have been sold and conveyed by the Declarant. The purpose of such meeting shall be to elect two (2) members to the Board of Managers from Unit Owners, other than Declarant.

12.06 **Declarant's Rights.** During the Control Period, 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.

12.07 **Computation.** For purposes of the preceding, 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 the provisions of the Declaration.

12.08 **Turnover.** Within thirty (30) days after the expiration of any period during which the Developer exercises control over the Association pursuant to the provisions of the Declaration, 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 after 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.

12.09 **Contract Limitations.** Any contract entered into by the Declarant prior to the time it releases or relinquishes control of the Association shall terminate when the Declarant releases or relinquishes such control unless such contract is renewed by a vote of the Unit Owners at the meeting called for the purpose of turning over control of the Association.

12.10 **Limitations.** The Association shall have no authority to pay for out of its 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 Unit Owners.

12.11 **No Active Business to be Conducted for Profit.** Nothing contained in this Declaration or in the By-Laws shall be construed to give the Association authority to conduct active business for profit on behalf of the Unit Owners.

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

12.13 **Special Services.** The Board of Managers may arrange for the providing of any services and facilities for the benefit of any Unit Owners that may desire to pay for the same. Fees or charges 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 XIII
AMENDMENT OF DECLARATION AND BY-LAWS

13.01 **General.** Unless otherwise specifically provided for herein, this Declaration and the By-Laws 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 must be Recorded. Such Amendment must be executed with the same formalities as this Declaration and must refer to the microfiche number in which this Declaration and its attached Exhibits are Recorded.

13.02 **Mortgage or Mortgagee.** Any Amendment that adversely affects the value, 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 affecting language specifically referring to mortgagees shall require the written consent of all mortgagees of record.

13.03 **Declarant's Rights.** Any Amendment affecting any rights granted or reserved to the Declarant by the Declaration or By-Laws shall require the written consent of the Declarant.

13.04 **Pebble Creek Maintenance Plan.** Any Amendment affecting any restrictions and/or responsibilities of the Association pursuant to the Pebble Creek Maintenance Plan shall require the prior written approval of the City of Mason, Ohio.

13.05 **Limited Declarant's Right.** In addition to any other rights granted Declarant in this Declaration, the Declarant shall have and hereby reserves the right and power, and each Unit Owner by the acceptance of a deed is deemed to and does give, grant and confer 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 during the Development Period to amend this Declaration, the By-Laws or any other Exhibits hereto and to execute any and all documents deemed necessary or desirable by Declarant to conform to its development plans, or requirements of any lending institution, or to correct scrivener or typographical mistakes or drafting inconsistencies.

13.06 **Prohibition.** This Declaration may not be amended to create any type of first refusal upon the sale, lease or other disposition of a Unit and any Unit Owner may transfer his Unit free of any such restriction or attempt.

ARTICLE XIV

MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

14.01 **Association.** Except as otherwise provided herein, management, maintenance, repairs, alterations and improvements of the Common Areas shall be the responsibility of the Association.

14.02 **Pebble Creek Maintenance Plan.** The Association shall be responsible for its maintenance responsibilities as set forth in the Pebble Creek Maintenance Plan.

14.03 **Delegation to Managing Agent.** The Association may delegate all or any portion of its authority to discharge its responsibility to a Managing Agent, subject to the limitations that:

- (a) Any such delegation be by a written contract with a term of no longer than one (1) year in duration;
- (b) That any such contract be terminable by either party without cause upon sixty (60) days written notice without any termination charges or other penalties;

14.04 **Mortgagee.** A Managing Agent may be required by any lending institution holding first mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions that in the aggregate hold first 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 a Managing Agent.

14.05 **Unit Owner.** The responsibility of each Unit Owner shall be as follows:

- (a) To maintain, repair and replace, at his expense, all portions of his Unit and all internal installations of such Unit such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit boundaries and which exclusively serve such Unit.
- (b) To maintain, repair and replace, at his expense those areas or items which are designated by this Declaration as Limited Common Areas for the exclusive use of such Unit Owner.
- (c) 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 therewith whether installed by the Developer or Unit Owner.

- (d) To maintain, repair and replace, at his expense, all portions of the Common Areas 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 perform his responsibilities in such a manner so as not to unreasonably disturb other persons residing within the Condominium Property.
- (f) To promptly report to the Association or its Managing Agent any defect or need for repairs, the responsibility of which is with the Association.
- (g) Not to make any alterations in the portions of the Unit or the building(s) 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 and of the Unit Owner or Unit Owners of whose benefit such easement exists.

14.06 **Exterior Surfaces.** Any exterior maintenance, repair or replacements to be performed by a Unit Owner shall be subject to the prior approval of the Board of Managers or its delegated committee. The Board of Managers may adopt guidelines or other criteria setting forth standards for such maintenance, repair or replacement. Pursuant to such standards, the Board of Managers or its committee may require that only certain types and/or manufacturers be used for replacements to the exterior surfaces in order to assume conformity.

14.07 **Failure to Maintain.** In the event a Unit Owner shall fail to maintain his Limited Common Area to such extent that in the opinion of the Board of Managers the conditions require maintenance, repair or service for purposes of protecting the public safety or residents in or visitors to the Condominium, or in order to prevent or avoid damage or destruction of any part, portion or aspect of the value thereof, the Association shall have the right, upon approval of the majority of the Board of Managers, to enter upon that Limited Common Area and maintain, repair or service the same. The cost of such maintenance, repair or service shall be added to and become a Special Individual Unit Assessment chargeable to such Unit.

14.08 **Construction Defects.** The obligation of the Association and of the Unit Owners to repair, maintain and replace the portions of the property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent

defects in material or workmanship in the construction of the Condominium Property. The undertaking of repair, maintenance or replacement by the Association or the Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

14.09 **Effect of Insurance or Construction Guarantees.** Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of a construction guarantee or insurance coverage shall not excuse any delay by the Association or any Unit Owner in performing his obligations hereunder.

ARTICLE XV **EASEMENTS**

15.01 **Encroachments.** In the event that by reason of the construction, settlement or shifting of a building(s) or by reason of the partial or total destruction and rebuilding of a building, any part of a building(s) presently encroaches or shall hereafter encroach upon any part of the Common Areas, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to a Unit Owner to use or occupy for formal uses and purposes any portions of the Common Areas consisting of unoccupied space within a building(s) and adjoining his Unit, or if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving either any other Unit or more than one Unit, presently encroaches or shall hereafter encroach upon any part of any Unit, then valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Areas as the case may be, so long as all or any part of a building(s) containing such Unit shall remain standing; provided however, that no valid easement for any encroachment shall be created in favor of the Unit Owner of any Unit or in favor of the Common Areas, if such encroachment is caused by the willful conduct of said Unit Owner.

15.02 **Easements for Repair, Maintenance and Restoration.** The Association shall have a right of access and an easement to, over and through all of the Condominium Property, including each Unit, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with 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 Unit Owner shall have the permanent right and easement to and through the Common Areas 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.

15.05 **Easements for Construction.** Declarant hereby reserves for itself a right and easement to enter upon the Common Areas 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 to use, tie into and extend all existing utility lines for purposes of serving the Additional Property 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 in the performance of their duties.

15.08 **City of Mason.** An easement is hereby granted to the City of Mason, Ohio to enter upon the Common Areas to perform maintenance to those areas designated in the Pebble Creek Maintenance Plan in the event the Association fails or refuses to perform its responsibilities thereunder.

15.09 **Water Easement.** The Association shall have a right and easement to the exterior water taps or faucets of any Unit for the purpose of watering any Common Area landscaping; provided however, that such use shall be reasonable and the Association shall reimburse the Unit Owner for any excessive use of water.

15.10 **Emergency Easement.** The Association and its Managing Agent shall have a right of entry and easement to any Unit in the case of an emergency originating in or threatening such Unit, whether the Unit Owner is present at the time or not.

15.11 **Additional Property Easement.** Declarant hereby reserves a right to grant and/or reserve an easement for ingress and egress over and through the Common Areas for itself and for the benefit of any subsequent owner or owners or part of all of the Additional Property.

15.12 **Consent to Easements.** Each Unit Owner hereby grants and the transfer of title to a Unit Owner shall be deemed to grant the Declarant an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Unit Owner, and his mortgagee or mortgagees, such instruments as may be necessary to effectuate any easements granted or reserved by the Declarant in this Article.

15.13 **Easements Shall Run With Land.** All easements and rights herein described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns and any owner, purchaser, mortgagee and any other person having an interest in the Condominium Property or any part or portion thereof. Failure to refer specifically to any or all of the easements described in this Declaration in any deed or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said easements, but same shall be deemed conveyed or encumbered along with the Unit.

ARTICLE XVI **HAZARD INSURANCE**

16.01 **Fire and Extended Coverage Insurance.** The Association shall obtain and maintain for the benefit of all Unit Owners and mortgagees, insurance on all building(s), structures or other improvements now or at any time hereafter constituting a part of the Common Areas against loss or damage by fire, lightning and such perils as are at this time comprehended within the term "extended coverage", with no co-insurance and in an amount not less than one hundred percent (100%) of the replacement value thereof. In the event such policy contains co-insurance 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 purposes set forth herein, in accordance with the Percentage of Ownership. Said policy shall be issued by a generally acceptable carrier acceptable to lenders, first mortgagees and their insurers or guarantors. 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.

16.02 **Prohibition.** No Unit Owner may purchase an individual policy of fire and extended coverage insurance for his Unit or his interest in the Common Areas as real property. If irrespective of this prohibition a Unit Owner purchases and individual policy insuring such Unit or interest, said Unit 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 the Declaration.

16.03 **Unit Owner.** Each Unit Owner shall be responsible for his own individual coverage on his Unit, the contents thereof, improvements and betterments thereto, including without limitation and by way of illustration the furniture, furnishings, floor coverings or finishes, wall coverings or paint, ceiling finishes or paint, doors or door jambs, personal property supplied or installed or owned by the Unit Owner.

16.04 **Certificates and Notice of Cancellation.** Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice not less than thirty (30) days prior to any expiration or cancellation of such coverage to any mortgagee or mortgagees of any Unit.

16.05 **Subrogation.** 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.

16.06 **Mortgagee's Rights.** If the required insurance coverage under this Article 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 an assessment against all Unit Owners and shall not require a vote of the Members, anything to the contrary in this Declaration notwithstanding.

16.07 **Sufficient Insurance.** In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Association in payment therefor; provided however, that in the event, within thirty (30) days

after such damage or destruction, the Unit Owners, if they are entitled to do so pursuant to the provisions of the Declaration, shall elect to sell the Condominium Property or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

16.08 **Insufficient Insurance.** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction thereof, unless the Unit Owners shall within ninety (90) days after such damage or destruction, if they are entitled to do so pursuant to the provisions of the Declaration, elect to withdraw the property from the provisions of this Declaration, such repair, restoration or reconstruction of the Units so damaged or destroyed shall be undertaken by the Association at the expense of all the Unit Owners in the same proportions in which they shall own the Common Areas. Should any Unit Owner refuse or fail, after reasonable notice, to pay his share of such cost in excess of available insurance proceeds, the excess shall be assessed to such Unit Owner and such assessments shall have the same force and effect and, if not paid, may be enforced in the same manner as hereinbefore provided for the non-payment of assessments.

16.09 **Procedure for Reconstruction or Repair.** Immediately after a casualty causing damage to any portion of the Common Areas the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers deems necessary.

16.10 **Construction Funds.** The insurance proceeds and the sums received by the Association from the collection of assessments against Unit Owners on account of such casualty shall be considered a special construction fund to be disbursed by the Association to the payment of the cost of reconstruction and repair of Common Areas from time to time as the work progresses. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance funds.

16.11 **Adjustment.** 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 the Declaration.

16.12 **Non-Restoration of Damage or Destruction.** In the event of substantial damage to or destruction of two-thirds (2/3) or more of the Units, the Unit Owners, by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, may elect not to repair or restore such damage or destruction; provided the consent of the holders, insurers or guarantors of first mortgages on over fifty-one percent (51%) of the Units has been first obtained. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition by any Unit Owner. In the

event of any such sale or a sale of the Condominium Property after such election by agreement of all Unit Owners, the net proceeds of the sale, together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective Percentage of Ownership. No Unit Owner shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

16.13 **Deductible.** Any amounts paid by the Association on the account of any insurance claim shall be a Special Individual Unit Assessment against the Unit for which such claim was presented.

ARTICLE XVII **INSURANCE TRUSTEE**

17.01 **General.** 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.

17.02 **Selection Prior to a Loss.** If such selection is prior to any loss, the Association shall make all insurance policies under the Declaration payable to such Insurance Trustee for and on behalf of each of the Unit Owners and mortgagees for the purposes set forth in the Declaration in accordance with the Percentage of Ownership. 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.

17.03 **Selection After a Loss.** 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 assessments against the Unit Owners. Said funds are to be held by the Insurance Trustee in accordance with the provisions hereof.

17.04 **Non-Liability.** 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.

17.05 **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 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 Common Areas from time to time as the work progresses, but not more frequently than once in any calendar month. Said Insurance 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: (a) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate; (b) that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work; and (c) that the cost, as estimated by the person signing such certificate, of the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

17.06 **Reliance.** The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

ARTICLE XVIII
LIABILITY AND OTHER INSURANCE

18.01 **Liability Insurance.** As a Common Expense, the Association shall insure itself, the Board of Managers, all Unit Owners and members of their respective families and other persons residing with them in the Condominium Property, their tenants, and all other 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 the Common Areas; 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.

18.02 **Prohibition.** 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.

18.03 **Insufficient Liability Insurance.** In the event that the proceeds of any liability policy be insufficient, any deficit shall be charged to all Unit Owners as a Special Individual Unit Assessment.

18.04 **Other Insurance.** The Association 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.

18.05 **Amount of Fidelity Coverage.** 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 three (3) months Common Assessments, together with the reserve funds, if any.

18.06 **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 thirty (30) days prior to such cancellation or substantial change

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

ARTICLE XIX

REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY

19.01 **General.** 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 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, to receive the fair market value of his Unit, less the amount of any liens and encumbrances thereon as of the date such vote is taken, in return for a conveyance of his Unit, subject to such liens and encumbrances, to the President of the Association as trustee for all other Unit Owners. In the event of such election, such conveyance and payment of the consideration therefor, which shall be a Common Expense to the Unit Owners who have not so elected, shall be made within ten (10) days thereafter, and, if such Unit Owner and a

majority of the Board of Managers cannot agree upon the fair market value of such Unit, such determination shall be made by the majority vote of three (3) appraisers, one of which shall be appointed by such Unit Owner, one of which shall be appointed by the Board of Managers and the third of which shall be appointed by the first two appraisers.

ARTICLE XX
REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS

20.01 **Abatement and Enjoyment.** The violation of any restriction or condition or regulation adopted by the Board of Managers, or the breach of any covenant or provision contained in this Declaration or in the By-Laws shall give the Board of Managers the right, in addition to the rights hereinafter set forth in this section: (a) to enter upon the land or Unit portion thereof upon which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration and the By-Laws and the Board of Managers, or its Managing Agent, shall not be thereby deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

20.02 **Involuntary Sale.** If any Unit Owner, either by his own conduct or by the conduct of any other occupant of his Unit, shall violate any of the covenants or restrictions or provisions of this Declaration, or of the By-Laws, or the Rules and Regulations, and such violation shall continue for thirty (30) days after notice in writing from the Board of Managers, or shall occur repeatedly during any thirty (30) day period after written notice or request from the Board of Managers to cure such violation, then the Board of Managers shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the rights of the said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Board of Managers against the defaulting Unit Owner for a decree of mandatory injunction against the Unit Owner or occupant or, subject to the prior consent in writing of any mortgagee having a security interest in the Unit ownership of the defaulting Unit Owner, which consent shall not be unreasonably withheld, in the alternative a decree declaring the termination of the defaulting Unit Owner's right to occupy, 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 Unit 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 Unit 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, masters or commissioner's fees, and all other expenses of the proceedings, and all such items shall be taxes against the defaulting Unit 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 Unit 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.

20.03 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 any 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.

20.04 Proper Party. An action by the 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 XXI

ASSESSMENTS AND LIEN OF ASSOCIATION

21.01 General. Assessments for the maintenance, repair and insurance of the Common Areas 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. Such assessments are the personal obligation of a Unit Owner together with any costs and/or expenses, including reasonable attorney's fees incurred by the Association in any foreclosure or collection action.

21.02 Division of Common Profits and Common Expenses. The proportionate shares of the separate Unit Owners of the respective Units for the Common Profits and Common Expenses of the operation of the Condominium Property shall be in accordance with their Percentage of Ownership.

21.03 Non-Use of Facilities. No Unit Owner may be exempt himself from liability for his contribution toward the Common Expenses by wavier of the use or enjoyment of any of the Common Areas or by the abandonment of his Unit.

21.04 Acceleration and Late Charges. If any assessments are not paid within ten (10) days after the same has become due, the Board of Managers, at its option, without demand or notice, may: (a) declare the assessment and if a monthly assessment such

monthly assessment plus all monthly assessments remaining on the then current budget, immediately due and payable; and (b) charge a late charge not to exceed \$20.00 and/or interest on any unpaid balance at a rate equal to two percent (2%) above prime as being charged by Bank One, Dayton, NA, or any successor thereof.

21.05 **Lien of Association.** The Association shall have a lien upon the estate or interest in any Unit and its Percentage of Ownership in the Common Areas for the payment of any delinquent assessments chargeable against such Unit. At any time after such delinquency, a certificate of lien for all or any part of the unpaid assessments, including late charges, interest and if monthly assessments are delinquent, then the remaining unpaid monthly assessments under the then current budget may be Recorded pursuant to authorization given by the Board of Managers. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record Unit Owner(s) thereof, and the amount of the delinquency, and shall be signed by the President of the Association.

21.06 **Term and Validity of Lien.** The lien provided for in the preceding Section shall remain valid for a period of five (5) years from the date filing, unless sooner released or satisfied, in the same manner provided by law in the state of Ohio for the release and satisfaction of mortgages or real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

21.07 **Priority of Association's Lien.** The lien provided for in the preceding Section is prior to any lien or encumbrance subsequently arising or created except liens for real estate taxes and assessments and liens of bona fide first mortgages that have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by its President, pursuant to authority given to him by the Board of Managers. In the foreclosure action the Unit Owner shall be required to pay a reasonable rental for the Unit during the pendency of the action, and the plaintiff in the action is entitled to the appointment of a receiver to collect the rental. In the foreclosure action the Association, duly authorized by action of its Board of Managers, is entitled to become a purchaser at the foreclosure sale.

21.08 **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 Unit Owner or his invites or lessees, such cost of expense shall be borne by such Unit Owner and not by the Association, and if paid by the Association, shall be paid or reimbursed to the Association by such Unit Owner as a Special Individual Unit Assessment forthwith upon the Association's demand.

21.09 **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 Warren County, Ohio.

21.10 **Non-Liability of Mortgagee for Past Due Common Expenses.** When the mortgagee of a first mortgage of record acquires title to the Unit as a result of the remedies provided in such mortgage or a foreclosure of the first mortgage, such mortgagee, its 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 mortgagee. 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 mortgagee, its successors or assigns.

21.11 **Liability for Assessments Upon Voluntary Conveyance.** In a voluntary conveyance of a Unit 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. Such grantee hereby expressly assumes and agrees to pay such assessments. However, upon request any such grantee and his mortgagee shall be entitled to a statement from the Board of Managers 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 be 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.

ARTICLE XXII **ADDITIONAL PROPERTY**

22.01 **Contemplated Annexation by Declarant.** Declarant is the owner in fee simple of the Additional Property. It is the desire of the Declarant to submit the Additional Property, together with the building(s) and other improvements to be constructed thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Chapter 5311 of the Ohio Revised Code, so that the same will become in all respects part of the Condominium Property.

22.02 **Reservation of Option to Expand.** Declarant hereby expressly reserves the option at any time during the Development Period, to take the action so contemplated in submitting all or any part of the Additional Property, together with the building(s) and other improvements to be built thereon, and all easements, rights and appurtenances belonging

thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Chapter 5311 of the Ohio Revised Code, so that the same will become, in all respects, part of the Condominium Property.

22.03 Limitations on Declarant's Option. Unless otherwise specified in this Article, there are no limitations on Declarant's option to annex or add the Additional Property to the Condominium Property. The consent of Unit Owners to annex or add such Additional Property is not required.

22.04 Additional Property. Declarant, in its absolute discretion, may annex or add all or any part of the Additional Property in whatever quantity, amount, sequence or order that it may determine. There are no limitations on Declarant as to the amount of the Additional Property to be added, the sequencing or order of such additions, nor as to the boundaries or size of such additions.

22.05 Location and Type of Improvements. Unless otherwise specified in this Article, there are no limitations imposed on Declarant as to the location of any improvements that may be made to any portion of the Additional Property, nor any restrictions as to the type and amount of improvements, which must or may be made on the Additional Property by Declarant.

22.06 Structures. The structures to be constructed on the Additional Property shall be compatible with the existing structures on the Condominium Property in terms of quality of construction. The structures to be constructed on the Additional Property need not be compatible with the existing structures on the Condominium Property in terms of principal materials used, architectural style, size or elevation.

22.07 Units. There will be a maximum of one hundred fifty-two (152) Units constructed on the Additional Property, with a density not to exceed seventeen (17) 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.

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

22.09 Substantial Completion. All improvements on the Additional Property, when added, must be substantially completed.

22.10 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, so as to: (a) include any or all of the

Additional Property and the improvements which may be constructed thereon as part of the Condominium Property; (b) include descriptions of building(s) constructed on said real estate and to add Drawings thereof to the appropriate Exhibits; (c) provide that the Unit Owners in the building(s) will have an interest in the Common Areas of the Condominium Property; and (d) amend the Percentages of Ownership which the Unit Owners within the building(s) 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 par value of each Unit at the date said Amendment is Recorded bears to the then aggregate par value 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.

22.11 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, 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.

22.12 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 attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney in the event that the Declarant exercises the rights reserved above to add to the Condominium Property the Additional Property, to execute, acknowledge and record for and in the name of such Unit Owner, an Amendment for such purpose and for and in the name of such respective mortgagees, a consent to such Amendment.

ARTICLE XXIII
LIMITED WARRANTIES BY DECLARANT

23.01 Two (2) Year Limited Warranty. The Declarant does hereby give and grant a two (2) year limited warranty covering the full cost of labor and materials for any repair or replacement of the roof and structural components and mechanical, electrical, plumbing and common elements serving the Condominium Property, occasioned or necessitated by a defect in material or workmanship.

23.02 Commencement of Two (2) Year Limited Warranty. The two (2) year limited warranty shall commence for the property submitted by this Declaration on the date the deed is filed for record following the sale of the first Unit, and for any Additional

Property submitted by an Amendment to this Declaration on the date the deed is filed for record following the sale of the first Unit; in either case, to a purchaser in good faith for value.

23.03 **One (1) Year Limited Warranty.** The Declarant does hereby give and grant a one (1) year limited warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical or other elements pertaining to each Unit, occasioned or necessitated by a defect in material or workmanship performed by or for the Declarant.

23.04 **Commencement of One (1) Year Limited Warranty.** The one (1) year limited warranty shall commence on the date the deed or other evidence of ownership is filed for record following the first sale of a Condominium Ownership Interest to a purchaser in good faith for value.

23.05 **Appliances.** In the case of ranges, refrigerators, washing machines, clothes dryers, hot water heaters and other similar appliances installed and furnished as a part of the Unit by the Declarant, the valid assignment by the Declarant of the express and implied warranty of the manufacturer satisfies the Declarant's obligation with respect to such appliances and the Declarant's warranty is limited to the installation of the appliances.

23.06 **Assignment.** All warranties made to the Declarant that exceed the time periods specified above with respect to any part of the Units or Common Areas shall be assigned to the Unit Owner or Association.

ARTICLE XXIV
EMINENT DOMAIN

24.01 **General.** If all or any part of the Condominium Property is taken, injured or destroyed by the exercise of the power of eminent domain, each affected Unit Owner and mortgagee shall be entitled to notice of the taking and to participate in the proceedings.

24.02 **Common Areas.** To the extent that an eminent domain taking affects the Common Areas, the Association shall represent the Unit Owners in such condemnation or in negotiations, settlements and agreements with the condemning authority for any acquisition of any part or all of the Common Areas, and each Unit Owner shall be deemed to have appointed the Association as his attorney-in-fact for such purpose.

24.03 **Damages.** Any damages for the taking, injury or destruction of the Common Areas shall be considered as a whole and shall be collected by the Association and distributed among the Unit Owners and among any mortgagees as their interests may appear in proportion to their Percentage of Ownership.

24.04 **Reallocation.** Any reallocation of the Percentage of Ownership after a partial taking shall be effected by an Amendment, which shall require the approval of all Unit Owners affected by such reallocation and their mortgagees.

ARTICLE XXV
MISCELLANEOUS PROVISIONS

25.01 **Grantees and Incorporation Into Deeds.** 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 Unit Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

25.02 **Removal.** 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.

25.03 **Non-Wavier.** 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.

25.04 **Invalidity.** 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.

25.05 **Additional Notice Provisions.** In addition to any notice provision set forth in this Declaration or the By-Laws, the holder, insurer or guarantor of a first mortgage on any Unit, upon written request to the Board of Managers, shall be provided with copies of the following related to the Unit secured by such first mortgage or to the Condominium in general:

- (a) A copy of any and all notices and other documents permitted or required by the Declaration or the By-Laws to be given to the Unit Owner.
- (b) A copy of any lien filed by the Association against a Unit.

- (c) Any proposed Amendment affecting a change in the boundaries of the Unit or in its exclusive easement rights appertaining thereto; in the interests of a Unit to the Common Area or its liability for the Common Expenses; the voting rights of a Unit or Unit Owner; or to the purposes to which any Unit or the Common Areas are restricted.
- (d) Any proposed termination of the Condominium.
- (e) Any condemnation loss or any casualty loss affecting a material portion of the Condominium or affecting a Unit.
- (f) - Any delinquency in the payment of assessments exceeding sixty (60) days for a Unit.
- (g) Any lapse, cancellation or material modification of insurance coverage.

25.06 Prior Written Approval. Notwithstanding any provision in the Declaration or the By-Laws, the following actions by either the Unit Owners or the Association shall require the prior written consent of the holders, insurers or guarantors of first mortgages on over fifty-one percent (51%) of the Units who have requested the forwarding of notices pursuant to the preceding Section.

- (a) Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium Property.
- (b) Any reallocation of the Percentage of Ownership resulting from a partial condemnation or partial destruction of the Condominium.
- (c) Any change or modification to the requirement that after a partial condemnation or damage due to an insurance hazard that the Condominium Property be restored to the condition set forth in the Declaration.

25.07 Availability of Condominium Instruments and Financial Statements. Upon request and at reasonable charge, the Association shall make available to any Unit Owner, lenders, first mortgage holders, and prospective purchasers, copies of the Condominium Instruments and the most recent audited financial statements of the Association if the latter has been prepared.

25.08 No Adverse Action by Declarant. That so long as said Declarant, his successors and assigns own 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 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.

25.09 **Limitation of Declarant's Liability.** 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 or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration or the By-Laws or in Declarant's capacity as Developer, contractor, owner, manager or seller of the Condominium Property, whether or not such claim shall: (a) be asserted by any Unit Owner, occupant, the Association, or by any person or entity claiming through any of them; (b) be on account of injury to person or damage to or loss of property wherever located and however caused; or (c) arise ex contractu or, except in the case of gross negligence, ex delictu. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for or arising by reason of the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Unit Owner, occupant, the Association and their respective Agents, employees, guests, invites, or by reason of any neighboring property or personal property located on or about the Condominium Property.

25.10 **Headings.** The heading of each Article and to each Section hereof is inserted only as a matter of convenience and for reference, and in no way defines, limits or describes the scope or intent of this Declaration nor in any way affects this Declaration.

25.11 **Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class condominium development.

25.12 **Deposits or Down Payments.** Any deposit or down payment made in connection with the sale of a Condominium Ownership Interest will be held in trust or escrow until delivered at settlement or returned to or otherwise credited to the purchaser or forfeited to the Developer, and that if a deposit or down payment of Two Thousand Dollars (\$2,000.00) or more is held for more than ninety (90) days, interest at the rate of at least four percent (4%) per annum for any period exceeding ninety (90) days shall be credited to the purchaser at settlement or upon return or other credit made to the purchaser or added to any forfeiture to the Developer.

25.13 **Developer's Interest in Common Areas.** Except in its capacity as a Unit Owner of unsold Condominium Ownership Interests, the Developer will not retain a property interest in any of the Common Areas after control of the Condominium is assumed by the Association.

25.14 **Rights and Obligations of Developer as a Unit Owner.** The Developer will assume the rights and obligations of a Unit Owner in its capacity as an owner of Condominium Ownership Interests not yet sold, including without limitation, the obligation to pay Common Expenses, including reserves, attaching to such interests from the date the Declaration is Recorded.

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

25.16 **Gender and Grammar.** Any necessary grammatical changes required to make the provisions hereof apply either to entities or individuals, male or female, shall in all cases be assumed as though in each case fully expressed herein.

25.17 **Full Compliance.** 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, has caused the execution hereof this ___ day of September, 2000.

Signed and acknowledged
In the presence of:

**CHARLES V. SIMMS
DEVELOPMENT CORPORATION**

By: _____
Hans H. Soltau
Vice President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this ____ day of September, 2000 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Notary Public

THIS INSTRUMENT PREPARED BY:

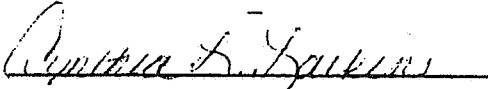
**HANS.H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459**


BOOK 2029 PAGE 355

IN WITNESS WHEREOF, Charles V. Simms Development Corporation, an Ohio corporation, has caused the execution hereof this 19 day of October, 2000.

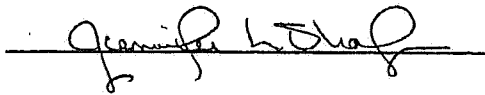
Signed and acknowledged
In the presence of:

CHARLES V. SIMMS
DEVELOPMENT CORPORATION



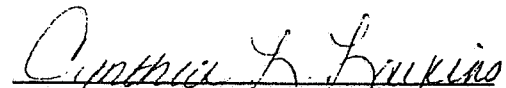
By: 

Hans H. Soltau
Vice President



STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

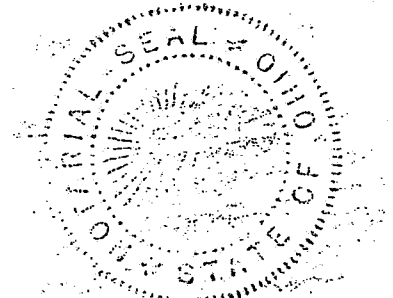
The foregoing instrument was acknowledged before me this 19 day of October, 2000 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.


Notary Public

CYNTHIA L. LARKINS, Notary Public
In and For the State of Ohio
My Commission Expires Nov. 6, 2001

THIS INSTRUMENT PREPARED BY:

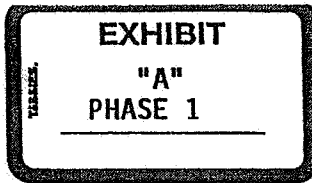
HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459



BOOK 2029 PAGE 356



engineers
planners
architects
surveyors



6900 Tylersville Road, Suite A
Mason, Ohio 45040
p. 513.336.6600
f. 513.336.9365
mason@bayerbecker.com

August 25, 2000

DESCRIPTION:

Phase 1
1.1623 Acre Tract

LOCATION:

12-25-426-017 *kw*

Pebble Creek of Mason
City of Mason

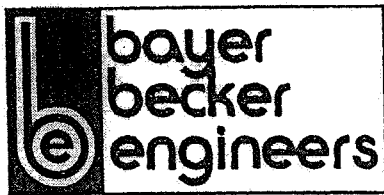
Situated in Section 25, Town 4, Range 3, The City of Mason, Warren County, Ohio and being a 1.1623 acre tract further described as follows;

Begin at a point found by measuring from the intersection of the centerline of State Route 741 and the west section line of said Section 19; thence departing said centerline and with said section line South 04°52'03" West, 185.85 feet to an existing 5/8" iron pin in the southwesterly right-of-way of said State Route 741; thence departing said right-of-way South 04°52'03" West, 321.02 feet to an existing 5/8" iron pin; thence North 85°41'32" West, 16.48' to an existing 5/8" iron pin; thence South 52°02'30" West, 329.78 feet to an existing 5/8" iron pin; thence South 77°51'30" West, 96.83 feet; said point also being the true point of beginning;

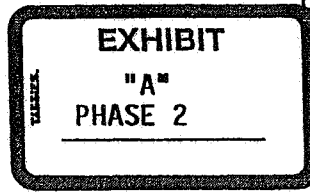
thence	from the point of beginning thus found, South 26°03'35" East, 172.64;
thence	on a curve to the left, having a radius of 201.50 feet, an arc length of 50.24 feet (chord = South 56°47'53" West, 50.11 feet);
thence	South 40°20'39" East, 45.54 feet to an existing 5/8" iron pin;
thence	South 38°36'55" West, 89.27 feet to an existing 5/8" iron pin;
thence	South 22°38'35" West, 7.03 feet;
thence	North 64°14'10" West, 39.43 feet;
thence	North 25°45'50" East, 30.88 feet;
thence	North 64°14'10" West, 218.71 feet;
thence	North 06° 46'14" East, 110.98 feet to a set 5/8" iron pin;
thence	North 77°51'30" East, 205.60 feet to a point of beginning containing 1.1673 acres of land subject to all easements and rights-of-way of record.

BOOK 2029 PAGE 357

O:\WLEGAL\00w44116.doc



engineers
planners
architects
surveyors



6900 Tylersville Road, Suite A
Mason, Ohio 45040
p. 513.336.6600
f. 513.336.9365
mason@bayerbecker.com

August 31, 2000

DESCRIPTION:

Phase 2
0.7959 Acre Tract

LOCATION:

12-25-426-026 *KW*

Pebble Creek of Mason
City of Mason

Situated in Section 25, Town 4, Range 3, The City of Mason, Warren County, Ohio and being a 0.7959 acre tract further described as follows;

Begin at a point found by measuring from the intersection of the centerline of State Route 741 and the west section line of said Section 19; thence departing said centerline and with said section line South 04°52'03" West, 185.85 feet to an existing 5/8" iron pin in the southwesterly right-of-way of said State Route 741; thence departing said right-of-way South 04°52'03" West, 321.02 feet to an existing 5/8" iron pin; thence North 85°41'32" West, 16.48' to an existing 5/8" iron pin; thence South 52°02'30" West, 329.78 feet to an existing 5/8" iron pin; thence South 77°51'30" West, 302.43 feet to an existing 5/8" iron pin; thence South 06°46'14" West, 110.98 feet; said point also being the true point of beginning;

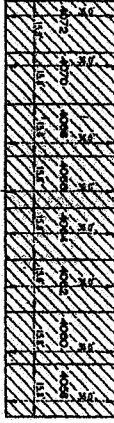
- thence from the point of beginning thus found, South 64°14'10" East, 218.71 feet;
- thence South 25°45'50" West, 30.88 feet;
- thence South 64°14'10" East, 39.43 feet;
- thence South 22°38'35" West, 121.86 feet;
- thence North 64°14'10" West, 225.82 feet;
- thence North 53°26'14" East, 17.62 feet to an existing 5/8" iron pin;
- thence North 06°46'14" East, 144.85 feet to a point of beginning containing 0.7959 acres of land subject to all easements and rights-of-way of record.

-BOOK 2029 PAGE 358

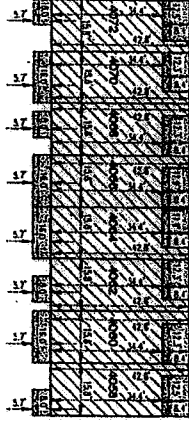
D:\00w44ph2.doc

BUILDING TWO

UPPER LEVEL



ENTRY LEVEL



- LEGEND**
- EX. 5/8" IRON PIN
 - COMMON AREA
 - ▨ UNIT
 - ▩ LIMITED COMMON AREA

NOTES

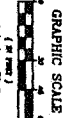
1. Dimensions of Units shown are measured from the unfinished architectural drawings.

ADDRESS	1ST FLOOR		2ND FLOOR	
	AREA	AREA	AREA	AREA
4072 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4070 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4068 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4066 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4064 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4062 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4060 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4058 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02
4056 SPANISH BAY DRIVE	724.44	724.33	722.93	741.02

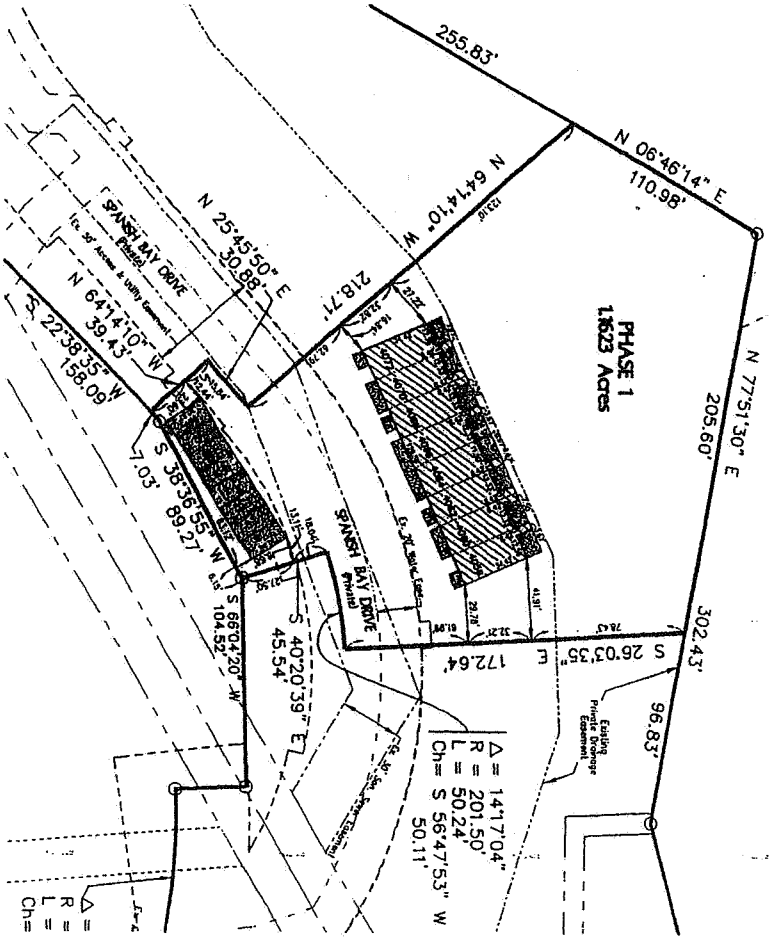
56642c 2
7/2/07

NOTES

1. ALL MEASUREMENTS ARE IN FEET AND INCHES.
2. DIMENSIONS OF BUILDINGS ARE TO FACE UNLESS OTHERWISE NOTED.
3. DIMENSIONS OF COMMON AREAS ARE TO FACE UNLESS OTHERWISE NOTED.
4. DIMENSIONS OF LIMITED COMMON AREAS ARE TO FACE UNLESS OTHERWISE NOTED.
5. DIMENSIONS OF UNITS ARE TO FACE UNLESS OTHERWISE NOTED.
6. DIMENSIONS OF DRIVEWAYS ARE TO FACE UNLESS OTHERWISE NOTED.
7. DIMENSIONS OF PATIOS ARE TO FACE UNLESS OTHERWISE NOTED.
8. DIMENSIONS OF PORCHES ARE TO FACE UNLESS OTHERWISE NOTED.
9. DIMENSIONS OF BALCONIES ARE TO FACE UNLESS OTHERWISE NOTED.
10. DIMENSIONS OF TERRACES ARE TO FACE UNLESS OTHERWISE NOTED.
11. DIMENSIONS OF STAIRS ARE TO FACE UNLESS OTHERWISE NOTED.
12. DIMENSIONS OF ELEVATORS ARE TO FACE UNLESS OTHERWISE NOTED.
13. DIMENSIONS OF HALLWAYS ARE TO FACE UNLESS OTHERWISE NOTED.
14. DIMENSIONS OF CLOSETS ARE TO FACE UNLESS OTHERWISE NOTED.
15. DIMENSIONS OF BATHS ARE TO FACE UNLESS OTHERWISE NOTED.
16. DIMENSIONS OF KITCHENS ARE TO FACE UNLESS OTHERWISE NOTED.
17. DIMENSIONS OF LIVING AREAS ARE TO FACE UNLESS OTHERWISE NOTED.
18. DIMENSIONS OF BEDROOMS ARE TO FACE UNLESS OTHERWISE NOTED.
19. DIMENSIONS OF OFFICES ARE TO FACE UNLESS OTHERWISE NOTED.
20. DIMENSIONS OF STUDIES ARE TO FACE UNLESS OTHERWISE NOTED.
21. DIMENSIONS OF GYMNASIUMS ARE TO FACE UNLESS OTHERWISE NOTED.
22. DIMENSIONS OF POOL DECKS ARE TO FACE UNLESS OTHERWISE NOTED.
23. DIMENSIONS OF TENNIS COURTS ARE TO FACE UNLESS OTHERWISE NOTED.
24. DIMENSIONS OF PLAY AREAS ARE TO FACE UNLESS OTHERWISE NOTED.
25. DIMENSIONS OF PARKS ARE TO FACE UNLESS OTHERWISE NOTED.
26. DIMENSIONS OF TRAILS ARE TO FACE UNLESS OTHERWISE NOTED.
27. DIMENSIONS OF BRIDGES ARE TO FACE UNLESS OTHERWISE NOTED.
28. DIMENSIONS OF TUNNELS ARE TO FACE UNLESS OTHERWISE NOTED.
29. DIMENSIONS OF UNDERPASSES ARE TO FACE UNLESS OTHERWISE NOTED.
30. DIMENSIONS OF OVERPASSES ARE TO FACE UNLESS OTHERWISE NOTED.
31. DIMENSIONS OF RAMPWAYS ARE TO FACE UNLESS OTHERWISE NOTED.
32. DIMENSIONS OF ESCALATORS ARE TO FACE UNLESS OTHERWISE NOTED.
33. DIMENSIONS OF STAIRWAYS ARE TO FACE UNLESS OTHERWISE NOTED.
34. DIMENSIONS OF ELEVATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
35. DIMENSIONS OF HALLWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
36. DIMENSIONS OF CLOSET SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
37. DIMENSIONS OF BATH SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
38. DIMENSIONS OF KITCHEN SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
39. DIMENSIONS OF LIVING SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
40. DIMENSIONS OF BEDROOM SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
41. DIMENSIONS OF OFFICE SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
42. DIMENSIONS OF STUDY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
43. DIMENSIONS OF GYM SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
44. DIMENSIONS OF POOL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
45. DIMENSIONS OF TENNIS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
46. DIMENSIONS OF PLAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
47. DIMENSIONS OF PARK SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
48. DIMENSIONS OF TRAIL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
49. DIMENSIONS OF BRIDGE SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
50. DIMENSIONS OF TUNNEL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
51. DIMENSIONS OF UNDERPASS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
52. DIMENSIONS OF OVERPASS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
53. DIMENSIONS OF RAMPWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
54. DIMENSIONS OF ESCALATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
55. DIMENSIONS OF STAIRWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
56. DIMENSIONS OF ELEVATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
57. DIMENSIONS OF HALLWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
58. DIMENSIONS OF CLOSET SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
59. DIMENSIONS OF BATH SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
60. DIMENSIONS OF KITCHEN SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
61. DIMENSIONS OF LIVING SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
62. DIMENSIONS OF BEDROOM SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
63. DIMENSIONS OF OFFICE SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
64. DIMENSIONS OF STUDY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
65. DIMENSIONS OF GYM SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
66. DIMENSIONS OF POOL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
67. DIMENSIONS OF TENNIS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
68. DIMENSIONS OF PLAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
69. DIMENSIONS OF PARK SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
70. DIMENSIONS OF TRAIL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
71. DIMENSIONS OF BRIDGE SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
72. DIMENSIONS OF TUNNEL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
73. DIMENSIONS OF UNDERPASS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
74. DIMENSIONS OF OVERPASS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
75. DIMENSIONS OF RAMPWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
76. DIMENSIONS OF ESCALATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
77. DIMENSIONS OF STAIRWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
78. DIMENSIONS OF ELEVATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
79. DIMENSIONS OF HALLWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
80. DIMENSIONS OF CLOSET SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
81. DIMENSIONS OF BATH SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
82. DIMENSIONS OF KITCHEN SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
83. DIMENSIONS OF LIVING SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
84. DIMENSIONS OF BEDROOM SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
85. DIMENSIONS OF OFFICE SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
86. DIMENSIONS OF STUDY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
87. DIMENSIONS OF GYM SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
88. DIMENSIONS OF POOL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
89. DIMENSIONS OF TENNIS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
90. DIMENSIONS OF PLAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
91. DIMENSIONS OF PARK SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
92. DIMENSIONS OF TRAIL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
93. DIMENSIONS OF BRIDGE SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
94. DIMENSIONS OF TUNNEL SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
95. DIMENSIONS OF UNDERPASS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
96. DIMENSIONS OF OVERPASS SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
97. DIMENSIONS OF RAMPWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
98. DIMENSIONS OF ESCALATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
99. DIMENSIONS OF STAIRWAY SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.
100. DIMENSIONS OF ELEVATOR SHAFTS ARE TO FACE UNLESS OTHERWISE NOTED.



PHASE 1
1.1623 Acres



EXHIBIT

PEBBLE CREEK OF MASON CONDOMINIUM PHASE 1

SECTION 25, TOWN 4, RANGE 3

CITY OF MASON

WARREN COUNTY, OHIO

AUGUST 2000

NO.	DATE	REVISION
1	8/1/00	ISSUE FOR PERMIT
2	8/1/00	ISSUE FOR PERMIT
3	8/1/00	ISSUE FOR PERMIT
4	8/1/00	ISSUE FOR PERMIT
5	8/1/00	ISSUE FOR PERMIT
6	8/1/00	ISSUE FOR PERMIT
7	8/1/00	ISSUE FOR PERMIT
8	8/1/00	ISSUE FOR PERMIT
9	8/1/00	ISSUE FOR PERMIT
10	8/1/00	ISSUE FOR PERMIT

We the undersigned being the owner of the fee simple title to the land hereinafter described, do hereby consent to and join in the submission of said real estate to the condominium plan known as Pebble Creek of Mason.

Witnessed & Acknowledged:
 Elizabeth A. Kessler
 Owner, Pebble Creek of Mason
 Elizabeth A. Kessler
 Owner, Pebble Creek of Mason
 Robert J. Kessler
 Owner, Pebble Creek of Mason
 State of Ohio
 County of Warren
 My Commission Expires: _____
 Notary Public

By: _____
 County Auditor

By: _____
 Deputy

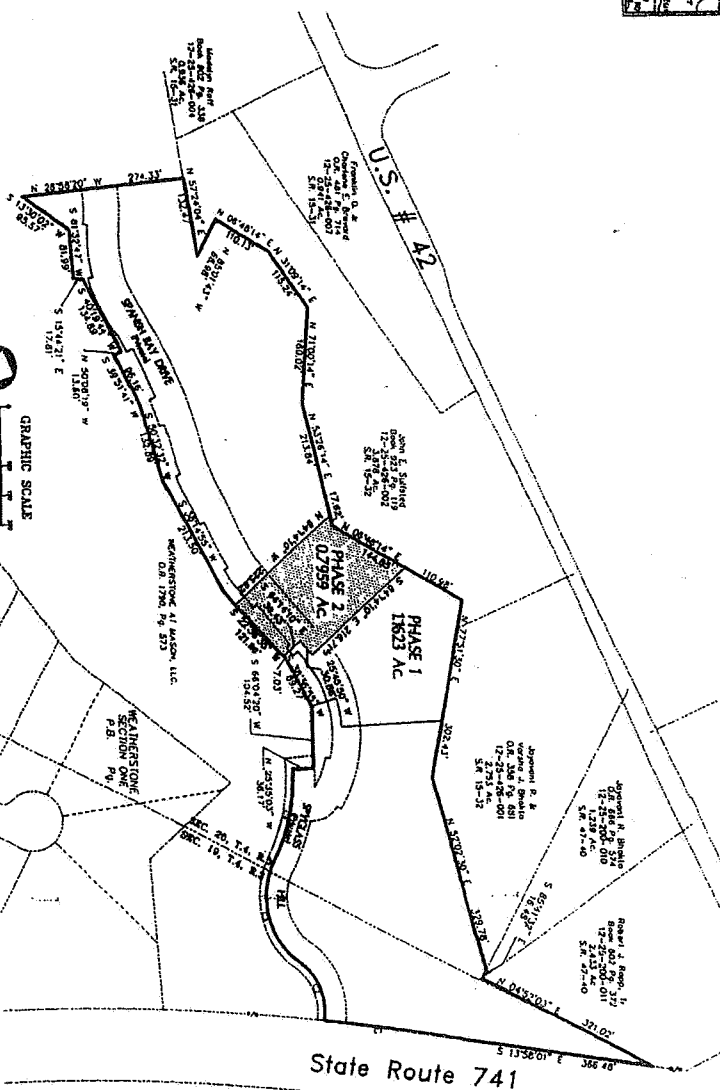
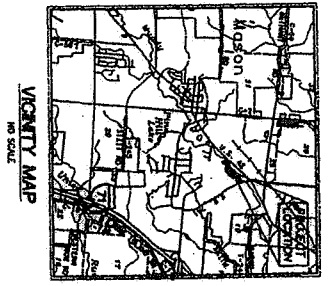
By: _____
 County Recorder

By: _____
 County Auditor

By: _____
 Deputy

By: _____
 County Recorder

By: _____
 Deputy



CURVE TABLE

Station	Chord Length	Chord Bearing	Curve Length	Curve Bearing
1+00.00	100.00	S 89° 57' 12" W	100.00	S 89° 57' 12" W
2+00.00	200.00	S 89° 57' 12" W	200.00	S 89° 57' 12" W
3+00.00	300.00	S 89° 57' 12" W	300.00	S 89° 57' 12" W
4+00.00	400.00	S 89° 57' 12" W	400.00	S 89° 57' 12" W
5+00.00	500.00	S 89° 57' 12" W	500.00	S 89° 57' 12" W
6+00.00	600.00	S 89° 57' 12" W	600.00	S 89° 57' 12" W
7+00.00	700.00	S 89° 57' 12" W	700.00	S 89° 57' 12" W
8+00.00	800.00	S 89° 57' 12" W	800.00	S 89° 57' 12" W
9+00.00	900.00	S 89° 57' 12" W	900.00	S 89° 57' 12" W
10+00.00	1000.00	S 89° 57' 12" W	1000.00	S 89° 57' 12" W

SIDEWELL #1'S

Station	Chord Length	Chord Bearing	Curve Length	Curve Bearing
0+00	0.00	18-28-	0.00	18-28-
1+00	100.00	18-28-	100.00	18-28-
2+00	200.00	18-28-	200.00	18-28-
3+00	300.00	18-28-	300.00	18-28-
4+00	400.00	18-28-	400.00	18-28-
5+00	500.00	18-28-	500.00	18-28-
6+00	600.00	18-28-	600.00	18-28-
7+00	700.00	18-28-	700.00	18-28-
8+00	800.00	18-28-	800.00	18-28-
9+00	900.00	18-28-	900.00	18-28-
10+00	1000.00	18-28-	1000.00	18-28-

ENGINEER/SURVEYOR
 BAUER-BECKER ENGINEERS
 6900 TILERSVILLE ROAD
 SUITE A
 MASON, OHIO 45040

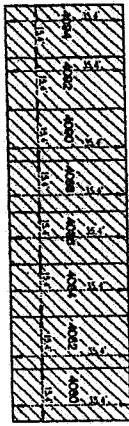
OWNER
 CHARLES V. COMBATION
 2745 ORCHARD RUN ROAD
 DAYTON, OHIO 45448

EXHIBIT 1
 PEBBLE CREEK OF MASON
 CONDOMINIUM PHASE II
 SECTION 25, TOWN 4, RANGE 3
 CITY OF MASON
 WARREN COUNTY, OHIO
 AUGUST, 2000

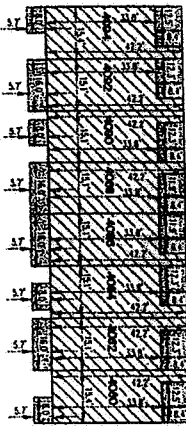
NO.	DATE	REVISION
1	8/1/00	ISSUED FOR RECORD
2	8/1/00	ISSUED FOR RECORD
3	8/1/00	ISSUED FOR RECORD
4	8/1/00	ISSUED FOR RECORD
5	8/1/00	ISSUED FOR RECORD
6	8/1/00	ISSUED FOR RECORD
7	8/1/00	ISSUED FOR RECORD
8	8/1/00	ISSUED FOR RECORD
9	8/1/00	ISSUED FOR RECORD
10	8/1/00	ISSUED FOR RECORD

BUILDING THREE

UPPER LEVEL



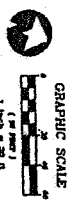
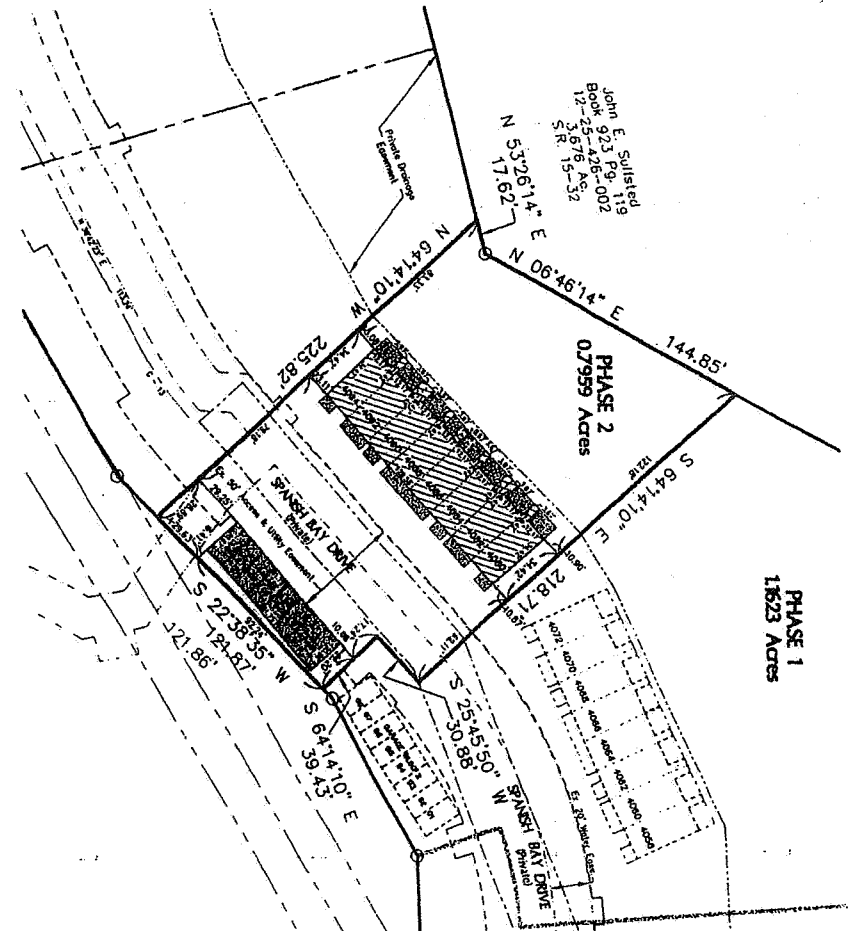
ENTRY LEVEL



- LEGEND**
- EX. 5/8" IRON PIN
 - COMMON AREA
 - ▨ UNIT
 - ▩ LIMITED COMMON AREA

NOTES
 1. Dimensions of Units shown are measured from the un finished interior surfaces of the perimeter walls, as shown on the Architectural drawings.

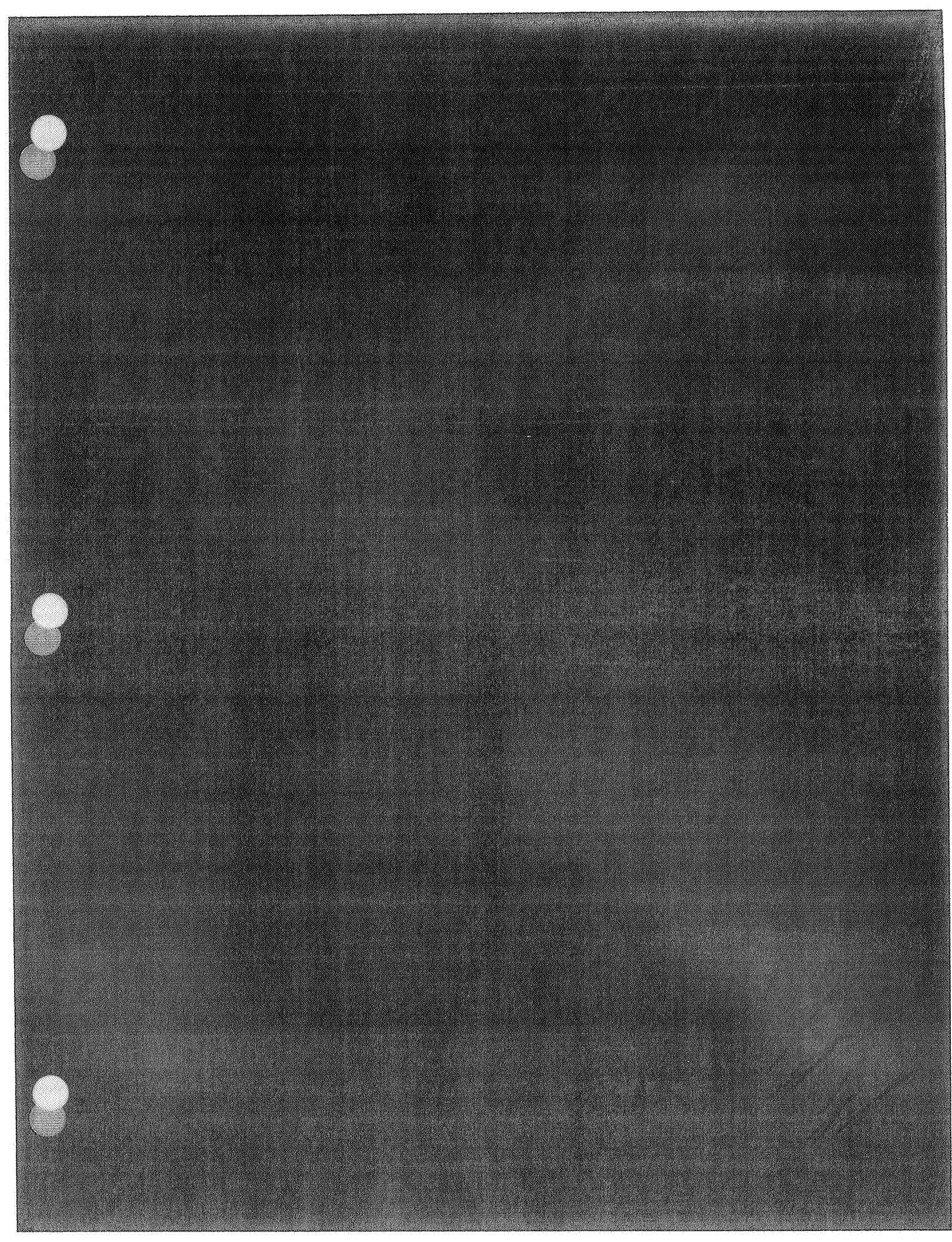
BUILDING 3	1ST LEVEL	2ND LEVEL	3RD LEVEL	4TH LEVEL
4000 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4004 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4008 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4012 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4016 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4020 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4024 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4028 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4032 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4036 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4040 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4044 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4048 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4052 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4056 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4060 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4064 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4068 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4072 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4076 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4080 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4084 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4088 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4092 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4096 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4100 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4104 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4108 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4112 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4116 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4120 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4124 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4128 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4132 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4136 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4140 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4144 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4148 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4152 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4156 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4160 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4164 SPRINGS BAY DRIVE	726.88	732.06	740.17	
4168 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4172 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4176 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4180 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4184 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4188 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4192 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4196 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17
4200 SPRINGS BAY DRIVE	723.99	726.88	732.06	740.17



PHASE II
 0.7959 Acres
 Building 3

EXHIBIT - 2
PEBBLE CREEK OF MASON
CONDOMINIUM PHASE II
 SECTION 25, TOWN 4, RANGE 3
 CITY OF MASON
 WARREN COUNTY, OHIO
 AUGUST, 2000

NO.	DATE	BY	FOR
1	8/1/00	Collier	Original
2	8/1/00	Collier	Original
3	8/1/00	Collier	Original
4	8/1/00	Collier	Original
5	8/1/00	Collier	Original
6	8/1/00	Collier	Original
7	8/1/00	Collier	Original
8	8/1/00	Collier	Original
9	8/1/00	Collier	Original
10	8/1/00	Collier	Original



**LEGAL CERTIFICATION FOR PEBBLE CREEK OF MASON
CONDOMINIUM**

I am an attorney-at-law licensed to practice law in the State of Ohio. I am familiar with the provisions of Chapter 5311 of the Ohio Revised Code which is the Ohio statute permitting the creation of a condominium, hereinafter referred to as "Ohio Law". I am also familiar with any applicable local governmental laws or regulations concerning the creation of a condominium in the City of Mason, Warren County, Ohio, hereinafter referred to as "Local Laws". I have also reviewed the requirements of the U.S. Department of Housing and Urban Development, hereinafter referred to as "H.U.D." as set forth in H.U.D. Handbook 4265.1, Appendix 24, hereinafter referred to as the "Appendix".

I have examined the following listed documents for Pebble Creek of Mason Condominium, hereinafter referred to as the "Condominium". All of said documents are hereinafter referred to as the "Condominium Instruments".

- A. The Declaration of Covenants, Conditions and Restrictions for Pebble Creek of Mason Condominium, hereinafter referred to as the "Declaration".
- B. The Articles of Incorporation for Pebble Creek of Mason Condominium Association, Inc., hereinafter referred to as the "Articles". For purposes hereof, said association is hereinafter referred to as the "Association".
- C. The By-Laws of the Association, hereinafter referred to as the "By-Laws".

I hereby certify that the Condominium Instruments, as drafted, are in compliance with Ohio Law, Local Law and the Appendix. Specifically with respect to the Appendix, the following requirements are met in the Condominium Instruments. For purposes hereof the following rules of construction or definitions apply to such narrative.

- A. Unless otherwise noted the capitalized terms are defined in this certification or in the Declaration. A copy of the definitions set forth in the Declaration and utilized herein are set forth in Exhibit "A" attached hereto.
- B. Paragraph and Sub-Paragraph references and headings refer to those set forth in the Appendix.
- C. Article and/or Section headings of a particular Condominium Instrument refer to those set forth in the designated document.
- D. Section references to Ohio Law refer to such designated section.

1. **TYPE OF CONDOMINIUM**

The filing of the Declaration will create a Condominium under Ohio Law which is a type of basic ownership arrangement as contemplated by this Paragraph. Each Unit Owner will own a Condominium Ownership Interest which is defined as a fee simple interest in a Unit, together with its undivided interest in the Common Areas. See, Section 1.18 of the Declaration which is a restatement of Section 5311.01(M) of the Ohio Revised Code.

The Condominium will be in full compliance with Ohio Law and Local Law. A specific representation thereto is made by the Developer in Section 25.16 of the Declaration.

2. **ESTATE OF UNIT OWNER**

As previously noted, each Unit Owner will own a fee simple interest in his or her Unit together with its undivided interest in the Common Areas. Section 9.02 of the Declaration allocates such undivided interest on the basis of approximate square footage of a Unit being equal to par value, which is within the allocations permitted by this Paragraph and Section 5311.04 of the Ohio Revised Code.

3. **CONDOMINIUM DOCUMENTATION**

(a) **Compliance With Applicable Law**

The Condominium Instruments conform to Ohio Law and all applicable Local Law.

(b) **Recordation**

The Declaration will be Recorded together with the By-Laws as an Exhibit thereto. The term Recorded is defined in Section 1.36 of the Declaration to mean the recording with the Recorder of Warren County, Ohio. Section 5311.06 of the Ohio Revised Code requires such recording. The Articles will be filed with the Secretary of State of Ohio.

(c) **Availability**

The availability of the Condominium Instruments and financial statements as required by this Sub-Paragraph is set forth in Section 25.07 of the Declaration. The availability of audited financial statements as required by this Sub-Paragraph, upon written request, is set forth in Section 5.10 of the By-Laws.

4. **REAL PROPERTY DESCRIPTION**

(a) **Property Description**

The descriptions required by this Sub-Paragraph are clearly set forth in the Declaration and are in conformity with Ohio Law and Local Law. See, Article III of the Declaration with respect to the land, Article V of the Declaration as to Units, Article VI of the Declaration as to Common Areas, and Article VII of the Declaration as to Limited Common Areas.

The maintenance and repair responsibilities and the allocation thereof between a Unit Owner and the Association are clearly set forth in Article XIV of the Declaration.

(b) **Development Plan**

The development plan for the Condominium is clearly set forth in the Declaration with respect to the Units to be submitted therein. The development plan for additional Units and Common Areas is set forth in Article XXII of the Declaration. These provisions are considered reasonable and consistent with the provisions of this Sub-Paragraph. With respect to additional property, the provisions comply with Section 5311.05(C) of the Ohio Revised Code.

5. **DECLARANT'S RIGHTS AND RESTRICTIONS**

(a) **Disclosure and Reasonableness of Reserved Rights**

All rights reserved to the Declarant in the Condominium Instruments are specifically set forth therein, are considered reasonable and consistent with Ohio Law.

(b) **Examples of Acts and Reserved Rights which are Usually Unacceptable**

No such unacceptable rights are reserved to the Declarant. Section 12.09 of the Declaration specifically prohibits such unacceptable rights.

(c) **Examples of Reserved Rights which are Usually Acceptable**

The specified acceptable reserved rights of the Declarant as set forth in this Sub-Paragraph are set forth in Sections 2.02, 15.05, 15.06 and 15.11 of the Declaration.

6. **TRANSFER OF CONTROL**

Section 12.06 of the Declaration and the definition of Control Period in Section 1.20 of the Declaration are consistent with the requirements and within the parameters set forth in this Paragraph and the requirements of Section 5311.08(D) of the Ohio Revised Code. Section 12.06 of the Declaration is also consistent with Section 5311.08(C) of the Ohio Revised Code which provides a mechanism to foster the early participation of Unit Owners in the management of the Condominium.

7. **OWNERS ASSOCIATION'S RIGHTS AND RESTRICTIONS**

(a) **Right of Entry Upon Units and Limited Common Elements**

Section 15.10 of the Declaration gives the Association a right of entry to a Unit for emergency repairs. Section 15.02 of the Declaration gives the Association a reasonable right of entry to a Unit for maintenance and repair purposes.

(b) **Power to Grant Rights and Restrictions in Common Elements**

Section 15.04 of the Declaration gives the Association a right to grant utility easements through the Common Areas.

(c) **Responsibility for Damage to Common Elements and Units**

There are no requirements in this Sub-Paragraph and no such provisions have been made. General rules of law would apply.

(d) **Assessments**

The assessment procedure for the Condominium is set forth in Article XXI of the Declaration and Article V of the By-Laws which are consistent with the requirements of this Sub-Paragraph and Ohio Law.

Section 5.03 of the By-Laws complies with the requirements of this Sub-Paragraph concerning the creation and maintenance of a reserve fund by the Association.

Sections 21.07 and 21.10 of the Declaration comply with and are consistent with the requirements of this Sub-Paragraph dealing with the priority of the lien of the Association and a mortgagee's right in the event of foreclosure.

8. **UNIT OWNERS' RIGHTS AND RESTRICTIONS**

(a) **Obligation to Pay Expenses**

The Declaration in general and specifically Section 5.01 of the By-Laws create a duty upon Unit Owners to pay assessments which are allocated on the basis of Percentage of Ownership pursuant to Section 21.02 of the Declaration. These provisions are consistent with the requirements of this Sub-Paragraph.

(b) **Voting Rights**

Section 12.03 of the Declaration provides for one (1) vote per Unit which is within the parameters set forth by this Sub-Paragraph.

(c) **Ingress and Egress of Unit Owners**

The Condominium Instruments do not impose any restrictions upon a Unit Owner's right of ingress and egress to his or her Unit. Section 8.01 of the Declaration specifically grants each Unit Owner a perpetual easement appurtenant to his or her Unit for ingress and egress.

(d) **Easements for Encroachments – Units and Common Elements**

Section 15.01 of the Declaration is consistent with the requirements set forth in this Sub-Paragraph.

(e) **Right of First Refusal**

The Condominium Instruments do not provide for any right of first refusal or similar restrictions. Section 13.06 of the Declaration expressly prohibits any Amendment creating such rights and permits unrestricted transfer of a Unit.

(f) **Leasing Restrictions**

Section 11.11 of the Declaration is consistent with the requirements of this Sub-Paragraph.

9. **FIRST LIEN HOLDERS' RIGHTS**

(a) **Notices of Action**

The notice requirements of this Sub-Paragraph are set forth in Section 25.05 of the Declaration.

(b) **Other Provisions for First Lienholders**

The requirements of this Sub-Paragraph are set forth in Section 26.06 of the Declaration.

10. **AMENDMENT TO DOCUMENTS**

No requirements are set forth in this Paragraph. However, at a minimum, the Declaration requires seventy-five percent (75%) approval for any Amendment which is in excess of the stated guidelines for this Paragraph and consistent with Ohio Law. In addition, Section 13.02 of the Declaration affords mortgagee and underwriting protection in excess of the suggested guidelines of this Paragraph.

11. **RIGHTS OF ACTIONS**

Sections 20.01 and 20.02 of the Declaration set forth the Association's rights against a Unit Owner for failure to comply with the Condominium Instruments, including any Rules and Regulation. Section 20.03 of the Declaration sets forth the rights of any party which is a restatement of Section 5311.09 of the Ohio Revised Code.

12. **FLEXIBLE CONDOMINIUMS**

(a) **Expandable Condominiums**

The Condominium is expandable by nature. Article XXII of the Declaration is consistent with the requirements of Section 5311.05 of the Ohio Revised Code and the requirements of this Sub-Paragraph.

The Declarant's right to expand is fully set forth in Article XXII of the Declaration. Section 22.06 of the Declaration requires additional improvements to be consistent in terms of quality of construction.

Section 22.09 of the Declaration requires all added improvements to be substantially completed. Section 22.02 of the Declaration and the definition of Development Period set forth in Section 1.25 of the Declaration are consistent with and within the parameters of this Sub-Paragraph. The method for the reallocation of Percentage of Ownership is set forth in Section 22.10 of the Declaration and is consistent with Paragraphs 2 and 8.

(b) **Other Flexible Condominiums**

Not applicable.

13. POLICIES FOR BY-LAWS

The By-Laws are sufficiently detailed for the successful governance of the Condominium by the Unit Owners. Section 2.02 of the By-Laws provides for the election of the Board of Managers and Section 2.05 of the By-Laws provides for their removal. Section 3.01 of the By-Laws provides for the election of officers and Section 3.02 provides for their removal.

14. INSURANCE AND RELATED REQUIREMENTS

(a) Type and Insurance Coverage Required

Section 16.01 of the Declaration sets forth the fire and other peril insurance requirements for the Condominium. The provisions thereof are consistent with the requirements of this Sub-Paragraph.

Section 18.01 of the Declaration sets forth the liability insurance requirements for the Condominium. The provisions thereof are consistent with the requirements of this Sub-Paragraph.

The notice requirements in the event of the cancellation of insurance as set forth in this Sub-Paragraph are satisfied by Sections 16.03 and 18.06 of the Declaration.

(b) Insurance Trustee; Power of Attorney

Article XVII of the Declaration is in conformity with and meets the requirements of this Sub-Paragraph.

(c) Qualifications of Insurance Carrier

Section 16.01 of the Declaration requires the insurance carrier to be generally acceptable as required by this Sub-Paragraph.

(d) Condemnation and Total or Partial Loss or Destruction.

Section 24.02 of the Declaration provides that the Association shall represent the Unit Owners in all condemnation proceedings, or in negotiations, settlements and agreements with the condemning authority for any acquisition of any part or all of the Common Areas and further appoints the Association as attorney-in-fact for such purposes.

Section 24.03 of the Declaration provides that any damage for the taking, injury or destruction of the Common Areas shall be held by the Association for the benefit of the Unit Owners and their mortgagees and disburse as their respective interest may appear.

All insurance proceeds are payable to the Association and all negotiations with respect to negotiation in the event of loss shall be handled by the Association on behalf of the Unit Owners pursuant to Section 16.01 of the Declaration which is consistent with the requirements of this Sub-Paragraph.

Dated: July 10, 2000

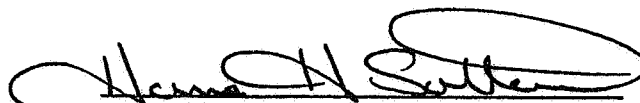

Hans H. Soltau

EXHIBIT "A"

DEFINITIONS

1.01 **General.** The following terms used in the Declaration and By-Laws are defined as hereinafter set forth.

1.02 **Additional Property** shall mean adjacent or adjoining property which is described in Exhibit "D" and which, together with improvements thereon, may be added in the future to the Condominium, excepting therefrom any Property submitted hereby.

1.03 **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.

1.04 **Amendment and/or Amendments** shall mean an instrument executed with the same formalities of the Declaration and Recorded for the purpose of amending the Declaration, the By-Laws or any other Exhibits thereto.

1.05 **Articles and/or 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.

1.06 **Association** shall mean Pebble Creek of Mason Condominium Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

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

1.08 **By-Laws** shall mean the By-Laws of the Association, which are attached as Exhibit "C" as the same may be lawfully amended from time to time, created under and pursuant to the provisions 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.

1.09 **Common Areas and/or Common Areas and Facilities** shall mean all the Condominium Property except that which is specifically defined and referred to as a Unit.

1.10 **Common Assessments** shall mean the assessments charged proportionately on the basis of Percentage of Ownership against all Units for common purposes.

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

1.12 Common Losses shall mean the amount by which the Common Expenses during any period of time exceeds Common Assessments and Common Profits during that period.

1.13 Common Profits shall mean the amount by which the total income received from assessments charged for special benefits to specific Units, rents received from rentals of equipment or space in Common Areas, and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.

1.14 Common Surplus shall mean the amount by which Common Assessments collected during any period exceeds Common Expenses.

1.15 Condominium shall mean Pebble Creek of Mason Condominium, the condominium regime for the Condominium Property created under and pursuant to the provisions of Chapter 5311 of the Ohio Revised Code.

1.16 Condominium Development shall mean a Condominium Property in which two (2) or more individual Units together with their undivided interests in the Common Areas are offered for sale pursuant to a common promotional plan.

1.17 Condominium Instruments shall mean the Declaration, the Drawings and By-Laws attached as Exhibits thereto, any contract pertaining to the management of the Condominium Property, and all other documents, contracts or instruments establishing ownership or exerting control over the Condominium Property or a Unit.

1.18 Condominium Ownership Interest shall mean a fee simple estate or a ninety- nine (99) year leasehold estate, renewable forever in a Unit, together with its appurtenant undivided interest in the Common Areas.

1.19 Condominium Property shall mean land, all buildings, improvements and structures on the land, all easements, rights and appurtenances belonging to the land, and all articles of personal property submitted to the provisions of Chapter 5311 of the Ohio Revised Code by this Declaration and any Amendment.

1.20 Control Period shall mean a period of time five (5) years from the date on which this Declaration is Recorded or a period of time until seventy-five percent (75%) of the Condominium Ownership Interests have been sold and conveyed, whichever first occurs. For purposes hereof, 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 the provisions of the Declaration.

1.21 Conversion Condominium Development shall mean a Condominium Development that was originally operated as a rental property occupied by tenants prior to the time that the Condominium Property is or was submitted to the provisions of Chapter 5311 of the Ohio Revised Code and the Units are offered for sale.

1.22 Declarant shall mean Charles V. Simms Development Corporation, an Ohio corporation, its successors and assigns.

1.23 Declaration shall mean the instrument by which the property hereinafter described is submitted to the provisions of Chapter 5311 of the Ohio Revised Code and any and all Amendments.

1.24 Developer shall mean the Declarant, any successor to the Declarant who stands in the same relation to the Condominium Property as the Declarant, and any person who directly or indirectly sells or offers for sale a Condominium Ownership Interest.

1.25 Development Period shall mean a period of time seven (7) years from the date on which this Declaration is Recorded.

1.26 Drawings shall mean those drawings, as the same may be lawfully amended from time to time, which are attached as Exhibit "B".

1.27 Exhibit shall mean any document or instrument attached to the Declaration.

1.28 Insurance Trustee shall mean any bank located in Warren County, Ohio with trust powers and total assets in excess of Fifty Million Dollars (\$50,000,000.00) which has been selected by the Association pursuant to the provisions of the Declaration.

1.29 Limited Common Areas and/or Limited Common Areas and Facilities shall mean and include those Common Areas designated in this Declaration and in an Amendment as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

1.30 Majority of Unit Owners shall mean those Unit Owners holding fifty-one percent (51%) of the voting power of the Association.

1.31 Managing Agent shall mean a manager or managing agent retained or employed by the Association pursuant to the provisions of the Declaration.

1.32 **Member** depending on its context, shall mean a Unit Owner that is subjected hereto and/or a member of the Association.

1.33 **Pebble Creek Maintenance Plan** means the Pebble Creek Floodplain Maintenance Plan entered into between the Declarant, on behalf of the Association, and the City of Mason, Ohio, and any amendment thereto, for the inspection and maintenance next to Muddy Creek for the northern part of the Property which lies within the 100 year designated floodplain.

1.34 **Percentage of Ownership** shall mean the ownership interest of each Unit in the Common Areas as set forth in the Declaration.

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

1.36 **Quorum** shall mean the presence in person or by proxy of a Majority of Unit Owners.

1.37 **Recorded** shall mean the recording with the Recorder of Warren County, Ohio.

1.38 **Rules and Regulations** shall mean those rules and regulations as may be amended from time to time adopted by the Board of Managers.

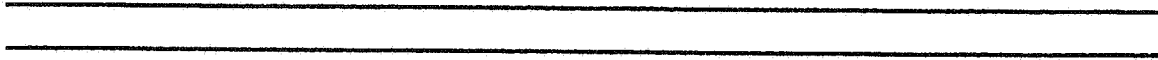
1.39 **Special Individual Unit Assessment** shall mean an assessment levied or charged by the Board of Managers against a Unit or Units pursuant to the provisions of the Declaration which provides that a particular Unit or Units may be responsible for expenses, charges or costs which are not chargeable or assessable against all Units in the Condominium.

1.40 **Unit** shall mean a part of the Condominium Property consisting of one or more rooms on one or more floors of a building(s) which are designated a Unit by this Declaration or Amendment thereto and are delineated on the Drawings and in the Drawings attached to an Amendment.

1.41 **Unit Owner** shall mean a Person who owns a Condominium Ownership Interest in a Unit.



EXHIBIT "C"



PEBBLE CREEK OF MASON CONDOMINIUM ASSOCIATION, INC.

BY-LAWS



BY-LAWS
TABLE OF CONTENTS

ARTICLE I
THE ASSOCIATION..... 1

1.01 Name of Association..... 1
1.02 Membership and Voting Rights..... 1
1.03 Proxies..... 1
1.04 Place of Meetings 1
1.05 First Meeting 1
1.06 Special Meetings 2
1.07 Notice of Meetings..... 2
1.08 Waiver of Notice 2
1.09 Action by Unanimous Written Consent of the Unit Owners 2
1.10 Order of Business..... 2

ARTICLE II
BOARD OF MANAGERS..... 3

2.01 Number and Qualification 3
2.02 Election of Managers..... 3
2.03 Vacancies During the Term 3
2.04 Term of Office; Resignation 3
2.05 Removal of Managers 3
2.06 Organization Meeting 4
2.07 Regular Meetings 4
2.08 Special Meetings 4
2.09 Board of Managers' Quorum 4
2.10 Action by Unanimous Written Consent of the Board of Managers..... 4
2.11 Fidelity Bonds..... 4

ARTICLE III
OFFICERS 5

3.01 Designation..... 4
3.02 Term of Office, Vacancies 5
3.03 President 5
3.04 Secretary 5
3.05 Treasurer..... 5

**ARTICLE IV
GENERAL POWERS OF THE ASSOCIATION 5**

4.01 Payments from Maintenance Funds 5

(a) Utility Services for Common Areas and to Units when Measured by Common Meter 5

(b) Care of Common Areas 6

(c) Pebble Creek Maintenance Plan 6

(d) Certain Maintenance of Limited Common Areas 6

(e) Casualty Insurance 6

(f) Liability Insurance 6

(g) Wages and Fees for Services 6

(h) Workmen's Compensation 6

(i) Discharge of Mechanic's Liens 7

(j) Additional Expenses 7

4.02 Delegation of Duties 7

**ARTICLE V
DETERMINATION AND PAYMENT OF ASSESSMENTS 7**

5.01 Obligation of Owners to Pay Assessments 7

5.02 Preparation of Estimated Budget 7

5.03 Reserve for Contingencies and Replacements 8

5.04 Periodic Assessments 8

5.05 Uniform Per Unit Expense 8

5.06 Budget for First Year 8

5.07 Failure to Prepare Annual Budget 9

5.08 Books and Records of the Association 9

5.09 Assessments 9

5.10 Audit 9

5.11 Remedies for Failure to Pay Assessments 9

**ARTICLE VI
GENERAL PROVISIONS 10**

6.01 Copies of Notices to Mortgage Lenders 10

6.02 Service of Notices on the Board of Managers 10

6.03 Non-Waiver of Covenants 10

6.04 Agreements Binding 10

6.05 Severability 10

6.06 Amendment 10

SIGNATURES 11

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 Owner's 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. 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. The terms used herein shall have the same meaning as defined in the Declaration.

ARTICLE I **THE ASSOCIATION**

1.01 **Name of Association.** The Association shall be an Ohio corporation, not-for-profit, and shall be called **PEBBLE CREEK OF MASON CONDOMINIUM ASSOCIATION, INC.**

1.02 **Membership and Voting Rights.** Membership requirements and the voting rights of its Members are set forth in the Declaration.

1.03 **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.

1.04 **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.

1.05 **First Meeting.** The first meeting of the Members shall be held within the time limits prescribed by the Declaration and shall be considered the first annual meeting.

1.06 **Special Meetings.** It shall be the duty of the President of the Association to call a special meeting of the Unit Owners as directed by resolution of the Board of Managers or upon a petition signed by a majority of the Unit 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 Unit Owners present, either in person or by proxy.

1.07 **Notice of Meetings.** 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 Unit Owner of record, at least fourteen (14) days but not more than twenty-eight (28) days prior to such meeting. The Unit Owners of record will be determined as of the day preceding the day on which notice is given.

1.08 **Wavier of Notice.** Notice of the time, place and purpose of any meeting of Members may be waived in writing, either before or at the commencement of such meeting by any Members which writing shall be filed with or entered upon the records of the meeting. The attendance of any Members 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 wavier by him of notice of such meeting.

1.09 **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 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.

1.10 **Order of Business.** The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or wavier 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 three (3) Persons, all of who must be Unit Owners or occupants of a Unit who are related to a Unit 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 fourth member of the Board of Managers. Such representative need not be a Unit Owner or occupier of a Unit.

2.02 **Election of Managers.** The required managers shall be elected at each annual meeting of the Members. 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 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, 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 on 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, 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 the term of office of two (2) managers shall be fixed so that such term will expire one year from and after the date of the next following annual meeting of the Members. The term of office of the remaining manager shall be fixed so that such term will expire at the date of the next following annual meeting of the Members. At the expiration of such initial term of office of each respective manager, his successor shall be elected to serve for a term of (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 that a 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 shall be given an opportunity to be heard at such meeting. In

the event that a manager is removed by vote, his successor shall then and there by elected to fill the vacancy thus created.

2.06 **Organization Meeting.** Immediately after each annual meeting of the Members 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 time and place as shall be determined by a majority of the managers, but at least four (4) such meetings shall be held during each year.

2.08 **Special Meetings.** Special Meetings of the Board of Managers may be held at any time upon call by the President or any two (2) managers. Written notice of the time and place of each such meeting shall be given to each manager either by personal delivery, mail, 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 the Association funds shall furnish adequate fidelity bonds. The premiums for 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 **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.

3.05 **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 Unit Owner to reimburse it for excessive use, as shall be determined by the Board of Managers, by such Unit Owner of any utility service having been charged against or to the maintenance fund.

(b) Care of Common Areas. The cost of landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Areas.

(c) Pebble Creek Maintenance Plan. The costs incurred by the Association in fulfilling its obligations for maintenance under the Pebble Creek Maintenance Plan.

(d) Certain Maintenance of Limited Common Areas. The cost of the maintenance and repair of any Limited Common Areas 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 Unit Owner or Unit 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 Unit Owner or Unit Owners, provided the Association shall levy a Special Individual Unit 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 Unit Owners against any liability to the public or to the Unit Owners, their invites 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 Managing Agent 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.

(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 Unit 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 Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it. Any costs incurred by the Association because of said lien or liens shall be specifically assessed to said Unit 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 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.

ARTICLE V

DETERMINATION AND PAYMENT OF ASSESSMENTS

5.01 Obligation of Owners to Pay Assessments. Each Unit Owner shall have the duty and obligation 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 based on his Percentage of Ownership. Payment thereof shall be in such amounts and at such times as may be determined by the Board of Managers as hereinafter provided.

5.02 Preparation of Estimated Budget. The Association shall, on or before December 31st. 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 Unit Owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereto. On or before January 1st. of the ensuing year and the 1st. of each and every month of said year each Unit 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 Unit 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 in excess of the amount required for actual expenses and reserves shall be credited according to each Unit Owner's Percentage of Ownership to the next monthly installment due from Unit Owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each Unit Owner's Percentage of Ownership 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 Unit Owner's assessment, the same shall be assessed to the Unit Owners according to each Unit Owner's Percentage of Ownership or as otherwise stated herein. The Association shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the reasons therefor, the amounts and the date or dates when such further assessment may be payable in a lump sum or in installments.

5.04 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.

5.05 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.

5.06 Budget for First Year. When the first Board of Managers hereunder takes 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 Unit Owners during said period as previously provided for.

5.07 Failure to Prepare Annual Budget. The failure or delay of the Association to prepare or serve the annual or adjusted estimate on the Unit Owner shall not constitute a waiver or release in any manner of such Unit 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 Unit 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.

5.08 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, Common Losses and Common 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 Ownership. Such books and records shall be open for inspection by any Unit Owner or any representative of a Unit Owner, duly authorized in writing, at reasonable times and upon request by a Unit 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 Unit Owner.

5.09 Assessments. Monthly assessments shall begin when the Declaration is Recorded. These assessments shall be paid by every Unit Owner of record including those Units the title of which is vested in Declarant after the Declaration is Recorded.

5.10 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.

5.11 Remedies for Failure to Pay Assessments. If a Unit 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 **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 Unit Owner or Unit Owners whose Unit ownership is subject to such mortgage, and a copy of any lien filed by the Association.

6.02 **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.

6.03 **Non-Wavier 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.

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

6.05 **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.

6.06 **Amendment.** The provisions hereof may be amended pursuant to the requirements set forth in the Declaration.

IN WITNESS WHEREOF, Charles V. Simms Development Corporation, an Ohio corporation, has caused the execution of this instrument this 19 day of October, 2000.

Signed and acknowledged
In the presence of:

**CHARLES V. SIMMS
DEVELOPMENT CORPORATION**

Cynthia L. Larkins

By: Hans H. Soltau
Hans H. Soltau
Vice President

Jennifer L. Soltau

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

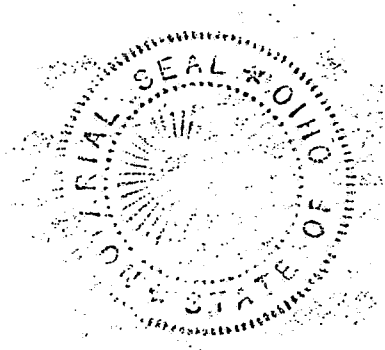
The foregoing instrument was acknowledged before me this 19 day of October, 2000 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

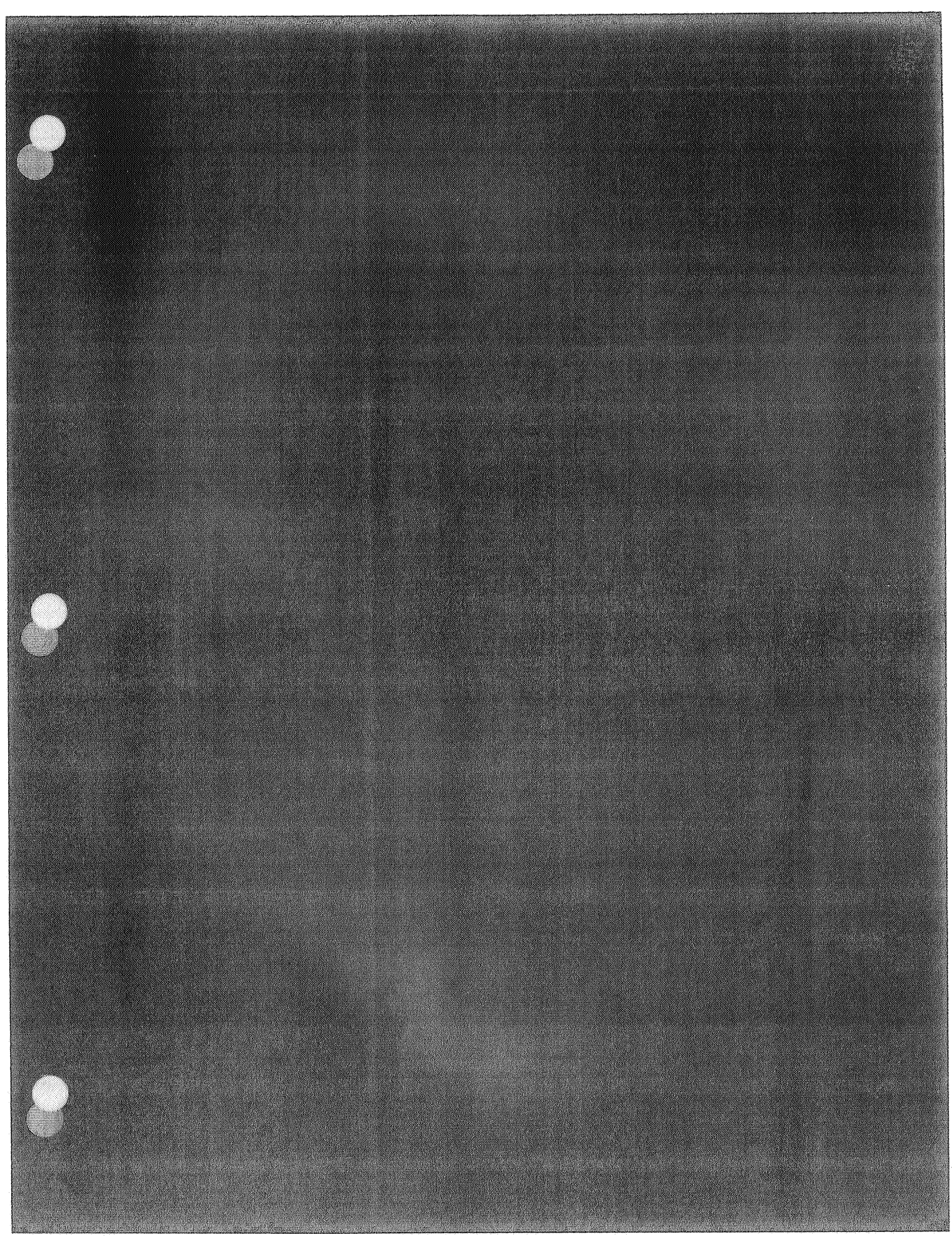
Cynthia L. Larkins
Notary Public

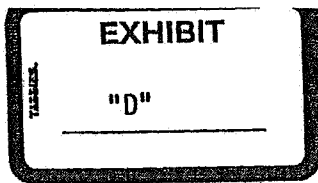
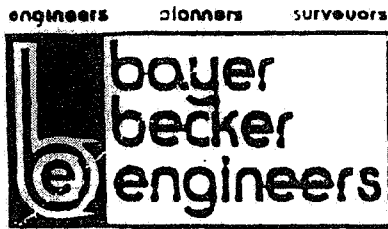
CYNTHIA L. LARKINS, Notary Public
In and For the State of Ohio
My Commission Expires Nov. 6, 2001

THIS INSTRUMENT PREPARED BY:

**HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459**







6900 tylersville road, suite a
mason, oh 45040
(513) 336-6600
fax (513) 336-9365

PARCEL 1

September 27, 1999

DESCRIPTION:

10.000 Acre Parcel
Weatherstone

LOCATION:

City of Mason
Warren County, Ohio

Situated in Sections 19 & 25, Town 4, Range 3, The City of Mason, Warren County, Ohio and being a 10.000 acre parcel further described as follows:

Begin at a point found by measuring from the intersection of the centerline of State Route 741 and the West section line of said Section 19; thence departing said centerline with said section line South 04°52'03" West, 185.85 feet to the southwesterly right-of-way of said State Route 741 to a set 5/8" iron pin;

- thence from the point of beginning thus found departing said section line and continuing along said right-of-way the following two courses: South 13°58'01" East, 366.48 feet to a set 5/8" iron pin;
- thence with a curve to the left having a radius of 3966.53 feet, an arc length of 196.96 feet, (chord = South 15°23'20" East, 196.94 feet) to a set 5/8" iron pin;
- thence departing said right-of-way and with the new division line the following 16 courses: with a curve to the left having a radius of 98.50 feet, an arc length of 112.28 feet, (chord = South 44°01'38" West, 106.30 feet);
- thence with a curve to the right having a radius of 126.50 feet, an arc length of 186.85 feet, (chord = South 53°41'11" West, 170.32 feet);
- thence with a curve to the left having a radius of 286.00 feet, an arc length of 157.66 feet, (chord = South 80°12'29" West, 155.67 feet) to a set 5/8" iron pin;
- thence North 25°35'03" West, 36.17 feet to a point;
- thence South 66°04'20" West, 104.52 feet to a point;
- thence South 38°36'55" West, 89.27 feet to a point;
- thence South 22°38'35" West, 158.09 feet to a point;
- thence South 38°14'55" West, 213.50 feet to a point;
- thence South 50°32'32" West, 132.89 feet to a point;
- thence South 39°51'41" West, 96.16 feet to a point;
- thence North 50°08'19" West, 13.60 feet to a point;
- thence South 40°19'44" West, 134.89 feet to a point;

thence South 15°44'22" East, 17.81 feet to a point;
thence South 61°32'47" West, 81.99 feet to a set 5/8" iron pin;
thence South 13°30'02" West, 95.57 feet to a set 5/8" iron pin;
thence North 28°58'20" West, 274.33 feet to a set 5/8" iron pin in the southerly
line of Franklin O. & Charlene E. Bravard as recorded in Official
Record 481, Page 714 of the Warren County Recorder's Office;
thence with said Bravard the following two courses: North 57°24'04" East,
132.47 feet to a set 5/8" iron pin;
thence North 85°01'43" West, 68.98 feet to a set 5/8" iron pin in the southerly
line of John E. Sulfsted as recorded in Deed Book 923, Page 119 of
the Warren County Recorder's Office;
thence with said Sulfsted the following five courses: North 06°48'14" East,
110.13 feet to a set 5/8" iron pin;
thence North 31°09'14" East, 115.24 feet to a set 5/8" iron pin;
thence North 71°00'14" East, 160.02 feet to a set 5/8" iron pin;
thence North 53°26'14" East, 213.84 feet to a set 5/8" iron pin;
thence North 06°46'14" East, 255.83 feet to a set 5/8" iron pin;
thence North 77°51'30" East, 302.43 feet to a set 5/8" iron pin, in the southerly
line of Jayavant R. And Varsha J. Bhakta as recorded in Official
Record 358, Page 681 of the Warren County Recorder's Office;
thence continuing along southerly line-North 52°02'30" East, 329.78 feet to a
set 5/8" iron pin in the west line of Jayavant R. Bhakta as recorded in
Official record 666, Page 574 of the Warren County Recorder's Office;
thence with said Bhakta South 85°41'32" East, 16.48 feet to a set 5/8" iron pin
in the West line of Section 19;
thence with said West line of Section 19 North 04°52'03" East, 321.02 feet to
the point of beginning containing 8.430 acres in Section 25, 1.570
acres in Section 19, for a total of 10.000 acres of land subject to all
easements and rights-of-way of record.

The above description is the result of a survey prepared by Jeffrey O. Lambert with Bayer Becker Engineers, Ohio Registered Surveyor No. 7568 dated September 27, 1999, the survey plat of which is filed in Vol. 109 Plat No. 30 of the Warren County Engineer's Record of Land Division.

PARCEL 2

Being approximately 18± acres of real property located adjacent to Parcel owned by Weatherstone AT Mason, LLC which Declarant has a right to purchase.

Pebble Creek Floodplain Maintenance Plan

Pursuant to the requirements and guidelines established in the National Flood Insurance Program (NFIP), Section 65.10, Paragraph (d), entitled "*Maintenance plans and criteria*"; this document describes the Proposed Maintenance Plan for the above-mentioned area.

The plan is described in three parts. *Part 1* specifies the minimum maintenance activities required to be performed. *Part 2* specifies the maximum frequency of the performance of these maintenance activities, and in addition, the maximum frequency of required inspections. *Part 3* identifies the individual(s) and associated entities, responsible for maintenance activities and inspections.

The designated reach of the Pebble Creek Floodplain for which this maintenance plan is specifically applicable includes all areas next to the Muddy Creek along the north property line of Pebble Creek Condominiums. Let it be clear that Pebble Creek Condominiums owns only to the center line of the Muddy Creek and then responsibility lies only up to the property line. The specifics of the Maintenance Plan refer to the floodplain area between the designated "100-year" floodplain limits.

PEBBLE CREEK FLOODPLAIN MAINTENANCE PLAN

PART 1: REQUIRED MAINTENANCE ACTIVITIES

The flood carrying capacity within the altered, relocated or natural "100-year" floodplain limits shall be maintained without obstruction. The floodplain conditions, configuration, and conveyance capacity as delineated in the "*Proposed Condition*" *Hydraulic Backwater Model* supplied to the City of Mason are to be maintained. Specifically, no activities that would reduce the flood carrying capacity of the floodplain, such as earth movement, placement of temporary or permanent structures, fences, debris accumulation, dense shrubbery or similar, is permitted.

The floodplain shall be maintained with surface cover conditions that protect the stream channel, embankments, slopes or banks from any appreciable erosion or scour. Typically, the Home Owners Association shall maintain a dense stand of grass or ground cover adequate for the anticipated flood-flow velocities. Sections of the floodplain that have been armored with vegetated geosynthetic mats, graded stone or rip-rap shall be maintained in a competent condition. Although the floodplain will be maintained with a competent grass stand or ground cover, these covers shall be managed and maintained at regular intervals. In doing so, the floodplain shall not become overgrown. Periodic trimming of these grasses or ground covers will facilitate the visual inspections of the floodplain. The floodplain is not a depository for yard clippings, topsoil, construction debris or firewood storage. Existing trees within the floodplain shall be maintained, since these trees have developed as an integral part of the riparian waterway system.

The channel, along the north property line of Pebble Creek in addition to associated appurtenances and structures, shall be maintained to original design configurations and capacities. These appurtenances are headwall/wingwalls, graded stone outlet protection and emergency overflow channels from the adjacent detention basin. The earthen slopes and embankments which form the sides of the channel and detention basins shall be maintained in their original competent condition, with a dense stand of grass or ground cover. The outlet devices from the detention basin(s) and/or storm sewer system, which outlet into the floodplain shall be maintained without obstruction. Any erosion or scour occurring in the floodplain, as a result of storm water outflow from these devices, shall be immediately addressed by the placement or re-placement of a properly designed outlet protection control. Typically, such designs consist of properly grouted stone, of sufficient size, gradation and areal extent to dissipate the erosive action of the storm outflows. Any erosion rills, scour holes or disturbance areas of the stream embankments, banks or channel shall be reconstructed before establishing permanent protection such as stone, rip-rap or vegetative cover. Any slope or embankment reconstruction shall be carried out using clean soil compacted against competent subgrade, to a minimum of 95% of maximum density, ASTM D-698. The top elevation and width of embankment levees shall be maintained to original design dimensions.

PART 2: FREQUENCY OF MAINTENANCE ACTIVITIES AND INSPECTIONS

Maintenance activities, such as activities described in Part 1, and any other maintenance required, shall be completed as soon as practically feasible once these maintenance items are determined. The urgency of such maintenance would be commensurate with the level of risk created by the un-maintained condition. Periodic, recurring maintenance items such as mowing, trimming, trash or debris removal shall be completed on a regular basis in order that such areas do not become overgrown or a storm water outlet capacity reduced by debris.

An inspection of the floodplain is to be made by the Home Owners Association and a copy of the inspection report shall be provided to the City of Mason yearly in perpetuity. This inspection will be the responsibility of the Home Owners Association. A visual inspection by a registered professional engineer, who is familiar with FEMA floodplain guidelines and design/analysis standards of floodplains, shall be made on a yearly basis for the entire stream reach and drainage appurtenances. In addition, a registered professional engineer shall conduct an inspection of the stream reach and appurtenances after a 10-year or larger rainfall event has occurred in the watershed. A written inspection report of the conditions, observations and recommended maintenance or repairs (if any) shall be provided to the City of Mason after each inspection. Any required maintenance, repairs or remediation shall be shown and detailed in the report. If maintenance or repairs are required, a subsequent inspection of such remediation shall be conducted by the engineer, with a follow-up report submitted to the City of Mason.

If repairs are required, the City of Mason shall be notified in writing prior to the initiation of the repairs. The Home Owners Association has 60 calendar days in which to begin the repairs or notify the City of Mason, in writing, as to the reason(s) why repairs have not been initiated. The repairs must begin and be proceeding, substantially, towards completion within 30 calendar days of the above written notification to the City of Mason. If repairs have not begun or are not proceeding, substantially, the City of Mason will complete the necessary repairs and assess the Home Owners Association for any costs associated with the necessary actions.

Determination of a 10-year rainfall event will require engineering judgement, the contacting of the local National Weather Service Station, as well as eventually obtaining rainfall records to verify the return frequency of the rainfall event. An estimate of the return frequency of the rainfall event can only be made after the event has occurred, and rainfall amounts, durations, and intensities have been determined. With no rainfall gaging device installed on-site, the initial determination of the return frequency is at best an estimate, based on experience, observed flood flows and rainfall amounts provided by local meteorological or weather information organizations. One of the local National Weather Service offices will be able to provide rainfall amounts (in inches or centimeters) or possibly a peak rainfall intensity (inches/hour or centimeters/hour). To assist in determining the return frequency of the rainfall, for this particular watershed, the attached plot can be employed. The plot is based on the use of an intensity-duration-frequency (IDF) relationship for the Mason, Ohio vicinity. A time of concentration of approximately 2.5 hours was determined using the most Northeasterly intersection of the Muddy Creek and the Pebble Creek property line as the point of interest. A rainfall event with a duration less than the time of concentration should not be considered a 10-year event for the purposes of this maintenance plan. The City of Mason shall have the final determination on whether a 10-year rainfall event has actually occurred.

The attached plot (see pg. 7), represents, approximately, the 10-year rainfall Depth-Duration-Frequency (DDF) relationship for the watershed area contributing at the point of interest previously described. The plot can be used by plotting the depth of rainfall (inches) for the corresponding time duration of that rainfall depth (hours). As an example, if the National Weather Service indicated that 3" (inches) of rain occurred over a 4 hours time duration, (FOR THE MASON, OHIO, SOUTHWESTERN WARREN COUNTY VICINITY), this depth would plot above the 10-year rainfall depth-duration curve. Therefore, the application of this plot would indicate that a 10-year or greater rainfall probably occurred for this watershed, and therefore an inspection shall be conducted.

Several rainfall gaging stations in the vicinity of Mason, Ohio will have rainfall records that may be used, depending on the areal extent of the rainfall, to give an indication of the return frequency of the rainfall event in question. The closest rainfall gaging station is a "co-op" gaging station in Kings Mill, Ohio. This gaging station is the nearest gaging station to the site, as far as the writer is aware. The rainfall reporting from the Kings Mill station is on a daily basis. With the time of concentration, of the Muddy Creek reach, greater than one hour at the point of interest, one hour or closer time increment recording is required. Fifteen minute rainfall data is also available, but the gaging stations closest to Mason, with such data, are in Fairfield, OH; Wilmington, OH; and Lebanon, OH, all of which are much further away from the watershed than Kings Mill. Determination of the temporal rainfall distribution, for the watershed, can be determined by the use of the Thiessen polygon method, the Isohyetal method or a combination of these methods using the more distant gaging station data.

Rainfall data is available in hard copy or on a floppy, through:

*NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL CLIMATIC DATA CENTER
FEDERAL BUILDING
ASHEVILLE, NC 28802-2696*

*(828) 271-4800 GENERAL #
www.NCDC.NOAA.GOV*

The gaging station numbers are:

KINGS MILL, OHIO (CO-OP Station, Index #4238, Division #08)
FAIRFIELD, OHIO (Station Number 33-2651)
LEBANON, OHIO (Station Number 33-4459)
WILMINGTON, OHIO (Station Number 33-9224)

Only the last three stations provide 15-minute rainfall data.

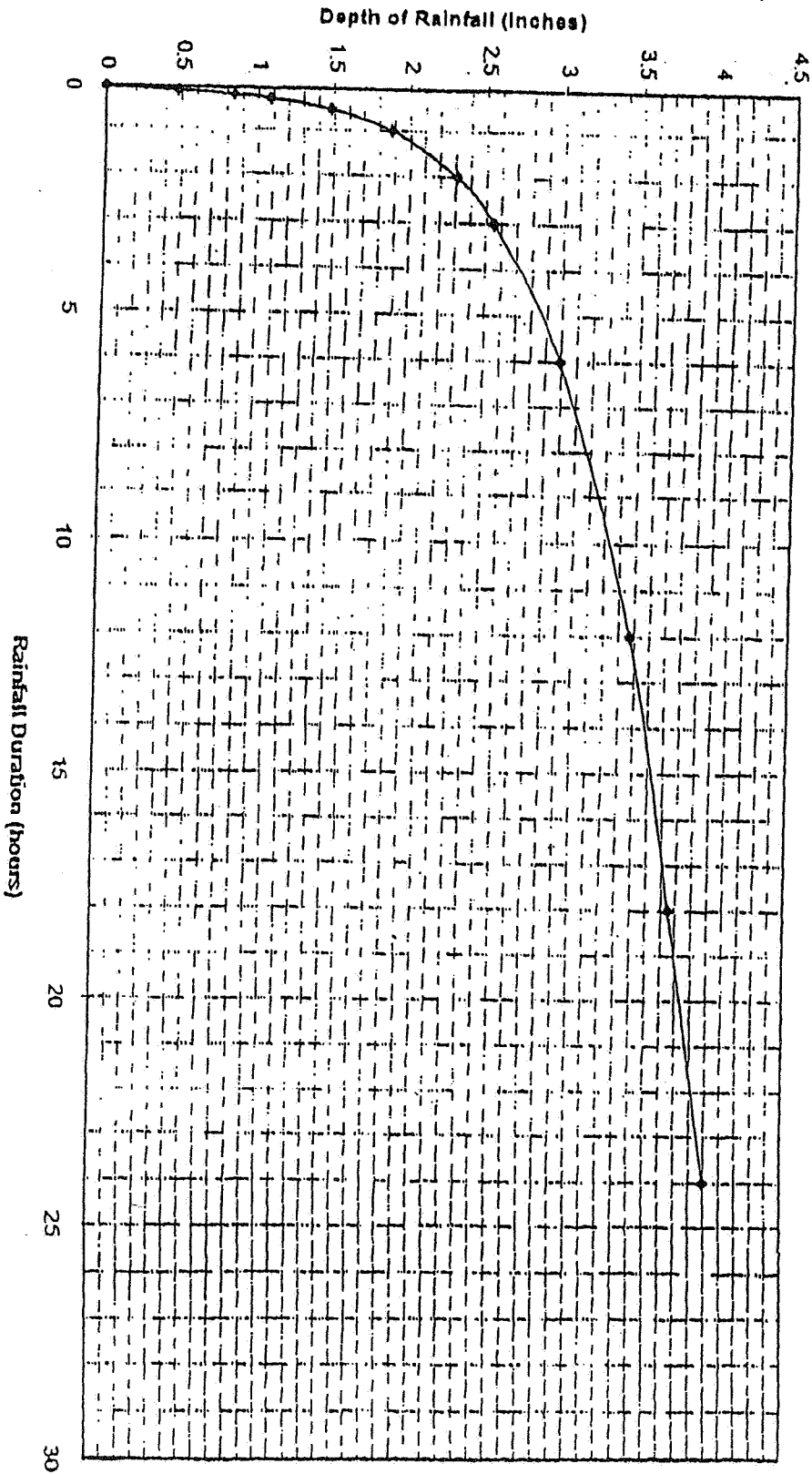
PART 3: RESPONSIBILITY FOR MAINTENANCE AND REPAIRS

It shall be the responsibility of the Home Owners Association to implement the periodic maintenance and inspection that will be required within the floodplain limits. Periodic maintenance is that maintenance, such as grass cutting, trimming, debris removal, necessary seeding, sodding or temporary erosion protection, which can reasonably be accomplished by the Home Owners Association, as a supplement to the Home Owners Association expected residential subdivision property maintenance. More substantial maintenance or repairs, as a result of "flood-flows", deterioration of any storm system structures or appurtenances within the floodplain, or accidental damage, shall also be repaired or reconstructed by the Home Owners Association. All associated appurtenances within the right away are the responsibility of the City of Mason. This is intended to relieve any individual owner of a relatively significant repair expense, understanding that the proper functioning of the floodplain and storm system appurtenances within the floodplain benefit the entire community, not just an individual lot owner or homeowner. It is, however, the responsibility of the Home Owners Association to notify the City of Mason of potential or developing conditions that could, or are causing significant deterioration or distress within the floodplain. Such notification shall be made in writing to the City Manager or City Engineer of Mason, Ohio.

It is the responsibility of the each and every lot owner and homeowner owning property along the floodplain, to ensure that all required periodic maintenance and any repairs, to ensure the proper and intended functioning of the floodplain, are satisfactorily implemented. Pursuant to the regulations of FEMA the ultimate responsibility for such maintenance and repair, within the floodplain, belongs to the City of Mason. If the Pebble Creek Home Owners Association maintains the floodplain areas on their respective lots, on a regular and consistent basis, as required by this plan, the City of Mason will only need to function as a review and regulatory entity. If, however, the floodplain is not maintained in a regular and consistent manner, and/or repairs to the floodplain or appurtenances are not completed, the City of Mason assumes full responsibility to implement the maintenance and repairs and it shall assess the Home Owners Association for the full cost of such implementation.

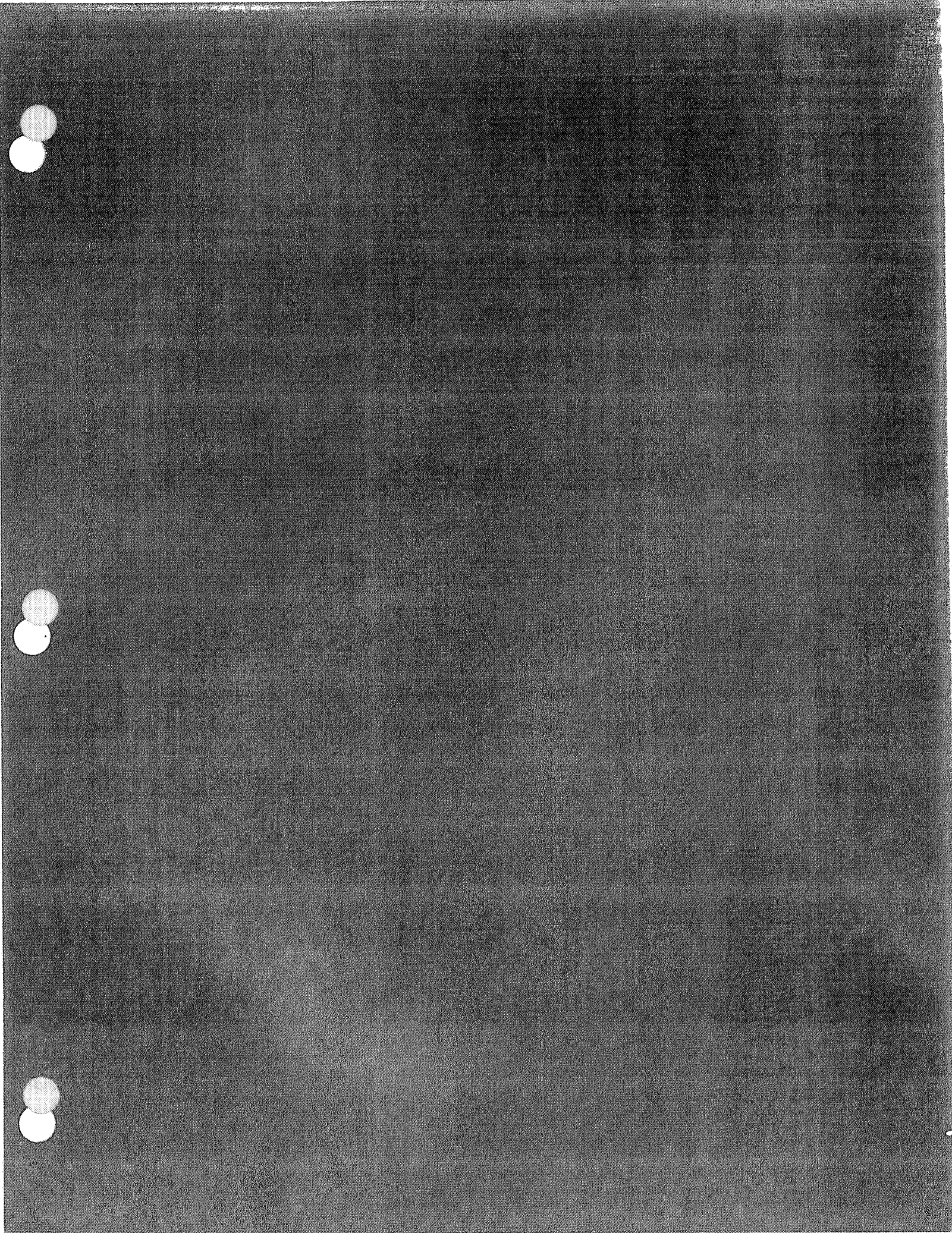
The responsible individuals and official positions at the City of Mason, Ohio are:

<u>NAME:</u>	<u>OFFICIAL POSITION:</u>	<u>ADDRESS:</u>
Mr. Scot Lahrmer	City Manager	City of Mason, Ohio 202 West Main Street Mason, Ohio 45040 (513) 398-8010
Mr. Richard Fair	City Engineer	City of Mason, Ohio 214 West Main Street Mason, Ohio 45040 (513) 398-3035



Pebble Creek Subdivision
 Mason, Ohio
 Depth Versus Duration
 10 Year Rainfall Event

BETH DECKARD - WARREN COUNTY RECORDER
 Doc #: 212979 Type: DECLR
 Filed: 10/24/2000 11:08:25 \$ 310.00
 OR Volume: 2029 Page: 310 Return: M
 Rec#: 21723
 HANS SOLTRAU CO
 Pages: 77



ARTICLES OF INCORPORATION



2000	DOCUMENT ID 200031201128	DESCRIPTION DOMESTIC ARTICLES/NON-PROFIT (ARN)	FILING 25.00	EXPED 10.00	PENALTY .00	CERT .00	COPY .00
------	-----------------------------	--	-----------------	----------------	----------------	-------------	-------------

Receipt

This is not a bill. Please do not remit payment.

HANS H. SOLTAU CO. , L.P.A.
6776 LOOP RD.
CENTERVILLE, OH 45459

STATE OF OHIO

Ohio Secretary of State, J. Kenneth Blackwell

1190172

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
PEBBLE CREEK OF MASON CONDOMINIUM ASSOCIATION, INC.

and, that said business records show the filing and recording of:

Document(s)
DOMESTIC ARTICLES/NON-PROFIT

Document No(s):
200031201128



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

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 30th day of October, A.D.
2000.

J. Kenneth Blackwell
Ohio Secretary of State

**ARTICLES OF INCORPORATION
OF
PEBBLE CREEK OF MASON CONDOMINIUM ASSOCIATION, INC.**

The undersigned, desiring to form a corporation not-for-profit under Sections 1702.01 et. seq. of the Ohio Revised Code, does hereby certify that:

**ARTICLE I
NAME**

The name of the corporation shall be Pebble Creek of Mason Condominium Association, Inc., hereinafter referred to as the "Association".

**ARTICLE II
PRINCIPAL OFFICE**

The place in Ohio where the principal office of the Association is to be located is the City of Centerville, Montgomery County, Ohio.

**ARTICLE III
PURPOSE AND POWERS**

The Association has been formed for the specific purpose of acting as the Unit Owners Association for Pebble Creek of Mason Condominium, hereinafter referred to as the "Condominium". The Condominium was created by the filing for record with the Recorder of Warren County, Ohio a Declaration of Covenants, Conditions and Restrictions, hereinafter referred to as the "Declaration", with attached exhibits, including the By-Laws of the Association, hereinafter referred to as the "By-Laws". 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 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 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 its 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.

(i) Take any action necessary, expedient, incidental, appropriate or convenient to the carrying out of the foregoing purposes.

ARTICLE IV **MEMBERSHIP**

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)

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

Charles H. Simms	2785 Orchard Run Road Dayton, Ohio 45449
Hans H. Soltau	6776 Loop Road Centerville, Ohio 45459
Cynthia L. Larkins	6776 Loop Road Centerville, Ohio 45459

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

The Board of Trustees shall have all of the powers and all of the duties 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

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

ARTICLE VII
INDEMNIFICATION

The Association shall indemnify every person who is or has been a Trustee, officer, agent or employee of the Association and those person's respective heirs, legal representatives, successors and assigns against expenses, including attorney's 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: (a) 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 (b) in any manner the subject of a criminal action or proceeding, had not 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.

Unless ordered by a court, the determination of indemnification, pursuant to the foregoing criteria shall be made by: (a) 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 (b) 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 (c) by the Owners; or (d) by the court in which such action, suit or proceeding was brought.

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 Owners, or otherwise.

ARTICLE VIII **DURATION**

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

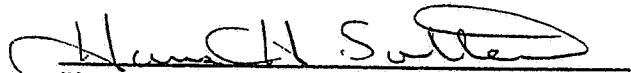
ARTICLE IX **DISSOLUTION**

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

**ARTICLE X
AMENDMENT**

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 19th day of September, 2000.

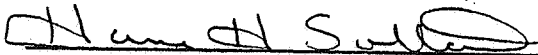

Hans H. Soltau

ORIGINAL APPOINTMENT OF AGENT

The undersigned, the sole incorporator of Pebble Creek of Mason 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 6776 Loop Road, Centerville, Montgomery County, Ohio 45459.

IN WITNESS WHEREOF, I have hereunto subscribed my name at Centerville, Ohio this 19TH day of September, 2000.

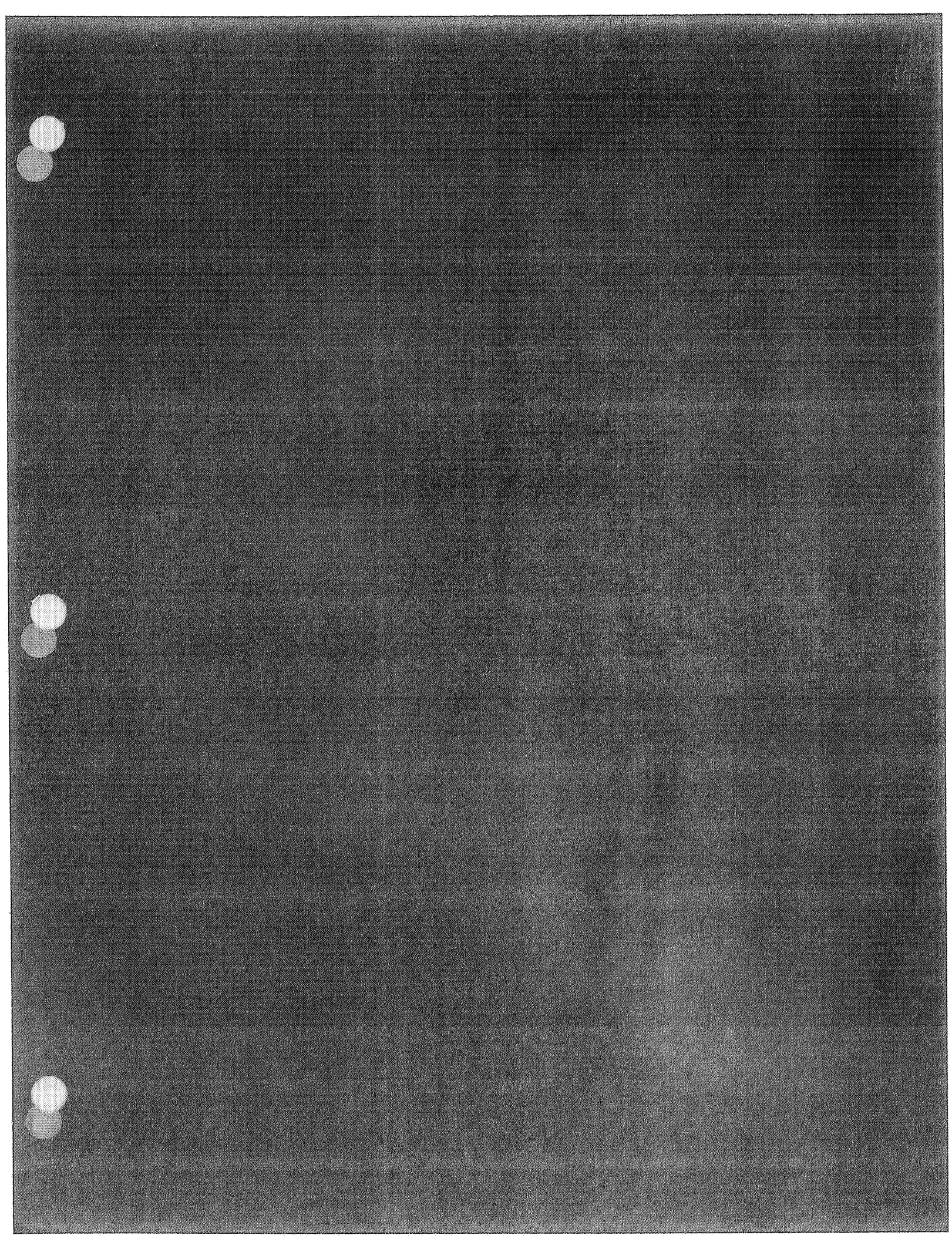
PEBBLE CREEK OF MASON
CONDOMINIUM ASSOCIATION, INC.


Hans H. Soltau

Gentlemen:

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


Hans H. Soltau



TRANSFERRED

JUN 12 2001

SEC. 319.202 COMPLIED WITH
NICK NELSON, Auditor
WARREN COUNTY, OHIO

FIRST AMENDMENT TO DECLARATION
FOR
PEBBLE CREEK OF MASON CONDOMINIUM
(PHASE THREE)

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

WARREN COUNTY AUDITOR

Dated: June 13, 2001 By: Nick Nelson
y 7.

SIDWELL NUMBERS

Remainder: 12-25-426-027 (8.0418 A)

<u>Unit No.</u>	<u>Sidwell No.</u>	<u>Unit No.</u>	<u>Sidwell No.</u>
4102	_____	4110	_____
4104	_____	4112	_____
4106	_____	4114	_____
4108	_____	4116	_____
Common Area	_____		

PLAT REFERENCE:

Plat Book: _____, Page(s): _____

THIS INSTRUMENT PREPARED BY:
HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

===== COPY =====
BETH ZORNARD - WARREN COUNTY REGISTER
Doc # 248614 Type: RECORD 0201A
Filed: 6/12/2001 9:56:27 AM 24.00
OR Volume: 2003 Page: 520 PLAT: B
Ref: 2725
SOLTAU TITLE CENTERVILLE Page: 5

**FIRST AMENDMENT TO DECLARATION
FOR
PEBBLE CREEK OF MASON CONDOMINIUM
(PHASE THREE)**

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 October 24, 2000 certain premises located in the City of Mason, County of Warren, State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Warren County Recorder a legal instrument with attached exhibits titled "Declaration of Condominium Property for Pebble Creek of Mason Condominium", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Warren County, Ohio.

B. The Declaration was recorded in the Official and Plat Records of Warren County, Ohio as follows:

<u>INSTRUMENT</u>	<u>OFFICIAL RECORDS VOLUME</u>	<u>PLAT CABINET BOOK</u>
Declaration	2029, Page 310	51, Page 15

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 Article III 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 22.12 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Unit Owners and Parcel A 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 XXII 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 part of the Condominium Property.

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

A. The legal description referred to in Section 3.01 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 is hereby amended by adding thereto the following:

(c) Building No. 4 is two (2) stories in height containing eight (8) Units.

(d) Garage Building No. 4 is one (1) story in height containing eight (8) garage spaces, which are designated as Limited Common Area.

C. Section 5.03 is hereby amended by adding thereto the following:

<u>Unit No.</u>	<u>Type</u>
4102, 4106, 4110, 4114	Maple
4104, 4108, 4112, 4116	Cypress

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

<u>Unit No.</u>	<u>Percentage of Ownership</u>	<u>Unit No.</u>	<u>Percentage of Ownership</u>	<u>Unit No.</u>	<u>Percentage of Ownership</u>
4058	4.16 2/3	4080	4.16 2/3	4102	4.16 2/3
4060	4.16 2/3	4082	4.16 2/3	4104	4.16 2/3
4062	4.16 2/3	4084	4.16 2/3	4106	4.16 2/3
4064	4.16 2/3	4086	4.16 2/3	4108	4.16 2/3
4066	4.16 2/3	4088	4.16 2/3	4110	4.16 2/3
4068	4.16 2/3	4090	4.16 2/3	4112	4.16 2/3
4070	4.16 2/3	4092	4.16 2/3	4114	4.16 2/3
4072	4.16 2/3	4094	4.16 2/3	4116	4.16 2/3

E. 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 buildings and all other improvements thereon.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration, 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 22.11 of the Declaration in the capacities set forth therein.

IN WITNESS WHEREOF, Charles V. Simms Development Corporation has caused this instrument to be executed this 11TH day of June, 2001.

Signed and acknowledged
In the presence of:

**CHARLES V. SIMMS
DEVELOPMENT CORPORATION**

Cynthia L. Larkins

By: Hans H. Soltau
Hans H. Soltau
Vice President

Sebrak Clapp

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

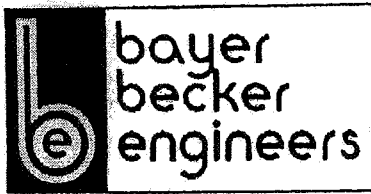
The foregoing instrument was acknowledged before me this 11TH day of June, 2001 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Cynthia L. Larkins
Notary Public

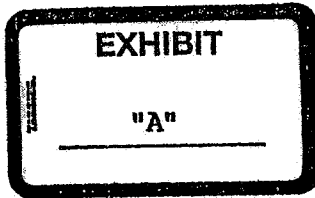
CYNTHIA L. LARKINS, Notary Public
In and For the State of Ohio
My Commission Expires Nov. 6, 2001

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459



engineers
planners
architects
surveyors



6900 Tylersville Road, Suite A
Mason, OH 45040
P.513.336.6600
F.513.336.9365
mason@bayerbecker.com

May 21, 2001

DESCRIPTION:

Phase 3
0.9058 Acre Tract

LOCATION:

Pebble Creek of Mason
City of Mason

Situated in Section 25, Town 4, Range 3, The City of Mason, Warren County, Ohio and being a 0.9058 acre tract further described as follows;

Begin at a point found by measuring from the intersection of the centerline of State Route 741 and the west section line of said Section 19; thence, departing said centerline and with said section line, South 04°52'03" West, 185.85 feet to an existing 5/8" iron pin in the southwesterly right-of-way of said State Route 741; thence, departing said right-of-way, South 04°52'03" West, 321.02 feet to an existing 5/8" iron pin; thence, North 85°41'32" West, 16.48 feet to an existing 5/8" iron pin; thence, South 52°02'30" West, 329.78 feet to an existing 5/8" iron pin; thence, South 77°51'30" West, 302.43 feet to an existing 5/8" iron pin; thence, South 06°46'14" West, 255.83 feet to an existing 5/8" iron pin; thence, South 53°6'14" West, 17.62 feet to the true point of beginning;

thence from the point of beginning thus found, South 64°14'10" East, 225.82 feet;
thence South 22°38'35" West, 29.20 feet, to an existing 5/8" iron pin;
thence South 38°14'55" West, 154.17 feet;
thence North 53°13'23" West, 266.52 feet;
thence North 53°26'14" East, 145.40 feet to the point of beginning containing 0.9058 acres of land subject to all easements and rights-of-way of record.

EXHIBIT

"B"

The undersigned being the owner of the fee simple title to the real estate herein described, hereby consent to and join in the subdivision of said real estate to the condominium plan known as Pebble Creek of Mason

Witnessed & Subscribed:

Charles V. Smith
 Charles V. Smith, President

James H. Smith
 James H. Smith, President

John H. Smith
 John H. Smith, President

William H. Smith
 William H. Smith, President

Richard H. Smith
 Richard H. Smith, President

Robert H. Smith
 Robert H. Smith, President

Thomas H. Smith
 Thomas H. Smith, President

Christopher H. Smith
 Christopher H. Smith, President

Daniel H. Smith
 Daniel H. Smith, President

Matthew H. Smith
 Matthew H. Smith, President

Anthony H. Smith
 Anthony H. Smith, President

Donald H. Smith
 Donald H. Smith, President

Steven H. Smith
 Steven H. Smith, President

Tyler H. Smith
 Tyler H. Smith, President

Jonathan H. Smith
 Jonathan H. Smith, President

Adam H. Smith
 Adam H. Smith, President

Eric H. Smith
 Eric H. Smith, President

Benjamin H. Smith
 Benjamin H. Smith, President

Sarah H. Smith
 Sarah H. Smith, President

Michael H. Smith
 Michael H. Smith, President

David H. Smith
 David H. Smith, President

Andrew H. Smith
 Andrew H. Smith, President

Robert H. Smith
 Robert H. Smith, President

Thomas H. Smith
 Thomas H. Smith, President

Christopher H. Smith
 Christopher H. Smith, President

Daniel H. Smith
 Daniel H. Smith, President

Matthew H. Smith
 Matthew H. Smith, President

Anthony H. Smith
 Anthony H. Smith, President

Donald H. Smith
 Donald H. Smith, President

Steven H. Smith
 Steven H. Smith, President

Tyler H. Smith
 Tyler H. Smith, President

Jonathan H. Smith
 Jonathan H. Smith, President

Adam H. Smith
 Adam H. Smith, President

Eric H. Smith
 Eric H. Smith, President

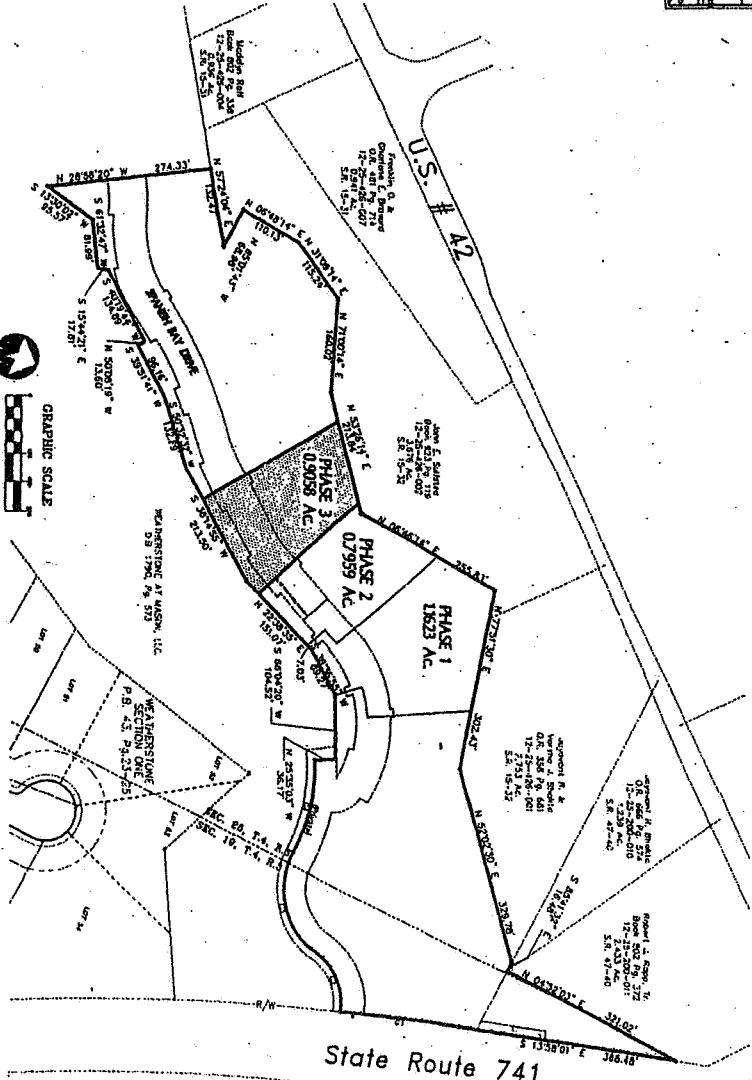
Benjamin H. Smith
 Benjamin H. Smith, President

Sarah H. Smith
 Sarah H. Smith, President

Michael H. Smith
 Michael H. Smith, President



VICINITY MAP
 1" = 100'



CURVE TABLE

STATIONING	CHORD BEARING	CHORD DISTANCE	CHORD AREA	CHORD PERIMETER
1+00.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+100.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+200.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+300.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+400.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+500.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+600.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+700.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+800.00	N 89° 54' 20" E	100.00	0.0000	100.00
1+900.00	N 89° 54' 20" E	100.00	0.0000	100.00
2+000.00	N 89° 54' 20" E	100.00	0.0000	100.00

SIDWELL #1'S

CD	14-28	14-28	14-28	14-28	14-28
1118	14-28	14-28	14-28	14-28	14-28
1119	14-28	14-28	14-28	14-28	14-28
1120	14-28	14-28	14-28	14-28	14-28
1121	14-28	14-28	14-28	14-28	14-28
1122	14-28	14-28	14-28	14-28	14-28
1123	14-28	14-28	14-28	14-28	14-28
1124	14-28	14-28	14-28	14-28	14-28
1125	14-28	14-28	14-28	14-28	14-28
1126	14-28	14-28	14-28	14-28	14-28
1127	14-28	14-28	14-28	14-28	14-28
1128	14-28	14-28	14-28	14-28	14-28
1129	14-28	14-28	14-28	14-28	14-28
1130	14-28	14-28	14-28	14-28	14-28

ENGINEER/SUPERVISOR
 BAYER-BECKER ENGINEERS
 8900 TILERSVILLE ROAD
 CINCINNATI, OH 45242

OWNER
 CHARLES V. SMITH
 DEVELOPMENT CORPORATION
 7378 NORWELDEN DR., MARIETTA, OH 45750

PEBBLE CREEK OF MASO CONDOMINIUM PHASE III SECTION 25, TOWN 4, RANGE 3 CITY OF MASON, WARREN M.

COUNTY AUDITOR TRANSFER:
 County Auditor _____
 Transferred on this _____ day of _____, 2001.

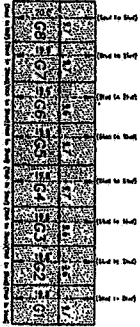
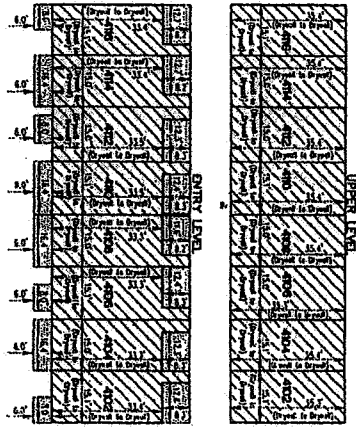
COUNTY RECORDER:
 County Recorder _____
 Recorded on this _____ day of _____, 2001 at _____ M.
 Recorded on this _____ day of _____, 2001 at _____ M.
 Recorded in Plat Book No. _____ Page _____

NOTICE:
 TOTAL AREA 10,000 ACRES
 PHASE I 0.750 ACRES
 PHASE II 0.750 ACRES
 AREA TO BE SUBDIVIDED 0.001 ACRES

DEED:
 DEED NO. 10000
 DEED DATE 08/28/01
 DEED COUNTY WARREN

DEED:
 DEED NO. 10000
 DEED DATE 08/28/01
 DEED COUNTY WARREN

BUILDING FOUR



LEGEND

- EX 5/8" IRON PIN
- COMMON AREA
- ▨ UNIT
- ▩ UNITED COMMON AREA

NOTES

1. Dimensions of Units shown are measured from the unfinished interior surfaces of the perimeter walls, unless otherwise noted.

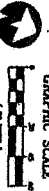
ADDRESS	1ST FLOOR		2ND FLOOR		3RD FLOOR	
	AREA	AREA	AREA	AREA	AREA	AREA
4116 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4114 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4112 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4110 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4108 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4106 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4104 SWANSON AVE DRIVE	72223	72132	72137	72137	72137	72137
4102 SWANSON AVE DRIVE	72227	72136	72136	72136	72136	72136

GARAGE 4

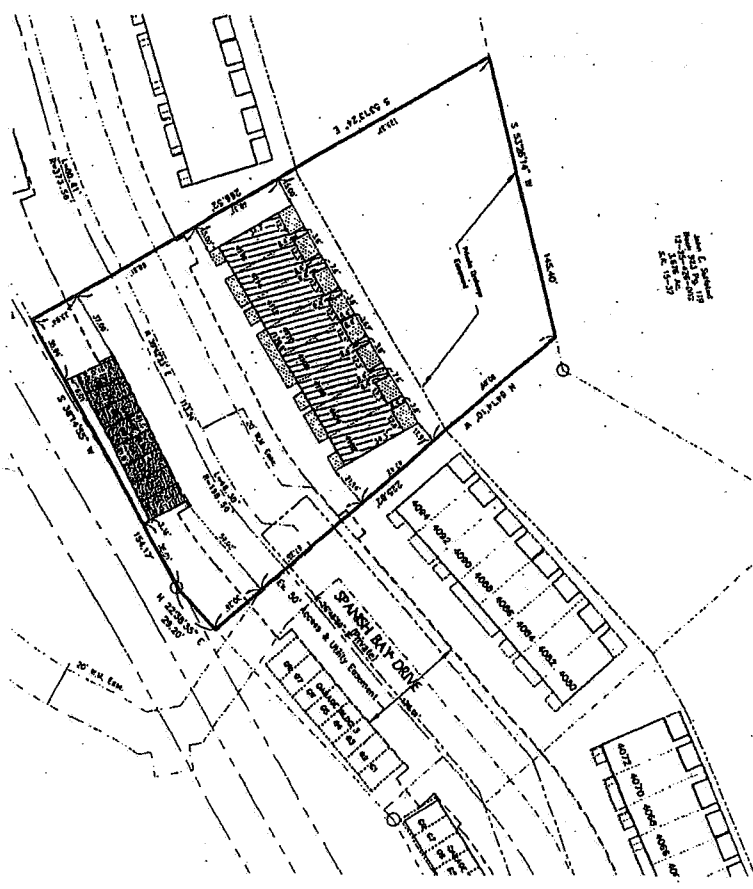
NOTES

1. ALL DIMENSIONS SHOWN ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
3. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
4. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
5. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
6. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
7. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
8. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
9. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.
10. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE PERIMETER WALL.

GRAPHIC SCALE



PHASE III
0.9058 ACRES
Building 4



**EXHIBIT OF MASC
PEBBLE CREEK CONDOMINIUM PHASE III
SECTION 25, TOWN 4, RANGE 3
CITY OF MASON
WARREN COUNTY, OHIO**

NO.	DATE	REVISION	BY	CHKD.
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

**SECOND AMENDMENT TO DECLARATION
FOR
PEBBLE CREEK OF MASON CONDOMINIUM
(PHASE FOUR)**

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

WARREN COUNTY AUDITOR

Dated: _____, 2001 By: _____

SIDWELL NUMBERS

OLD 12-25-426-038 7,1360
Remainder: 12-25-426-048 6,1253

<u>Unit No.</u>	<u>Sidwell No.</u>	<u>Unit No.</u>	<u>Sidwell No.</u>
4124	12-25-426-039	4132	12-25-426-043
4126	12-25-426-040	4134	12-25-426-044
4128	12-25-426-041	4136	12-25-426-045
4130	12-25-426-042	4138	12-25-426-046

Common Area 12-25-426-047

PLAT REFERENCE:

Plat Book: 54, Page(s): 65

THIS INSTRUMENT PREPARED BY:
HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

**SECOND AMENDMENT TO DECLARATION
FOR
PEBBLE CREEK OF MASON CONDOMINIUM
(PHASE FOUR)**

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 October 24, 2000 certain premises located in the City of Mason, County of Warren, State of Ohio were submitted to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership by filing with the Warren County Recorder a legal instrument with attached exhibits titled "Declaration of Condominium Property for Pebble Creek of Mason Condominium", hereinafter referred to as the "Declaration". Said Declaration was previously filed with the Auditor of Warren County, Ohio.

B. The Declaration was 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 Warren County, Ohio.

C. The Declaration and amendment(s) thereto were recorded in the Official and Plat Records of Warren County, Ohio as follows:

<u>INSTRUMENT</u>	<u>OFFICIAL RECORDS VOLUME</u>	<u>PLAT CABINET BOOK</u>
Declaration	2029, Page 310	51, Page 15
First Amendment	2193, Page 520	53, Page 83

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 Article III 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 22.12 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Unit Owners and Parcel A 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 XXII 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 part of the Condominium Property.

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

A. The legal description referred to in Section 3.01 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 is hereby amended by adding thereto the following:

(e) Building No. 5 is two (2) stories in height containing eight (8) Units.

(f) Garage Building No. 5 is one (1) story in height containing eight (8) garage spaces, which are designated as Limited Common Area.

C. Section 5.03 is hereby amended by adding thereto the following:

<u>Unit No.</u>	<u>Type</u>
4124, 4126, 4132, 4134	Maple
4128, 4130, 4136, 4138	Cypress

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

<u>Unit No.</u>	<u>Percentage of Ownership</u>	<u>Unit No.</u>	<u>Percentage of Ownership</u>	<u>Unit No.</u>	<u>Percentage of Ownership</u>
4058	3.125	4086	3.125	4114	3.125
4060	3.125	4088	3.125	4116	3.125
4062	3.125	4090	3.125	4124	3.125
4064	3.125	4092	3.125	4126	3.125
4066	3.125	4094	3.125	4128	3.125
4068	3.125	4102	3.125	4130	3.125
4070	3.125	4104	3.125	4132	3.125
4072	3.125	4106	3.125	4134	3.125
4080	3.125	4108	3.125	4136	3.125
4082	3.125	4110	3.125	4138	3.125
4084	3.125	4112	3.125		

E. 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 buildings and all other improvements thereon.

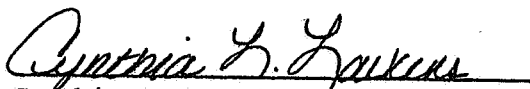
4. Except as specifically hereinabove amended, all of the provisions of the Declaration, the By-Laws and the Drawings shall be and hereby are declared to remain in full force and effect.

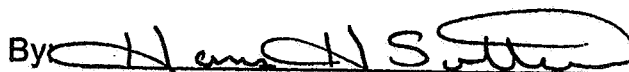
5. Consent to this Second Amendment on behalf of Parcel A Owners and on behalf of Parcel A Mortgagees is hereby granted by Declarant in its capacity as attorney-in-fact pursuant to the provisions of Section 22.11 of the Declaration in the capacities set forth therein.

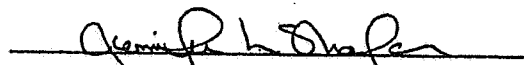
IN WITNESS WHEREOF, Charles V. Simms Development Corporation has caused this instrument to be executed this 23rd day of August, 2001.

Signed and acknowledged
In the presence of:

**CHARLES V. SIMMS
DEVELOPMENT CORPORATION**

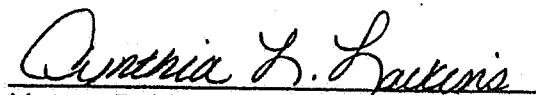

Cynthia L. Larkins

By 
Hans H. Soltau
Vice President


Jennifer L. Shafor

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

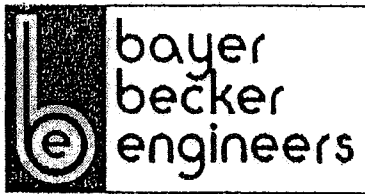
The foregoing instrument was acknowledged before me this 23rd day of August, 2001 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.


Notary Public

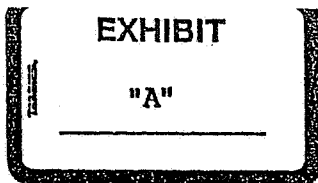
CYNTHIA L. LARKINS, Notary Public
In and For the State of Ohio
My Commission Expires Nov. 6, 2001

THIS INSTRUMENT PREPARED BY:

**HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459**



engineers
planners
architects
surveyors



6900 Tylersville Road, Suite A
Mason, OH 45040
P.513.336.6600
f.513.336.9365
mason@bayerbecker.com

August 8, 2001

DESCRIPTION:

Phase 4
1.0107 Acre Tract

LOCATION:

Pebble Creek of Mason
City of Mason

Situated in Section 25, Town 4, Range 3, The City of Mason, Warren County, Ohio and being a 1.0107 acre tract further described as follows;

Begin at a point found by measuring from the intersection of the centerline of State Route 741 and the west section line of Section 19; thence, departing said centerline said section line, South 04°52'03" West, 185.85 feet to an existing 5/8" iron pin in the westerly right-of-way of said State Route 741; thence, departing said right-of-way, South 04°52'03" West, 321.02 feet to an existing 5/8" iron pin; thence, North 85°41'32" West, 16.48 feet to an existing 5/8" iron pin; thence, South 52°02'30" West, 329.78 feet to an existing 5/8" iron pin; thence, South 77°51'30" West, 302.43 feet to an existing 5/8" iron pin; thence, South 06°46'14" West, 255.83 feet to an existing 5/8" iron pin; thence, South 53°26'14" West, 163.02 feet to the true point of beginning;

- thence from the true point of beginning thus found, South 53°13'23" East, 266.52 feet;
- thence South 38°14'55" West, 59.34 feet;
- thence South 50°32'32" West, 121.64 feet;
- thence North 42°58'45" West, 306.07 feet;
- thence North 71°00'14" East, 89.91 feet to an existing 5/8" iron pin;
- thence North 53°26'14" East, 50.82 feet to the point of beginning containing 1.0107 acres of land subject to all easements and rights-of-way of record.

12-25-426-047

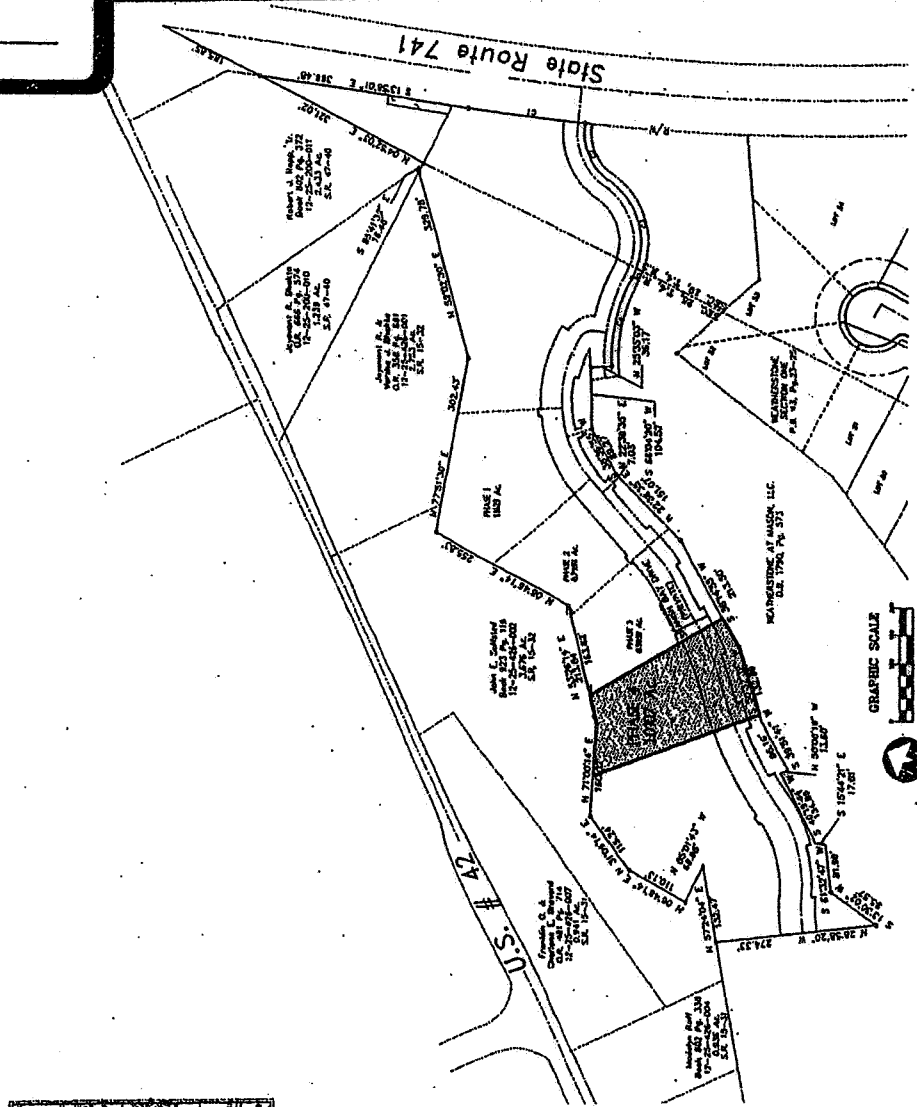
HCH

EXHIBIT "B"
PEBBLE CREEK OF MASON
CONDOMINIUM PHASE IV
SECTION 25, TOWN 4, RANGE 3
CITY OF MASON
WARREN COUNTY, OHIO
JULY, 2001

Table with columns for Survey, Date, and other details. Includes a title block for the survey.

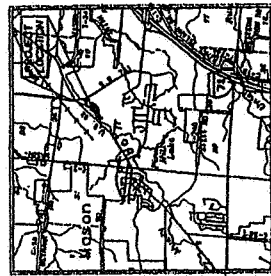
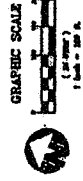
OWNER
CHARLES V. SIMMS,
DEVELOPMENT CORPORATION
2785 BIRCHWOOD ROAD
DAYTON, OHIO 45449

ENGINEER/SURVEYOR
DAVEN RECORDER ENGINEERS
6900 TYLENSHIRE ROAD
SUITE A
MASON, OHIO 45040



CURVE TABLE

STATION	CHORD BEARING	CHORD LENGTH	ARC BEARING	ARC LENGTH
1	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
2	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
3	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
4	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
5	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
6	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
7	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
8	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
9	S 15° 42' 00" E	100.00	15° 42' 00"	100.00
10	S 15° 42' 00" E	100.00	15° 42' 00"	100.00



VICINITY MAP
AS SHOWN

SIDWELL #'S

OLD	NEW
438	15-28-
439	15-28-
440	15-28-
441	15-28-
442	15-28-
443	15-28-
444	15-28-
445	15-28-
446	15-28-
447	15-28-
448	15-28-

TOTAL AREA

AREA	ACRES
OLD	10.0000
PHASE I	0.7500
PHASE II	0.7500
PHASE III	0.7500
PHASE IV	0.7500
TOTAL REMAINING	6.1250

We the undersigned being the owner of this fee simple title to the land and estate herein described, hereby consent to one joint in the publication of said deed estate to the condominium plan known as Pebble Creek of Mason.

Witnessed & Acknowledged: Owner: Charles V. Simms, Development Corporation
By: Charles V. Simms, President
Charles V. Simms, President

By: [Signature]
[Signature]
[Signature]

STATE OF OHIO
COUNTY OF WARREN

Be remembered that on this 20 day of August, 2001, before me a Notary Public in and for said County and State personally appeared Charles V. Simms, President, acknowledged the signing and execution of the foregoing instrument to be their voluntary act and deed, in full view of me, Notary Public, and that they are of legal age and of sound mind and that they are not under any legal disability and that they are not acting under any undue influence.

By: [Signature]
[Signature]

STATE OF OHIO
COUNTY OF WARREN

Be remembered that on this 20 day of August, 2001, before me a Notary Public in and for said County and State personally appeared [Signature], acknowledged the signing and execution of the foregoing instrument to be their voluntary act and deed, in full view of me, Notary Public, and that they are of legal age and of sound mind and that they are not under any legal disability and that they are not acting under any undue influence.

By: [Signature]
[Signature]

STATE OF OHIO
COUNTY OF WARREN

Be remembered that on this 20 day of August, 2001, before me a Notary Public in and for said County and State personally appeared [Signature], acknowledged the signing and execution of the foregoing instrument to be their voluntary act and deed, in full view of me, Notary Public, and that they are of legal age and of sound mind and that they are not under any legal disability and that they are not acting under any undue influence.

By: [Signature]
[Signature]

STATE OF OHIO
COUNTY OF WARREN

Be remembered that on this 20 day of August, 2001, before me a Notary Public in and for said County and State personally appeared [Signature], acknowledged the signing and execution of the foregoing instrument to be their voluntary act and deed, in full view of me, Notary Public, and that they are of legal age and of sound mind and that they are not under any legal disability and that they are not acting under any undue influence.

By: [Signature]
[Signature]

COUNTY AUDITOR TRANSFER:
County Auditor
Transferred on this ___ day of _____, 2001.

By: _____ County Auditor

COUNTY RECORDER:
County Recorder
Recorded on this ___ day of _____, 2001 at _____
Recorded in Plot Book No. ___ Page ___
By: _____ Warren County Recorder