# **DECLARATION**

OF

# RESTRICTIONS, COVENANTS AND EASEMENTS

**FOR** 

VILLAS OF TUSCANY

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COUNTY OF SUMMIT CO.

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JAMES B. MCCARTHY
AUDITUR
COUNTY OF SUMMIT

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# <u>DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS</u> <u>FOR MACEDONIA LAND DEVELOPMENT, LTD.</u>

(Villas of Tuscany)

This Declaration of Restrictions, Covenants and Easements for Macedonia Land Development, Ltd. is made and entered into the day and year set forth above the signature line below by MACEDONIA LAND DEVELOPMENT, LTD., an Ohio Limited Liability Company, which with its successors and assigns is herein called "Declarant".

WHEREAS, Declarant is the owner of certain real property situated in the City of Macedonia, County of Summit and State of Ohio, which is more fully described on Exhibit A, which is attached hereto and incorporated herein by reference, and which is set forth and subdivided on the plat for Villas of Tuscany, recorded in Plat 54350745, of the Record of Plats of Summit County, Ohio (herein called the "Property").

NOW, THEREFORE, Declarant does hereby certify and declare that it has established, and does establish hereby, (a) a general and uniform plan for the improvement, development, ownership, use, maintenance and sale of the Property, and (b) the manner, provisions, conditions, easements, restrictions and covenants upon and subject to which the Property shall be used, improved, occupied, owned, maintained, sold and conveyed. Declarant hereby further declares that the Property shall be used, improved, occupied, owned, maintained, sold and conveyed perpetually (except as provided below) subject to the provisions, conditions, easements, restrictions and covenants set forth herein, all of which are, and each of them is, impressed and imposed upon each and every part of Property and shall run with the land and all of which shall apply to, be binding upon and inure to the benefit of Declarant, and any person who may hereafter become the owner of any interest in the Property or any part thereof, including, but not limited to, any mortgagees having any lien upon all or any portion of the Property. Acceptance of a deed for all or any portion or any interest in the Property or acceptance of any interest in all or any portion of the Property shall constitute the recipient's acceptance of and covenant to be bound by and to perform all of the provisions hereof, including, but not limited to, the right of the Developer and Association to create and impose a lien on the interest in the Property so acquired and to enforce it, as provided below, whether or not the provisions hereof are expressly set forth in or are referred to in any deed or other instrument.

# ARTICLE I DEFINITIONS

Section 1. The following words when used in this Declaration (unless the context shall prohibit) have the following meanings:

(a) "Association" shall mean and refer to the Villas of Tuscany Homeowners Association, an Ohio not-for-profit corporation, formed for the purposes of maintaining and administering the Common Property, providing services of general benefit to the Owners of Lots, administering and

enforcing the provisions hereof, and collecting and disbursing the assessments and exercising the other functions hereinafter provided.

- (b) "Common Properties" shall mean and refer to those areas of land designated as "Common Property" on any recorded plat of the Property or any part thereof.
- (c) "Declaration" shall mean this Declaration of Restrictions, Covenants and Easements for Macedonia Land Development, Ltd. and any and all amendments thereto.
- (d) "Developer" shall mean and refer to the single party, being initially Declarant and its successors and assigns and any other individual or entity (which or who acquire(s) for purposes of development or resale of all or any of the Lots), provided that if two or more entities fall within the definition of Developer only one, as designated by Declarant or a successor Developer, shall be the Developer, as defined herein.
- (e) "Lot" shall mean and refer to any sublot, together with all improvements thereon, shown upon any recorded subdivision plat of the Property.
- (f) "Owner" shall mean and refer to any and all owner or owners of record, whether an individual or an entity, of a fee or undivided fee simple title to any Lot at any time during the term of this Declaration but shall not mean or refer to the Developer or a mortgagee unless and until such mortgagee has acquired such title pursuant to foreclosure or by deed or any proceeding in lieu of foreclosure.
- (g) "Member" shall mean the Developer and all those Owners or others who are Members of the Association as provided herein.

# ARTICLE II PROPERTY SUBJECT TO THE DECLARATION: ADDITIONS

Section 1. Property Subject to the Declaration. The property subject to the Declaration is the Property and any additional real property added thereto pursuant to Section 2 of this Article; provided, however, that the Developer reserves the right with respect to those areas of land as the Developer may choose in any real property added pursuant to said Section 2, to build thereon such single family cluster housing and is consistent with the Declaration and to impose thereon such additional, complementary or modified easements, covenants and restrictions as may be necessary or desirable to reflect the different character of such areas and the structures built thereon and as are not materially inconsistent with the scheme of this Declaration.

### Section 2. Additions to the Property.

- (a) Additional real property, may, upon approval by the Developer prior to conveyance of the Common Properties to the Association and thereafter by the Association, become subject to this Declaration, provided that any such proposed addition is adjacent to the Property (or to any property added thereto in accordance with this Article II). Property abutting, contiguous to, or located across a street or highway from any portion of the Property, or added property, or located within one thousand (1000) feet from any portion of the Property, or added property, shall be deemed to be adjacent to it.
- (b) Any such addition shall be made by filing of record a deed, agreement or other instrument which shall extend the scheme of this Declaration to such additional property. Such instrument may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, including, but not limited to, differences related to topography as are not inconsistent with the scheme of this Declaration. In no event, however, shall such instrument revoke, modify or add to this Declaration established by this Declaration for the Property or any previously added land, nor shall such instrument provide for assessment of the added property at a lower rate than that applicable hereunder to the Property.
- (c) Upon merger or consolidation of the Association with another association, the surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall be entered into which would effect or attempt to effect any revocation, modification or addition to the this Declaration established by this Declaration for the Property.
- (d) Notwithstanding any contrary provision herein, Declarant may make a parcel or parcels of real estate subject to this Declaration, as provided in this Article II, regardless of whether or not said parcel or parcels have been subdivided with a subdivision plat or otherwise. Declarant may subdivide and resubdivide any parcel or parcels of real estate made subject to this Declaration at any time and from time to time, in any manner in Declarant's sole discretion, but subject to all applicable laws.

# ARTICLE III MEMBERS AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Members. Every Owner automatically shall be a Member of the Association for so long as the individual or entity is an Owner, provided that any such person or entity who holds such interest merely as a security for the payment of money or performance of an obligation shall not be a Member; in such case the holder of the equitable interest shall be the Owner. The Developer shall be a Member until it has conveyed every Lot owned by it to an Owner (who or

which is not a successor Developer). No one may be a Member except Owners, and the membership may not be severed or partitioned from the ownership interest in a Lot.

Section 2. Voting Rights. Each Member (except the Developer) shall be entitled to one vote for each Lot. If a Lot is owned by more than one owner, the owners shall not be entitled to more than one vote with respect to any such Lot. The Developer shall have four votes for each Lot, owned by Developer and Developer will transfer to Owner one vote for each Lot it has transferred, and the Developer will maintain three votes for each transferred Lot. It is the intent of this Declaration to give control of the Association to the Developer until the Developer has transferred its last Lot. Notwithstanding any provision of this Declaration to the contrary, the Developer shall be deemed to initially own Thirty-Six (36) Lots and shall have four (4) votes for each of said Lots (regardless of whether or not said Lots have been created) which number will only be reduced by one for each Lot transferred (while Developer maintains 3 votes for each transferred Lot.) after Developer transfers the last Lot sold to an Owner (who or which is not a successor Developer).

Section 3. Articles and Regulations of Association. The Articles of Incorporation and Code of Regulations of the Association may contain any provisions, not in conflict with this Declaration, as are permitted to be set forth in such Articles and Regulations by the Non-Profit Corporation Law of Ohio as from time to time in effect.

# ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES AND EASEMENTS

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member or, in the stead of said Member, any lessee thereof or guest of either, shall have a right and easement in and to the Common Properties as provided herein. Such easement shall be appurtenant to and shall pass with the title to every Lot whether or not expressly referenced in the deed. These easements shall be non-exclusive for purposes only of access and recreation, all subject to and in accordance with the rules and regulations of the Association promulgated in accordance with the provisions hereof.

- (a) Non-exclusive Lot access Each Member and the Members' lessee or guest shall have a non-exclusive right of ingress and egress reasonably necessary to access the Lot over the streets and sidewalks that are placed in the development.
- (b) Exclusive Lot access Each Member and the Member's lessee or guest shall have the exclusive right to use the driveway adjacent to the Member's Lot for access to said Lot. The use of this easement will be for the purpose of ingress and egress, and temporary parking (as may be limited by the Association) of the Member's or the Member's lessee's or guest's vehicles, and such other reasonable use of the driveway which would be usual and customary in the determination of

the Association. The use will be to the exclusion of other members and third parties, but will not exclude the Association or Developer's right to use this area.

(c) Exclusive right of enjoyment of the area adjacent to Lot. Each Member and the Member's lessee and guests have an easement of enjoyment of a limited area surrounding their Lot. This easement of enjoyment will be for the purpose of recreational use which will not interfere with any other Member's use or enjoyment of said other Member's lot or, the Association or Developer. The Association will have the right to determine the reasonableness and extent including, but not limited to location of the recreational use.

The area to be used will be from the front of the Lot to the curb or sidewalk, if any, and from the rear of the house for 25 feet or 1/2 distance to any other Lot if less than 50 feet of distance exists to the other Lot. The area for this easement on sides of each Lot will be 10 feet or 1/2 distance to adjacent Lot if the distance is less than 20 feet.

The Association shall have the right to eliminate, limit or restrict the use of this easement and to determine the reasonableness of use and arbitrate any disputes or uses.

This easement is subject to right of Association and Developer over and through this easement area.

- (d) Easement for Landscaping on the Lot. The Member's grant an easement to the Association and the Developer for the purpose of placing and maintaining landscape on the Lot.
- Section 2. <u>Title to Common Properties</u>: The Developer shall retain the legal title to the Common Properties until such time as it has completed any improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, or Developer no longer desires to hold title but notwithstanding any other provision herein, the Developer hereby covenants for itself and its successors and assigns that it shall convey the Common Properties to the Association not later than December 31, 2010.
- Section 3. Extent of Members' Easements. The rights and easements created by this Article IV shall be subject to the following:
- (a) The right of the Developer and the Association to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage them; in the event of a default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and

- (b) The right of the Association and Developer to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and
- (c) The right of the Developer and Association to adopt uniform rules and regulations (as provided in Article VI) governing the use of the Common Properties, and to suspend the enjoyment rights of any Member, lessee or guest for non-payment of an assessment, during any period such assessment remains in default, or for any infraction of such rules and regulations; and
- (d) The right of the Developer and Association to dedicate or convey all or any part of the Common Properties to any municipality or any public agency, authority or utility, and to construct improvements for any lawful purposes, all subject to such terms and conditions as may be determined at a meeting of the Members by the vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association (with respect to actions of the Association) and to such terms and conditions as the Developer determines (with respect to the Developer's actions).

<u>Section 4.</u> Encroachment Easements. Every Owner and the Developer and the Association are hereby granted in perpetuity, except as limited herein or by law, the following easements for the benefit of and to be binding upon all of the foregoing and their respective heirs, successors and assigns, which easements shall be non-exclusive:

- (a) If due to the construction, settling or shifting of any structure or building or due to the partial or total destruction and/or rebuilding of any structure, any part of or any structure or improvement located on the Common Properties now encroaches or shall hereafter encroach upon any Lot or any part of a Lot or any structure or improvement located thereon now encroaches or shall hereafter encroach upon any part of the Common Properties or any other Lot or Lots, easements for the maintenance of such encroachments and for the use of the space and land encroached upon; provided, however, that in no event shall an easement for any encroachment be created for the benefit of any Owner or the Common Properties or any Lot if such encroachment exists due to the intentional acts of any Owner or the Association, with the intent to so encroach; and
- (b) Easements into and through each Lot for the benefit of the Association and the Developer and all the Owners, individually (provided, however, that the rights of any Owner under this easement may be exercised only by the Association if the Association elects to exercise them) (i) for the purposes of installing, laying, maintaining, repairing, replacing and serving all utility delivery and removal systems, including, but not limited to, water, waste water, sewage, gas, heating, air conditioning, electricity, cable television, and telephone, existing now or existing in the future, under, on and across the Lots and for ingress and egress to accomplish the above described purposes after at least a forty-eight (48) hour notice to the Owner or other occupant of a Lot and only between the hours of 8:00 a.m. and 5:00 p.m., provided, however, that said notice and time limitations shall not apply in the event of an emergency threatening health or safety or threatening immediate harm to the structural integrity of any structure located on the Property and (ii) for the

purposes of the exercise of any and all rights and the satisfaction of any and all obligations arising hereunder.

Section 5. Easements for Benefit of Additional Land. Developer hereby reserves and grants for the benefit of every owner, lessee and occupant and every invitee and licensee of the foregoing a perpetual easement appurtenant to all of the land described on Exhibit B under, on, over and across all of the Common Properties for purposes of ingress and egress by any and all vehicles, animals and pedestrians and for the installation, use, maintenance, relocation and repair of all utility pipes, lines, wires and other delivery equipment and appliances. The beneficiaries of this easement shall repair any and all damage arising due to the exercise of any rights under this easement.

# ARTICLE V COVENANTS FOR MAINTENANCE AND ASSESSMENTS

Section 1. Creation of Liens and Personal Obligations of Assessments. Each Owner shall pay the Association assessments. Each Lot is subject to a lien, as hereinafter provided, in favor of the Association, as security for the payment of the Assessments levied on the Lot. The assessments include: (a) an annual assessment levied in accordance herewith for the purposes of paying taxes and insurance premiums and of operating, maintaining, constructing, repairing and replacing the recreational and landscaped areas and facilities on the Common Properties, and of administering the affairs of the Association; and (b) special assessments levied in accordance herewith for improvements or other capital expenditures, including the acquisition of additional property for use as Common Properties, for emergency, operating, maintenance, replacement or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment. Each such assessment shall be in the same amount for each Lot provided, however, that, if a Lot is conveyed by the Developer to the Owner (hereinafter the "Initial Conveyancer") after the date on which an annual assessment is due and payable, the amount of such annual assessment to be paid by such Owner shall be prorated by multiplying the total amount of such annual assessment by a fraction, the numerator of which is the number of days remaining in the year of Initial Conveyance and the denominator of which is three hundred sixty-five (365), unless said annual assessment is levied for a period of less than one year, in which case the denominator shall be the total number of days in the period for which the assessment is levied. If annual and/or special assessments, together with interest thereon as hereinafter provided, are not paid within sixty (60) days after the assessment has become due and payable, said assessments, together with said interest, shall be a charge upon the Lot for which such assessment has not been paid and the Association shall have a lien upon said Lot.

Section 2. Annual Assessments. Each year, the annual assessment for the following year shall be levied by the Board of Managers, prior to the date of the annual meeting of the Members, in such amount as in its discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for future operating and capital expenditures. At said annual meeting of the Members, the amount of the annual assessment for the

following year as levied by the Board of Managers may be increased or decreased by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association.

Section 3. Special Assessments. The Association, by action of the Board of Managers (alone without the direct approval of the Owners), may levy a special assessment, in an amount not to exceed Ten Thousand Dollars (\$10,000.00) (in total for all payments for all Lots), applicable to a specified number of years or part of a year. Any such assessment (beyond the Board's sole authority) shall be approved by the affirmative vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association. Members shall be given written notice thirty (30) days in advance of the date of the meeting at which such vote shall be taken stating that a special assessment for a stated purpose or purposes will be considered and discussed at such meeting.

Section 4. Due Dates of Assessments: Defaults. Each annual assessment shall be due and payable in twelve (12) equal monthly installments commencing on the second business day after January 1 of the year for which it is levied and, thereafter, on the first day of each month. The due date of any special assessment or installment thereof shall be fixed in the Resolution of the Board or Association authorizing such assessment, and written notice of such special assessment or installment thereof shall be given to each Owner subject thereto thirty (30) days in advance of such due date. If an annual or special assessment or installment of a special assessment is not paid within sixty (60) days after the due date, it shall be deemed to be in default, and such delinquent assessment or installment shall bear interest from the due date at a rate of interest as may be set by the Board of Managers, not in excess of the highest lawful applicable interest rate. The Association may, after such sixty (60) days, file a notice of lien with respect thereto, stating the amount due, signed by the President of the Association, and duly acknowledged and witnessed, in the office of the Recorder of Summit County, Ohio.

Section 5. Statement of Unpaid Assessments. Statements with respect to existence and amount of unpaid liens and assessments on any Lot shall be provided by the Association to any prospective purchaser or mortgagee of said Lot upon written request to the President or Secretary. Provided the recipient has acted in good faith, the recipient shall not be liable for the payment of any past due assessment not set forth in said statement nor shall the Lot in question be subject to a lien for the past due assessment not set forth.

# ARTICLE VI PROTECTIVE COVENANTS

Section 1. Land Use. Each Lot shall be used only for private, single family, residential purposes, and only one single family residence, with garage attached, shall be constructed or erected on any Lot, provided, however, that the Developer or other party, authorized by Developer, may construct upon, occupy, and use any Lot for a model home or sales or construction office and for storage of construction materials. After a structure containing only a residence for a single

family is erected on a Lot, said structure may not be altered or converted into a multi-family residence.

Section 2. Architectural Control. No building, structure, improvement, or a fixture or any fixture or item intended to be attached to or incorporated on the exterior of any existing building, structure, improvement or fixture, shall be erected, constructed, reconstructed, placed, altered or suffered to remain upon any Lot unless and until the plans and specifications showing the size, height, type and materials of construction thereof and the location of the same shall have been submitted to and approved in writing as to the harmony of the external design and the location in relation to surrounding structures and topography and the general plan by the Developer (while the Developer is a Member) and thereafter by the Association. The general plan shall be the construction of homes with plans and specifications substantially similar to those on file at Developer's principal place of business. After residences have been constructed on any of the Lots, the plans and specifications referred to in the preceding sentence shall be substantially similar as well to the then existing residences. Unless approved or disapproved by the Developer (while the Developer is a Member) and thereafter by the Association, within sixty (60) days after submission, any proposal shall be deemed to be rejected.

Section 3. Out-Building: Temporary Structures. No out-building shall be built or maintained on any Lot prior to or during or after the erection of the principal structure thereon. No basement, garage or out building shall at any time be used as a residence, temporarily or permanently, nor shall any residence whatsoever of a temporary character be permitted. Notwithstanding any contrary provision herein, the Declarant or other party, performing work directly associated with the development of any portion of the Property, may, subject to all applicable laws, erect or place and maintain a structure(s) or trailer(s), on properties owned by the party for use in connection with the development of the Property, including, but not limited to structures used or to be used as a storage facility, construction office, sales office, sanitary facility or fabricating facility. Said structure(s) or trailer(s) shall be removed within a reasonable time after the party, who or which has erected it, has completed all its work on the Property.

#### Section 4. General Restrictions.

(a) No nuisance, flag, sign, marking, symbols, billboard or advertising device or activity shall be built, placed, conducted, permitted or suffered to remain or continue upon any Lot [except for "for rent" or "for sale" (provided, however, that no "for sale" or "for rent" signs may be erected while Developer is offering for sale any Lots or any portion of land described in Exhibit B) or political campaign signs no larger than three (3) feet by three (3) feet or an Ohio or American flag not larger than four (4) feet by five (5) feet].

- (b) No Lot shall be used in whole or in part (a) for any trade or business (except for activities not directly involving the public which are otherwise lawful) or (b) in any way or for any purpose which may endanger the health or unreasonably disturb the quiet of any other Owner.
- (c) No spirituous, vinous or fermented liquors shall be manufactured or sold either at wholesale or retail upon any Lot.
- (d) Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, including but not limited to the Common Areas and Lots except that dogs, cats, or other usual and common household pets in the opinion of the Association, not to exceed a total of two (2) pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Property shall be removed upon request of the Association. If the owner fails to honor such request, the pet may be removed by the Association at the Pet Owner's cost. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person.
- (e) No toys, bicycles or any other personal property shall be stored, parked or left upon any Lot except within a garage or residence.
- (f) No activity or materials which would increase any insurance premium with respect to the Property may be conducted, placed or stored upon the Property.
- (g) The minimum square footage of each single family cluster home is set forth in the Architectural Standards attached hereto and made a part hereof.
- (h) The construction of each single family cluster home or any substantial improvements thereto will be subject to approval by the City of Macedonia Architectural Review Board.
- (i) No satellite dishes larger than (twenty inches) 20" in diameter shall be permitted. All satellite dishes less than (twenty inches) 20" in diameter may only be affixed to the rear or side of the Units as long as they cannot be viewed from the street. Only one satellite dish will be permitted per Unit.
- Section 5. Maintenance. Except for the Association's maintenance obligations, each Owner shall maintain, repair and replace all buildings, structures, fixtures and improvements located upon the Lot owned by the Owner, in substantially the same condition as when constructed, except for

the interior portions of any building or structure which are not visible from the outside of the residence. All of the foregoing required activities shall be subject to the Rules of the Association, promulgated as provided below. At the Association's expense, the Association shall maintain all buildings and improvements and landscaping located on the Common Properties in a uniform manner such that the same remain substantially the same as constructed and the Association will maintain the landscaping on the Lots, pursuant to the easements granted by Owner of each Lot for landscaping. The Owners will not landscape on the Lots which right and duty is the exclusive right and duty of the Association. Notwithstanding any provision of this Declaration to the contrary, no Owner (except the Developer) may paint or otherwise decorate or cause to be painted or otherwise decorate any exterior portion of any building or structure located on the Owner's Lot, without approval of the Association.

Section 6. Storage and Parking of Vehicles. No commercial vehicle, truck, trailer, mobile home, recreational vehicle or trailer (either with or without wheels) shall be stored or kept within the Property, except by the Declarant or any other developer of any portion of the Property in connection with the development of the same. Private automobiles shall be stored in the garage attached to the residence or parked on paved driveway. No boat shall be stored on any Lot except in an attached garage.

Section 7. Garbage and Refuse Disposal. No portion of the Common Properties and no Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other discarded or waste material, except by the Declarant or any other developer of any portion of the Properties in connection with the development of the same. Garbage and waste material may not be kept outside any residence except in a sanitary, plastic, clean and covered container. The Association is responsible for arranging and paying for garbage and refuse disposal which costs will be assessed to the Owners, in an amount determined by the Association. Owners may be assessed different amounts if in the determination of the Association the garbage and refuse costs are different as a result of an Owner's garbage and refuse production.

Section 8. Insurance. The Board of Managers shall choose an insurance company, licensed to do business in Ohio with a Best Insurance Rating of B+ or better for fire and extended coverage and public liability insurance and shall name the Developer as additional insured. Each Owner shall obtain, immediately upon acquiring an interest in any Lot, fire and extended coverage insurance for no less than the full insurable value of all buildings and structures located on the Owner's Lot, public liability insurance for an amount not less than a combined single liability limit of Three Hundred Thousand Dollars (\$300,000.00), and upon the contents of any building or structure located on the Lot with a coverage amount determined by the Owner. The Association shall provide evidence to the Developer that such insurance is in force and is being maintained and each such policy shall contain a provision that it shall not be canceled without at least ten (10) days written notice to the Developer. If the Association or Owner fails to maintain such insurance, the Association, on behalf of the Owner or Developer on behalf of the Association may do so.

### Section 9. Rules and Regulations of the Association.

- (a) The Association, through the Board of Managers, in good faith, may adopt rules and regulations (herein called "Rules") for regulation of all activities, in, on or about the Common Properties and the Lots, which are the subject of regulation by the Association as provided herein. All Rules shall be adopted in accordance with reasonable procedures adopted by the Board from time to time. The procedures shall, at all times, include publication of a proposed rule reasonably calculated to give notice to the Owners of the content of the proposed rule and the intention to adopt it, and reasonable opportunity for any Owner or representative of an Owner to appear before the Board in person and to contact the Board in writing to discuss and comment upon the proposed rule and for adoption of the proposed rule at an open meeting of the Board.
- (b) The Board may, from to time, adopt Rules setting reasonable fines proportionate to the offense for violation of these Restrictions, the Code of Regulations, and the Rules, and for the levying and collection of such fines as Special Assessments or by other reasonable means.
- (c) In addition to any other remedies provided by law or this Declaration, the Owner who is accused of a violation of this Declaration, the Code of Regulation or the Rules or who is subject to a fine may request a hearing before the Board at which hearing the Owner directly or through a representative may present evidence and argument. The Board shall adopt reasonable Rules providing for a hearing mechanism, including, but not limited to, Rules requiring written notice to the Board (requesting a hearing and specifying the disputed matter) within a reasonable period after the dispute arose and specifying a reasonable period thereafter during which a hearing must be held.
- (d) Notwithstanding any provision of this Declaration to the contrary, the Developer, prior to conveyance of the Common Properties to the Association, may promulgate reasonable Rules at any time or from time to time with respect to all matters with respect to which the Association or the Board would be permitted to promulgate rules pursuant to these Restrictions. In all respects, such Rules promulgated by the Developer shall be deemed to have been promulgated by the Association and the Board.

Section 10. Substantial Damage and Reconstruction. In the event more than fifty percent (50%) of the residences located on the Properties are damaged such that they are no longer reasonably habitable, the Owners holding a majority of the Votes may elect to terminate these Restrictions. Upon such termination, the Association and the Property shall be dissolved and partitioned as provided in Article VII.

# ARTICLE VII DURATION: AMENDMENT

(a) Each provision of these Covenants and Restrictions shall be a separate covenant, and the holding of any covenant invalid for any cause shall not affect the validity of any other. Failure to

enforce any provision shall not constitute a waiver of or any acquiescence or consent to any concurrent or subsequent violation of any such provisions. Said provisions shall remain in force perpetually until they are terminated or changed by consent thereto in writing, signed, witnessed and acknowledged as then required by the laws of Ohio for the conveyance of real estate, by the owners of sixty-five percent (65%) or more of all the Lots subject to such provisions, excluding all mortgagees and lienholders and purchasers under executory contracts; provided that they may not be terminated prior to December 31, 2025, and provided, however, that the Developer hereby reserves the exclusive right at any time and from time to time until December 31, 2010, to modify, change, alter, add to or rescind any provision of the covenants and restrictions, but not the easements or the general plan for construction of residences set forth herein, by executing an instrument in writing which sets forth any such modification, change, alteration, addition or rescission, or any combination of such actions, and by filing of record said instrument in the Summit County, Ohio, Records; provided further, however, that any such modification, change, alteration, addition or rescission shall be made only if in the judgment of the Developer, the development or lack of development of the Property requires such modification, change, alteration, addition or rescission or if in the judgment of the Developer the purposes of the general plan of development will be better served by such action.

(b) Upon termination of these Restrictions, the Association shall be dissolved and terminated in accordance with the procedures set forth in the Ohio Revised Code. The Association's assets shall be liquidated and the proceeds (less reasonable expenses of liquidation and less all debts of the Association) shall be distributed to the Owners based on an equal allocation for each Lot. Upon dissolution of the Association, all of the Lots shall be subject to a partition action which may be brought by any Owner, with respect to which all Owners shall be parties, before the Summit County Court of Common Pleas or its successor. In the event the Court determines that physical partition is not reasonable, all of the Lots shall be sold at judicial sale in accordance with the then rules and procedures for the same. The proceeds of the sale, after deduction of court costs and the plaintiff's reasonable attorneys' fees, shall be allocated among the Owners in the proportion to which the fair market value of the Lots and all improvements located thereon at the time of the appraisal for the judicial sale bear to the total value of the Lots and all improvements located thereon at said time.

# ARTICLE VIII GENERAL PROVISIONS

Section 1. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been given when mailed, prepaid, by regular mail to the last known address of said Owner as such appears on the records of the Association or delivered to the residence owned by the Owner on the Property.

Section 2. Enforcement. The Developer, any Owner, the Association and the City of Macedonia may enforce the provisions of these Restrictions by injunction, and all Owners

acknowledge that the failure to enforce any provision of this Declaration will result in irreparable harm and that there will be no adequate remedy at law, except with respect to the levying and collection of assessments.

This Declaration shall run with the land and shall be binding upon Declarant and its successors and assigns and all other owners of any part of said real property, together with their grantee, successors, heirs, executors, administrators, or assigns, and that the City of Macedonia shall be a beneficiary of this Declaration and may compel compliance as hereafter appears.

Section 3. Indemnity. Each Owner shall indemnify, defend and hold the Developer, all other Owners and the Association harmless from and against any and all actions, causes of action, claims, demands, liabilities, costs and expenses (including, but not limited to, court costs and reasonable attorneys' fees) arising, directly or indirectly, as a result of any breach of any provision of this Declaration by the Owner or any failure of the Owner to satisfy any obligation under this Declaration or as a result of any damage arising, directly or indirectly, by any act or omission of the Owner or any party occupying or located upon the Lot owned by the Owner or the condition or existence of anything on the Lot owned by the Owner. Joint Owners of any Lots shall be jointly and severally liable for all obligations under this Section or any other provision of these Restrictions.

### Section 4. Arbitration.

- (a) Disputes. Disputes between the Association, any Member, the Members and the Developer or any of them relating to this Declaration, will be first through the Association, then through arbitration.
- (b) Matters Subject to Dispute Resolution. In the event of claims, disputes and other matters in question between the Association, any Member, the Members or the Developer or any of them arising out of, or relating to the Declaration, the parties will attempt in good faith to resolve any such claim or dispute through the Association. The claimant will notify the other in writing of such claim or dispute and of its demand for resolution and submit it to the Association. If the matter has not been resolved pursuant to the aforesaid good faith attempt to resolve such controversy, then the matter will be decided by binding arbitration to the extent permitted by law before an arbitrator in accordance with the Arbitration Rules of the American Arbitration Association then applicable administered by the Cleveland, Ohio office. This agreement to arbitrate will be specifically enforceable. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction.

The parties acknowledge that compliance with this paragraph will be a condition precedent to the filing of any legal action or suit by said party relating to any claim or dispute between them under this Declaration, except for claims relating to nonpayment of fees or assessments may be directly brought by filing a lawsuit. The provisions of this paragraph will survive termination of this Agreement.

(c) Location. The location of the arbitration will be as selected by the Owner within Summit County, Ohio.

Section 5. Miscellaneous. All disputes arising hereunder shall be properly and exclusively venued in the Courts of Summit County, Ohio, and all Owners and all other parties holding or claiming an interest in the Property hereby submit to the personal jurisdiction of the Courts of Summit County, Ohio. All disputes arising hereunder and the interpretation of these Restrictions and any other matters relating thereto shall be enforced and construed in accordance with the laws of the State of Ohio. All titles and captions used herein are for convenience only and shall not enlarge or limit any provision of these Restrictions.

IN WITNESS THEREOF, Declarant hereunto sets its hand by JOBIAS W. COMICE this 13th day of APRIC, 1999.

Signed and Acknowledged In the Presence of:	MACEDONIA LAND DEVELOPMENT, LTD.
	) By Mund Clludy
Print Name: WAYNE L TOMPKIN	Managing Member  108145 W. EDINGER
Print Name: DIANEM. BEATTY	
STATE OF OHIO )  SUMMIT ) ss.  CUYAHOGA COUNTY )	

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named MACEDONIA LAND DEVELOPMENT, LTD., acting by and through its duly authorized officer, TOBIAS WILLIAMS, its Managing Member, who acknowledged that he did sign the foregoing instrument, and that the same is his free act and deed personally and as said Officer and the free act and deed of said Corporation.

STOWN, Ohio, this 13th day of	ve hereunto set my hand and official seal, at 1996.
	NOTARY PUBLIC
WAYNE L. TOMPKINS, JR., Notary Public Residence - Summit County Statewide Jurisdiction, Ohio My Commission Expires Nov. 28, 2000	Approved as to legal form by Law Director:
Signed and Acknowledged In the Presence of:	CITY OF MACEDONIA
De Whate	By: Mayor Weyevinic
Print Name: JOHN W. CHASTEEN	
Print Name: MARY HEGINUS	
STATE OF OHIO ) SUMMIT ) ss. CUYAHOGA COUNTY )	
above-named CITY OF MACEDONIA, as third through its duly authorized officer,	rument, and that the same is his free act and deed
IN TESTIMONY WHEREOF, I have followed by the second of the	ve hereunto set my hand and official seal, at 1999.
•	NOTARY PUBLIC
	NOTARY PUBLIC 16 my (Immessionelypires 1/11/04)

#### ARCHITECTURAL STANDARDS

# THE VILLA'S OF TUSCANY MACEDONIA, OHIO

#### ARCHITECTURAL STYLE OF THE DEVELOPMENT

The Villa's of Tuscany Development in Macedonia is a planned Community which will consist of single family dwellings.

### I. Architectural Style of Homes

All of the homes shall be constructed by Hudson Builders. Ltd. and shall consist of one of three basic floor plans; the Sienna, the Florence and the Pisa. Eleven elevations are approved for the Sienna and Florence plans while four elevations exist for the Pisa plan. The homes are designed in the spirit of Old World architecture using today's modern materials. Hudson Builders, Ltd. reserves the right to modify or substitute plans based upon market acceptance, constructability or availability of materials. Modified or substituted plans shall conform to the overall architectural theme for the development and shall adhere to the architectural standards set forth by the City of Macedonia.

#### B. Roofs and Roof Pitches

Roof pitches should correlate with the style of the architecture. Roof pitches shall be no less than a 9/12 pitch. A house should not have more than two different roof pitches.

#### C. Windows

Windows should be properly placed and well-proportioned on all sides of the house. Windows are not required on the sides of homes unless the home is located on a corner lot, or the side is viewable from open space area.

### D. Proportion, Scale, Massing

All houses will be checked for these most important architectural criteria. Houses should be well balanced, symmetry is not always required to obtain balance. Windows, overhangs, projected areas or portions of houses are usually a desirable attribute in many styles as long as it is not overdone. Windows and decorative

elements can break up large masses of the house so that a more human scale is perceived. Patterns, rhythms, and articulation of architectural elements are encouraged and these usually make the style more interesting.

E. Multiple Houses

No more than five houses of the same elevation will be permitted adjacent to each other. Architecturally we are seeking a high degree of uniformity, with each home having similar color, exterior materials and style. Major design elements such as roof style, front porches, garage door locations and elevations shall be varied to create diversity.

### II. Size and Location

A. Any single family dwelling one-story house (ranch) located on a standard sublot shall contain at least one thousand seven hundred thirty five (1775) square feet of living space, exclusive of the attic, basement, breezeway, deck, garage or porch. Any two-story house located within the subdivision shall have a minimum of one thousand six hundred (1,600) square feet on the first floor and a total minimum of no less than two thousand two hundred square feet of living space, exclusive of any attic, basement, breezeway, deck, garage or porch.

## III. Colors for the Exterior

Exterior color shall be consistent throughout the development.

#### IV. Exterior Materials

- A. The following list of materials shall be acceptable:
  - 1. Cultured stone 4" wood grain double vinyl siding.
  - 2. Composition shingles allowed on roof only. Shingles shall be asphalt fiberglass composition and color to remain constant throughout the development.

## V. Construction

- A. All foundations shall be reinforced concrete with an embossed brick texture. All exposed foundation walls to have a brick or cultured stone treatment. The color shall be coordinated with the exterior color scheme.
- B. All siding must be horizontal.

- C. Exterior stairs shall be the full width of the door. In the case of sliding doors, patio doors, french doors, and swinging door units, the stairs shall be the full width of the unit.
- D. Each dwelling unit constructed shall be landscaped with a minimum planting per lot, from the property line to the rear of the house.
- E. All homes must be designed to meet or exceed the applicable building codes and reviews of all authorities having jurisdiction over the project.
- F. No simulated box chimneys shall be permitted. All chimney boxes on or above the roof line shall be brick or cultured stone to match grade.
- G. All patios and decks shall be landscaped in accordance with the landscaping plan approved by the City of Macedonia.

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330-654-9010

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Legal Description
Macedonia Land Development, Ltd.
August 5, 1998
Rev. August 18, 1999

Situated in the State of Ohio, County of Summit, City of Macedonia and being part of Tract 1SW (formerly Twinsburg Twp.) and more fully described as follows:

Beginning at the southwest corner of said Tract 1SW, said point being witnessed by an iron pin found N89-18'-42"E, 869.12 feet;

Thence N00-29-08"W along the west line of said Tract 1SW and also the Township line a distance of 243.22 feet to a point and the true place of beginning of the parcel herein to be described;

Thence N00-29'-08'W continuing along said west line a distance of 1042.88 feet to a point on the centerline of Twinsburg Road (C.H. 112, 60' wide);

Thence S86-18'-08"E along said centerline a distance of 173.70 feet to a point of curvature, witnessed by an R.R. spike found;

Thence Northeasterly continuing along said centerline following a curve to the left whose central angle is 10-08'-00", having a radius of 3819.72 feet, a chord of 674.68 feet on a bearing of N88-37'-52"E, and an arc distance of 675.56 feet to a point of tangency;

Thence N83-33'-52"E continuing along said centerline a distance of 1.11 feet to a point;

Thence S01-23'-17"E passing over an iron pin found 27.18 feet from centerline, a distance of 806.55 feet to an iron pin set;

Thence S88-36'-43"W a distance of 49.50 feet to an iron pin set;

Thence S01-23'-17"E a distance of 198.00 feet to an iron pin set;

Thence N88-36'-43"E a distance of 49.50 feet to an iron pin set;

Thence S01-23'-17"E a distance of 33.24 feet to a point, witnessed by an iron pin found S01-23'-17"E 243.24 feet;

Thence S89-18'-42"W a distance of 641.02 feet to an iron pin set:

Thence N00-41'-18"W a distance of 24.65 feet to an iron pin set;

Thence N34-53'-12"W a distance of 272.90 feet to an iron pin set;

Thence S88-53'-23"W a distance of 50.00 feet to an iron pin set on the East Right-of-way line of Walters Road (C.H. 160);

Thence S00-29'-08"E along said Right-of-way line a distance of 250.00 feet to an iron pin set;

Thence 589-18'-42"W a distance of 20.00 feet to a point and the true place of beginning.

330-654-9010

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Macedonia Land Development, Ltd. Page 2

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Said parcel contains 19.196 acres of land, more or less, and is subject to all legal highways and easements of record as surveyed in March of 1993 by Gregory H. Polles Registered Surveyor No. 6572.



Filed on 6 15 61 0 4:19

Sun wit County Recorder's Office
Instrument No. 54558836

# MODIFICATIONS TO DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR MACEDONIA LAND DEVELOPMENT, LTD.

This Modification to the Declaration of Restrictions, Covenants and Easements for Macedonia Land Development, Ltd. is made and entered into the day and year set forth above the signature line below by MACEDONIA LAND DEVELOPMENT, LTD., an Ohio Limited Liability Company, which with its successors and assigns is herein called "Declarant", and the undersigned.

WHEREAS. Declarant is the owner of certain real property situated in the City of Macedonia. County of Summit and State of Ohio, which is more fully described on Exhibit A, which is attached hereto and incorporated herein by reference, and which is set forth and subdivided on the plat for Villas of Tuscany, recorded in Plat 54 330795, of the Record of Plats of Summit County, Ohio (herein called the "Property").

WHEREAS. Declarant has filed this the Declaration of Restrictions, Covenants and Easements for Macedonia Land Development, Ltd. (the "Declaration") with the Summit County Recorders and the undersigned desire to modify the Declaration as provided herein with all other terms to remain in full force and remain unchanged.

NOW, THEREFORE, Declarant and the undersigned do hereby modify the Declaration as follows:

# 1. ARTICLE I, Section 1.(d)

Will be deleted and the following will be inserted in its place:

(d) "Developer" shall mean and refer to the single party, being initially Declarant and its successors and assigns and any other individual or entity, including Hudson Builders, Ltd. (which or who acquire(s) for purposes of development or resale of all or any of the Lots), provided that if two or more entities fall within the definition of Developer only one, as designed by Declarant or a successor Developer, shall be the Developer, as defined herein.

# 2. ARTICLE IV, Section 1.(c) and (d)

Article IV, Section 1.(c) will be deleted and the following will be inserted in its place:

(c) Exclusive right of enjoyment of the area adjacent to Lot. Each Member and the Member's lessee and guests have an easement of enjoyment of a limited area surrounding their Lot. This easement of enjoyment will be for the purpose of recreational use which will not interfere with any other member's use or enjoyment of said other Member's lot or, the Association or Developer. The Association will have the right to determine the reasonableness and extent of said recreational use including, but not limited to the location of said recreational use.

The area to be used for said exclusive right of enjoyment will be from the front of the Lot to the curb or sidewalk, if any, whichever is less, and the area for this easement on sides of each Lot will be 10 feet or ½ distance to adjacent Lot if the distance is less than 20 feet, or when the Lot has a side adjacent to the curb or sidewalk until said sidewalk or curb, if any, whichever is less.

In the rear of each Lot the Member is hereby granted an exclusive easement of enjoyment for the purpose of said recreational use an area from the rear of the Lot a distance of 25 feet and only as wide as the Lot. If these area's intersect with any other adjacent easement of enjoyment, the area will be equally divided between the intersecting properties. The rear easement area will be maintained by the Association as a common area, however, any and all landscaping or other structures that are provided by the Member in addition to that landscaping provided by the association will have to be maintained by the Member and all landscaping or other structures installed by the Member must be approved by the Association or Developer and must be in the opinion of the Association or Developer consistent with the neighborhood and character of the development. It is understood and agreed by the Members that any landscaping or other structures provided by the Member, all of which must be approved by the Association or Developer, must be maintained by the Member at its cost and any additional burden placed on the Association as a result of such landscaping or structures, including but not limited to costs for such, will be the responsibility of said Member.

The Member may place a fence around the rear easement area or as otherwise approved by the Developer or the Association, which fence may only be black in color and consist of a wrought iron style of material. The fence and its, color, style location, type, size, material, configuration and other characteristics are subject to approval of the Developer or Association.

Additionally, along the side and in the front and rear as necessary, a sidewalk may be placed to access the side or rear of the Lot from the driveway, the location, size, material, configuration and other characteristics are subject to approval of the Developer or Association.

In the rear, side and front of this area, landscape lights may be placed including along walks, subject to approval of the Developer or Association including the number, wattage, style, location and other characteristics.

Improvements, fixtures and any other structure that extend from the Lot into this area or separately located in this area, including for example and without limitation bay windows, air conditioners, decks, stairs, porches, or other items reasonably necessary for the enjoyment of the use of the Lot and this area may be permitted subject to any restriction and approval of the Developer or Association, or are permitted to be originally installed by the Developer. The Member will have the right to repair or replace these items.

Whether or not the use has been approved by the Developer or the Association, if the Association or Developer determines that the use of this area by the Member, including but not limited to any landscaping or other structures placed within this area, are creating a negative or

adverse impact on the neighboring lots, common area, or the development the Association or Developer shall have the right to eliminate, limit or restrict the use of this easement and to determine the reasonableness of use and arbitrate any disputes or uses.

This easement is subject to right of Association and Developer over and through this easement area.

Article IV, Section 1.(d) will be deleted and the following will be inserted in its place:

(d) Easement for Landscaping on the Lot. The Member's grant an easement to the Association and the Developer for the purpose of placing and maintaining landscape on the Lot, including an easement and authorization by each Owner to permit the maintaining landscaper to use the faucets and water on the lots for landscaping of the Lot and the Common Area which may be used by the adjacent Owner's as provided in Article IV Section 1(c). Such water charges will be the responsibility of the Owner.

# 3. <u>ARTICLE IV</u>, Section 1(e).

Create a new subparagraph (e) as follows:

(e) Easement for Stairs Connected to Decks or Patios. Each Member has the right to construct stairs to be attached to a deck or patio, which deck or patio is located within the Member's Lot. The deck stairs or patio stairs are permitted to be placed in the common area as reasonably necessary to access said deck or patio, except such easement for such stairs may not extend beyond a reasonable distance from the Owner's Lot and decks and patios may only be placed at the rear of the home, subject to review and approval by the Developer and the Association.

## 4. ARTICLE V, Section 1 and 2

Will be deleted and the following will be inserted in its place:

Section 1. Creation of Liens and Personal Obligations of Assessments. Each Owner shall pay the Association assessments. Each Lot is subject to a lien, as hereinafter provided, in favor of the Association, as security for the payment of the Assessments levied on the Lot. The assessments include: (a) an annual assessment levied in accordance herewith for the purposes of paying taxes and insurance premiums and of operating, maintaining, constructing, repairing and replacing the recreational and landscaped areas and facilities on the Common Properties, including but not limited to lights, garbage collection, snow removal, street cleaning, electricity, utility service fees, professional fees, including legal and accounting, and other expenses reasonably necessary to operate, maintain, replace or construct facilities of the Common Properties in a manner consistent with the quality of the development, and operation, maintenance, repair and replacement of the infrastructure, including streets and utilities, including a reserve fund, and of administering the affairs of the Association; (b) special assessments levied in accordance herewith for improvements or other capital expenditures,

for emergency, operating, maintenance, replacement or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment, or for shortfalls in such. Each such assessment shall be in the same amount for each Lot provided, however, that, if a Lot is conveyed by the Developer to the Owner (hereinafter the "Initial Conveyancer") after the date on which an annual assessment is due and payable, the amount of such annual assessment to be paid by such Owner shall be prorated by multiplying the total amount of such annual assessment by a fraction, the numerator of which is the number of days remaining in the year of Initial Conveyance and the denominator of which is three hundred sixty-five (365). unless said annual assessment is levied for a period of less than one year, in which case the denominator shall be the total number of days in the period for which the assessment is levied. The annual assessment may be paid in monthly installments due and payable to the Association on the first of each month, or due and payable as otherwise required by the Association. The annual assessment for the first 27 Lots sold to Owners will be fixed at \$130.00 per month for the year 2000 and may be increased annually by the Developer, however, such increase will not exceed 10% increase per year ("Initial Assessment"). The Developer will pay the difference between the total Initial Assessment collected and actual costs for operation and maintenance as provided above for the Initial Assessment period. The Initial Assessment will be in effect until January 1, 2004 or until 28 Lots are transferred by the Developer, whichever occurs first, at which time the annual assessment will be recalculated and determined as provided in this paragraph without any contribution by the Developer. Until January 1, 2004, no funds will be collected to contribute to a reserve fund as provided above. The Initial Assessment and regular Assessment charge will not include extraordinary costs incurred by the Association as a result of excessive garbage, utilities or other use or negligent conduct by any individual Lot Owner, in such case of excessive use the additional charges over and above the regular charges will be charged to the Owner and immediately due and payable the same as an assessment payment. If annual and/or special assessments, together with interest thereon as hereinafter provided, are not paid within sixty (60) days after the assessment has become due and pavable, said assessments, together with said interest, shall be a charge upon the Lot for which such assessment has not been paid and the Association shall have a lien upon said Lot.

# 5. ARTICLE VI, Section 4(d)

Will be deleted and the following will be inserted in its place:

(d) Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, including but not limited to the Common Areas and Lots except that dogs, cats, or other usual and common household pets in the opinion of the Association, not to exceed a total of three (3) pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Property shall be removed upon request of the Association. If the owner fails to honor such request, the pet may be removed by the Association at the Pet Owner's cost. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs

shall at all times whenever they are outside a home be confined on a leash held by a responsible person.

### 6. ARTICLE VI, Section 5

Will be deleted and the following will be inserted in its place:

Section 5. Maintenance. Except for the Association's maintenance obligations, each Owner shall maintain, repair and replace all buildings, structures, fixtures and improvements located upon the Lot owned by the Owner, in substantially the same condition as when constructed, except for the interior portions of any building or structure which are not visible from the outside of the residence. All of the foregoing required activities shall be subject to the Rules of the Association, promulgated as provided below. At the Association's expense, the Association shall maintain all buildings and improvements and landscaping located on the Common Properties in a uniform manner such that the same remain substantially the same as constructed and the Association will maintain the landscaping on the Lots, pursuant to the easements granted by Owner of each Lot for landscaping. The Owners will not landscape on the Lots which right and duty is the exclusive right and duty of the Association. Notwithstanding any provision of this Declaration to the contrary, no Owner (except the Developer) may paint or otherwise decorate or cause to be painted or otherwise decorate any exterior portion of any building or structure located on the Owner's Lot, without approval of the Association.

### 7. ARTICLE VI, Section 7

Will be deleted and the following will be inserted in its place:

Section 7. Garbage and Refuse Disposal. No portion of the Common Properties and no Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other discarded or waste material, except by the Declarant or any other developer of any portion of the Properties in connection with the development of the same. Garbage, waste material and containers for such may not be kept outside any residence except in a sanitary, plastic, clean and covered container which may only be placed outside of the garage the night before or the day of trash day, and if the trash is not collected it must be placed back in the garage. The Association is responsible for arranging and paying for garbage and refuse disposal which costs will be assessed to the Owners, in an amount determined by the Association. Owners may be assessed different amounts if in the determination of the Association the garbage and refuse costs are different as a result of an Owner's garbage and refuse production.

## 8. ARTICLE VI, Section 8

Will be deleted and the following will be inserted in its place:

Section 8. Insurance. The Board of Managers shall choose an insurance company, licensed to do business in Ohio with a Best Insurance Rating of A- or better for fire and extended coverage and public liability insurance and shall name the Developer as additional insured. Each Owner shall obtain, immediately upon acquiring an interest in any Lot, fire and extended

coverage insurance for no less than the full insurable value of all buildings and structures located on the Owner's Lot, public liability insurance for an amount not less than a combined single liability limit of Three Hundred Thousand Dollars (\$300,000.00), and upon the contents of any building or structure located on the Lot with a coverage amount determined by the Owner. Written proof of insurance must be provided to the Association by the Owner. The Association shall provide evidence to the Developer that such insurance is in force and is being maintained and each such policy shall contain a provision that it shall not be canceled without at least ten (10) days written notice to the Developer. If the Association or Owner fails to maintain such insurance, the Association, on behalf of the Owner or Developer on behalf of the Association may do so.

### 9. ARTICLE VI, Section 11

Create a new Section 11 under Article VI as follows:

<u>Section 11.</u> Renting and Leasing of Lots. Lots may only be temporarily rented or leased for up to one year as follows:

- (a) No Lot shall be rented for transient or hotel purposes. This shall be defined as (i) Rental for any period less than ninety (90) days, or (ii) any rental if the occupants of the Lot are provided customary hotel services.
- (b) All tenants shall be subject to the terms and conditions of this Declaration, and the Rules and regulations promulgated thereunder as though such tenant was an Owner.
- (c) Each Owner agrees to cause his or her lessee, occupant or persons living with such Owner or with his or her lessee to comply with the Declaration, and the rules and regulations promulgated thereunder. Each Owner is fully responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Lots are fully liable for any violation of the documents and regulations. Failure of the tenants or occupants to so comply shall be considered a default in the lease.
- (d) In the event that a lessee, occupant or person living with the lessee violates a Provision of the Declaration, or rules and regulations adopted pursuant thereto, the Association shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief. The Association shall also have all of the remedies available to a landlord upon the breach or default of the lesse agreement by the lessee.
- (e) The Owner of a Lot has the right to lease the Lot one time for a total period not to exceed one year. The Owner may not lease the Lot for multiple one year terms. The purpose of this lease right is to provide Owners with the ability to lease their Lot while they are attempting to sell or transfer their Lot or for situations in which

the Owner has a temporary transfer. Further, exceptions to this leasing restriction may be provided with the consent and approval of the Association, which approval will not be unreasonably withheld if the reason for such extension is consistent with the purpose of this paragraph. An Owner may not transfer or assign its rights in an attempt to gain additional leasing rights. Subsequent Owners who are bonified purchasers will be provided the right to lease the Lot as provided herein.

(f) The Owner has the right to rent or lease the Lot for an unlimited time and without being subject to Section 11(e) above only in cases when the Lot is rented or leased to immediate family members, being children, siblings or parents of the Owner, all other terms set forth in 11(a)-(d) apply.

IN WITNESS THEREOF, Declara	ant hereunto sets its hand	by,
this 12th day of June , 2001.		
Signed and Acknowledged In the Presence of:  Mad Sallicont  Print Name: Mark Sullivan  Print Name: Jeff White	MACEDONIA LAND I  By: ///////// Whiteling Member Lantal Danoth	DEVELOPMENT, LTD  DiNovi Investment Group, Ltd an Chio Limited Liability Company, Managing Member, By: Laura P. DiNovi, Managing Member

)

STATE OF OHIO

) SS

\*of DiNovi Investment Group, Ltd. an Ohio Limited Liability Company, Managing Member of Macedonia Land Development, L

SUMMIT COUNTY)

BEFORE ME, a Notary Public, in and for	r said County and State, personally appeared
the above-named MACEDONIA LAND DEVELO	OPMENT, LTD., acting by and through its
duly authorized officer, Laura DiNovi	_, its Managing Membet, who acknowledged
that he did sign the foregoing instrument, and that	the same is his free act and deed personally
and as said Officer and the free act and deed of said	l Corporation.

NOTARY PUBLIC

PATRICIA AMATO, Notary Public Residence - Summit County State Wide Jurisdiction, Ohio My Commission Expires Jan. 15, 2003

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p. 1

Legal Description
Macedonia Land Development, Ltd.
August 5, 1998
Rev. August 18, 1999

Situated in the State of Chio, County of Summit, City of Macedonia and being part of Tract 1SW (formerly Twinsburg Twp.) and more fully described as follows:

Beginning at the southwest corner of said Tract 1SW, said point being witnessed by an iron pin found N89-18'-42"E, 869.12 feet;

Thence N00-29-08"W along the west line of said Tract 1SW and also the Township line a distance of 243.22 feet to a point and the true place of beginning of the parcel herein to be described;

Thence N00-29'-08'W continuing along said west line a distance of 1042.88 feet to a point on the centerline of Twinsburg Road (C.H. 112, 60' wide);

Thence S86-18'-08"E along said centerline a distance of 173.70 feet to a point of curvature, witnessed by an R.R. spike found;

Thence Northeasterly continuing along said centerline following a curve to the left whose central angle is 10-08'-00", having a radius of 3819.72 feet, a chord of 674.68 feet on a bearing of N88-37'-52"E, and an arc distance of 675.56 feet to a point of tangency;

Thence N83-33'-52"E continuing along said centerline a distance of 1.11 feet to a point;

Thence S01-23'-17"E passing over an iron pin found 27.18 feet from centerline, a distance of 806.55 feet to an iron pin set;

Thence S88-36'-43"W a distance of 49.50 feet to an iron pin set;

Thence S01-23'-17"E a distance of 198.00 feet to an iron pin set;

Thence N88-36'-43"E a distance of 49.50 feet to an iron pin set;

Thence S01-23'-17"E a distance of 33.24 feet to a point, witnessed by an iron pin found S01-23'-17"E 243.24 feet;

Thence S89-18'-42"W a distance of 641.02 feet to an iron pin set;

Thence N00-41'-18"W a distance of 24.65 feet to an iron pin set;

Thence N34-53'-12"W a distance of 272.90 feet to an iron pin set;

Thence S88-53'-23"W a distance of 50.00 feet to an iron pin set on the East Right-of-way line of Walters Road (C.H. 160);

Thence S00-29'-08"E along said Right-of-way line a distance of 250.00 feet to an iron pin set;

Thence 589-18'-42"W a distance of 20.00 feet to a point and the true place of beginning.

p. 2

003

Macedonia Land Development, Ltd. Page 2

Said parcel contains 19.196 acres of land, more or less, and is subject to all legal highways and easements of record as surveyed in March of 1993 by Gregory H. Polles Registered Surveyor No. 6572.

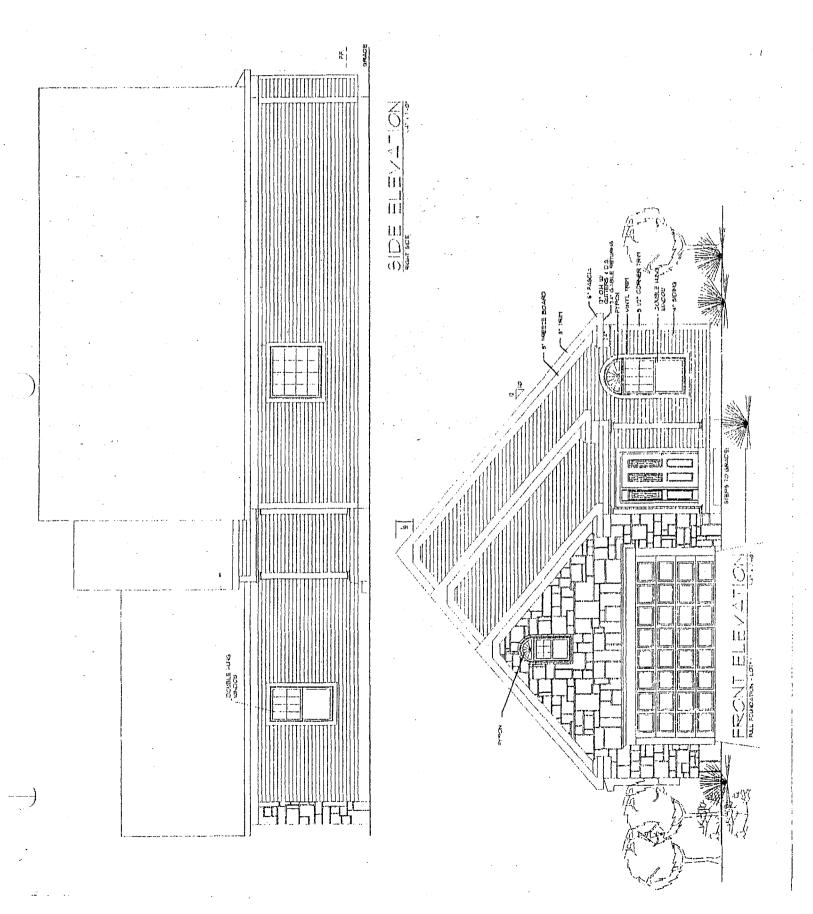


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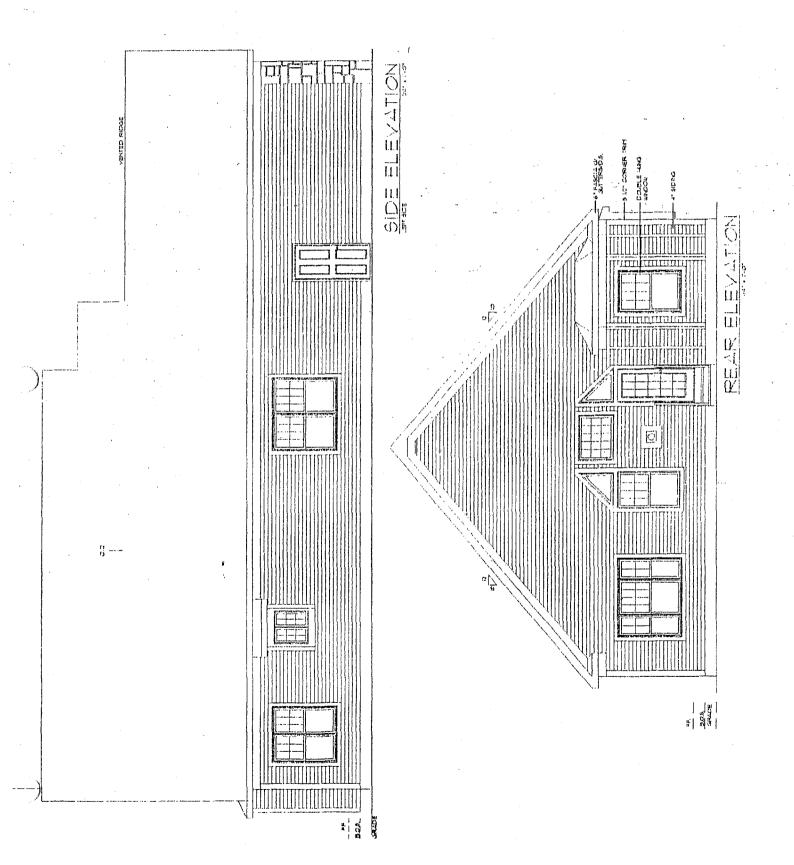
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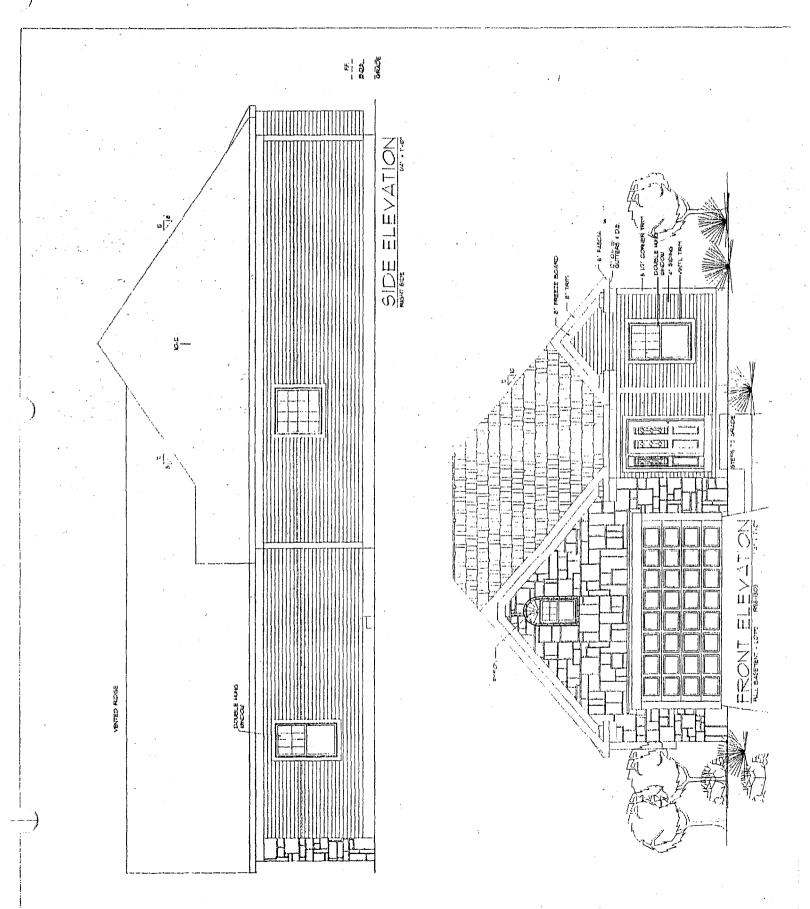
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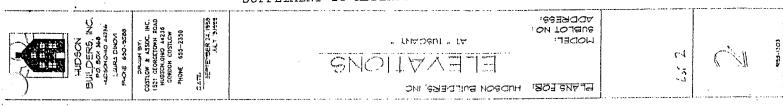
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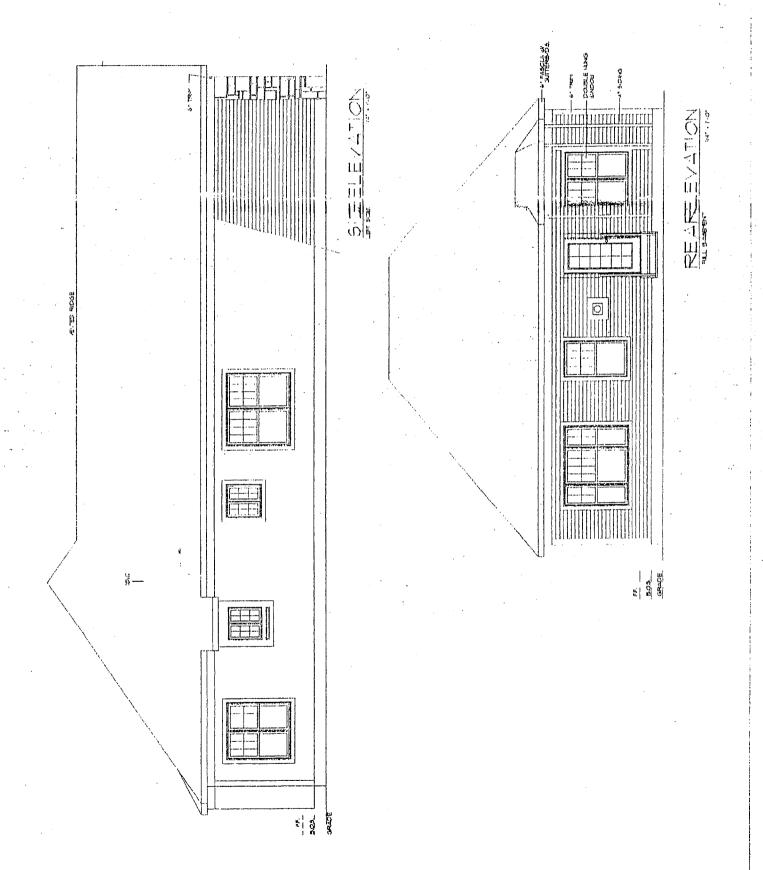
ET FAR LOB! HADRON BAILDERS, INC

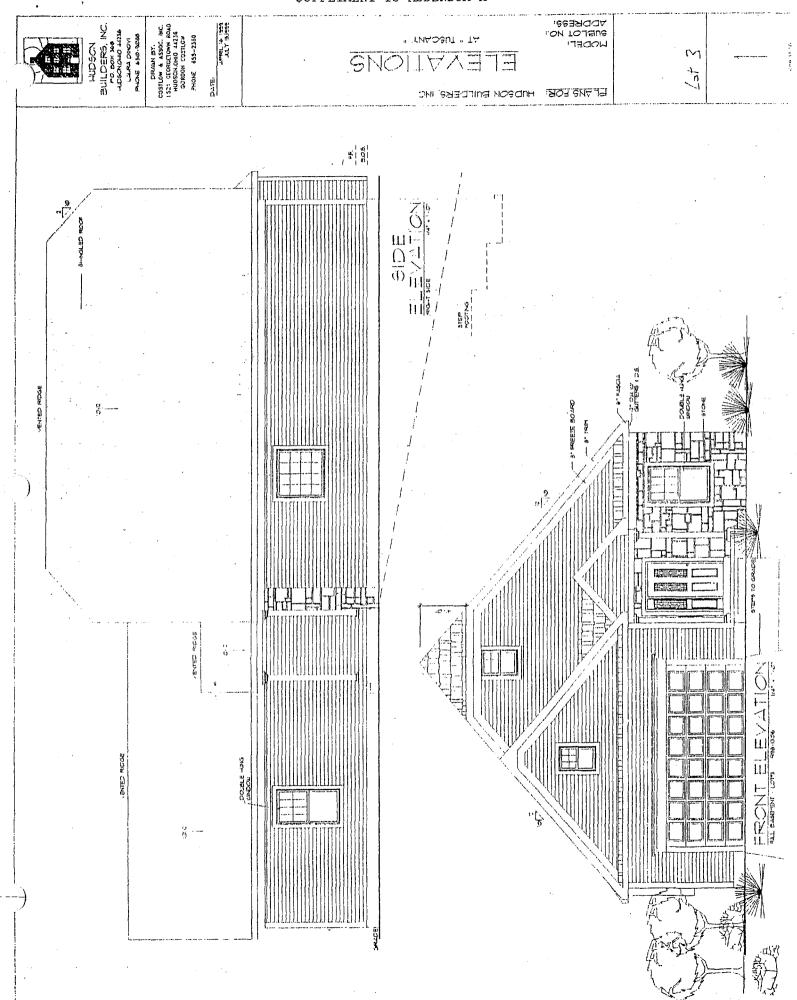








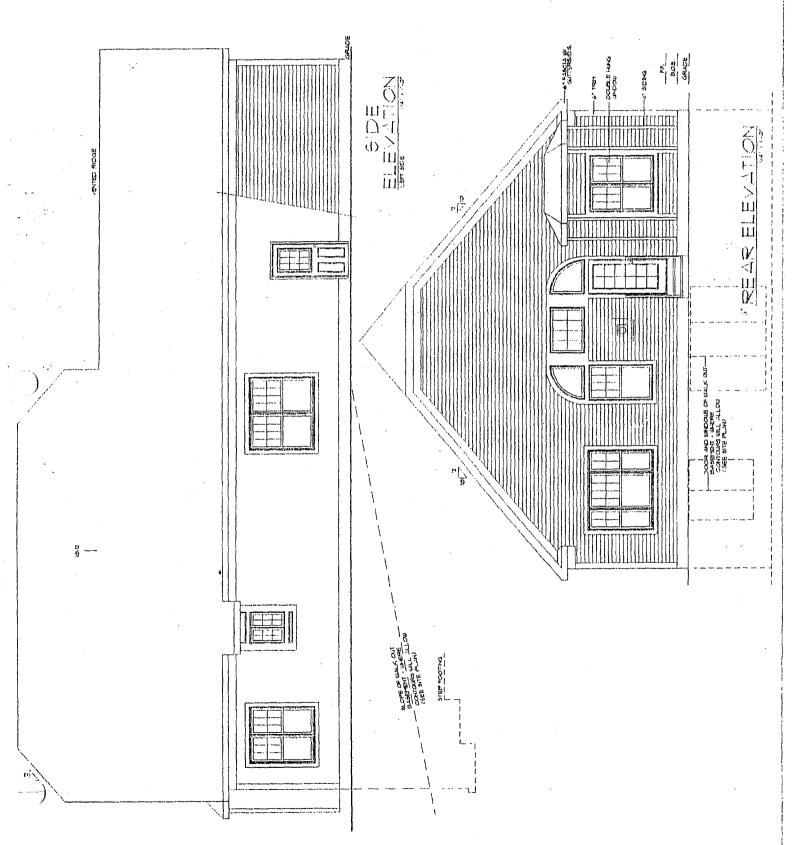


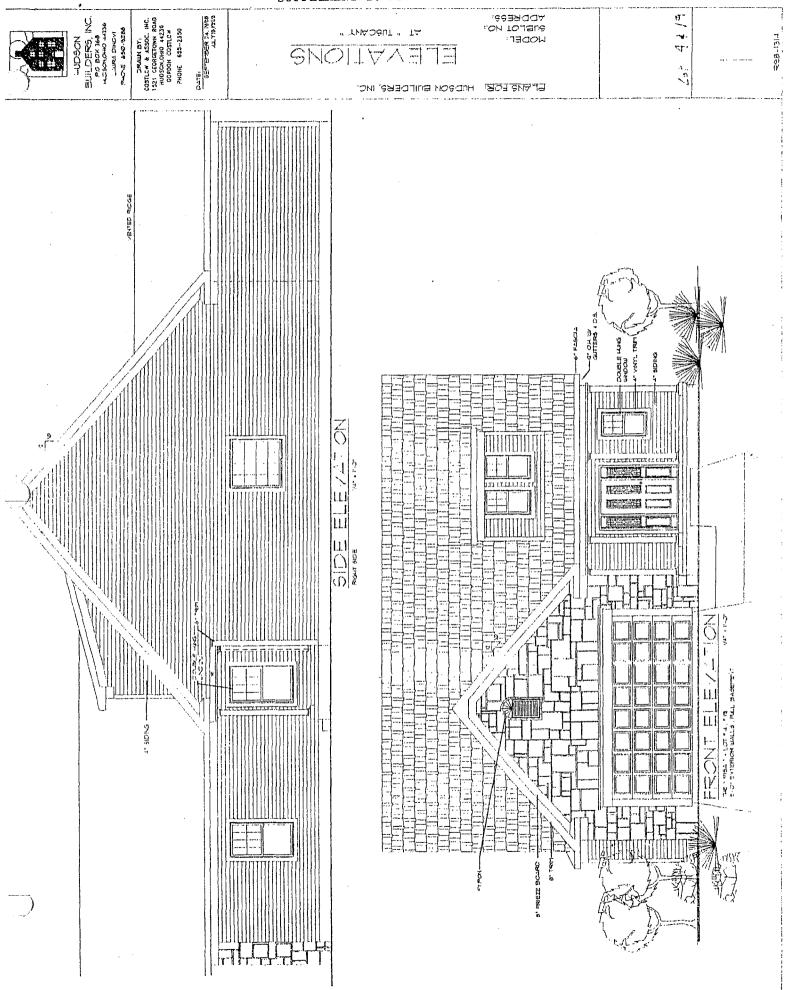


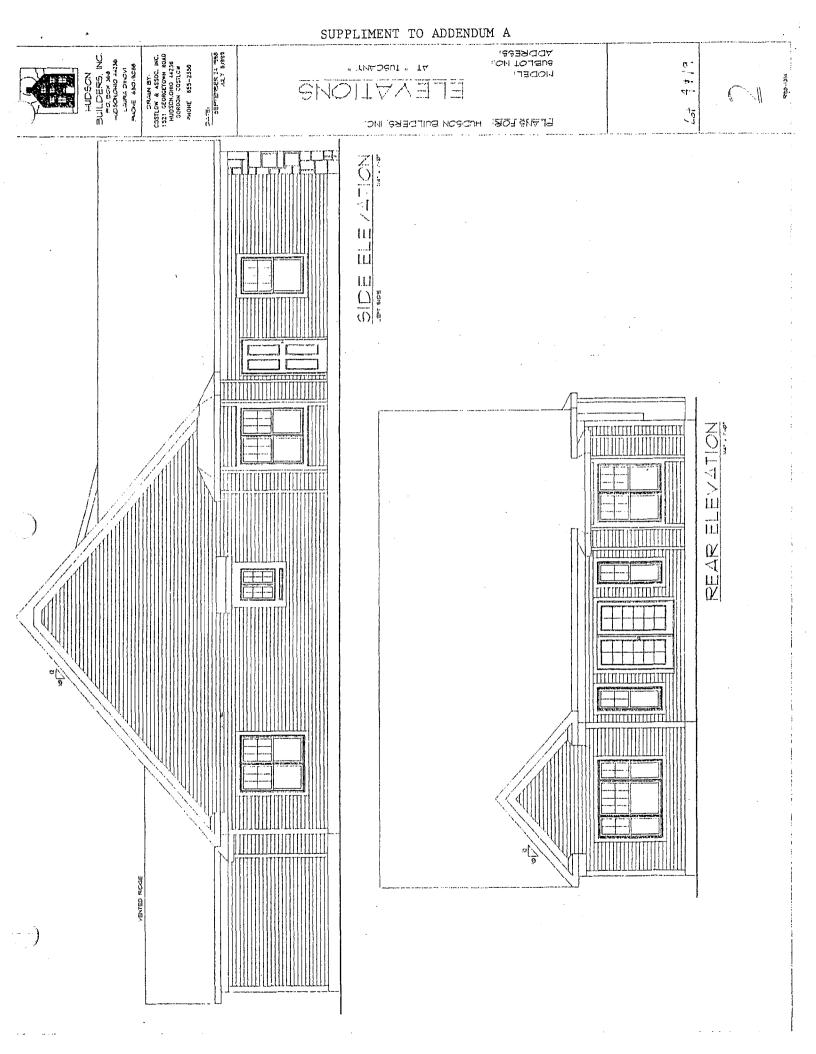
HUDGON EUILDERGS, INC.

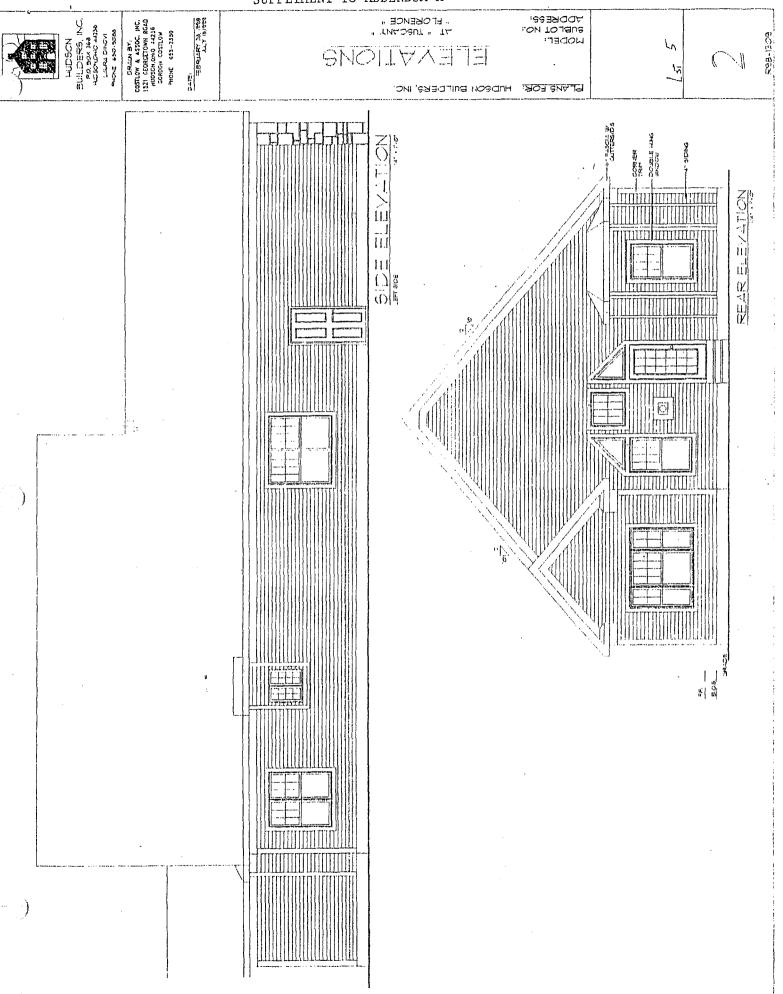
DATE:

AT TUBCANT "









This Instrument Prepared By:

Attorney John P. Slagter (00055513)
Buckingham, Doolittle & Burroughs, LPA
One Cleveland Centre
1375 East Ninth Street, Suite 1700
Cleveland, Ohio 44114
(216) 621-5300

# BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP

1375 E. 9th Street Suite 1700 Cleveland, Ohio 44114 216.621.5300 Fax 216.621.5440 www.bdblaw.com Akron Canton Cleveland Columbus Boca Raton Naples

John P. Slagter Direct Line: (216) 615-7331 E-Mail: JSlagter@bdblaw.com Direct Fax (330) 252-5391

August 18, 1999

<u>Via Federal Express</u>
Mr. Dave Wagner
Midland Commerce Title
409 Key Building
Akron, Ohio 44308

Re: Macedonia Land Development/Villas Of Tuscany

Dear Mr. Wagner:

Please call me upon receipt if you should have any questions.

dincerely,

John P. Slagter

JPS/mfs
Enclosure

«CL2:92553\_1»

### **MODIFICATION**

### TO

# DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR MACEDONIA LAND DEVELOPMENT, LTD.

This Modification to the Declaration of Restrictions, Covenants and Easements for Macedonia Land Development, Ltd. is made and entered into the day and year set forth above the signature line below by MACEDONIA LAND DEVELOPMENT, LTD., an Ohio Limited Liability Company, which with its successors and assigns is herein called "Declarant", and the undersigned.

WHEREAS, Declarant is the owner of certain real property situated in the City of Macedonia, County of Summit and State of Ohio, which is more fully described on Exhibit A, which is attached hereto and incorporated herein by reference, and which is set forth and subdivided on the plat for Villas of Tuscany, recorded in Plat \_\_\_\_\_\_, of the Record of Plats of Summit County, Ohio (herein called the "Property").

WHEREAS, Declarant has filed this the Declaration of Restrictions, Covenants and Easements for Macedonia Land Development, Ltd. (the "Declaration") with the Summit County Recorders and the undersigned desire to modify the Declaration as provided herein with all other terms to remain in full force and remain unchanged.

**NOW, THEREFORE,** Declarant and the undersigned do hereby modify the Declaration as follows:

### 1. ARTICLE I, Section 1.(d)

Will be deleted and the following will be inserted in its place:

(d) "Developer" shall mean and refer to the single party, being initially Declarant and its successors and assigns and any other individual or entity, including Hudson Builders, Ltd. (which or who acquire(s) for purposes of development or resale of all or any of the Lots), provided that if two or more entities fall within the definition of Developer only one, as designed by Declarant or a successor Developer, shall be the Developer, as defined herein.

### 2. ARTICLE IV, Section 1. (c) and (d)

Article IV, Section 1. (c) will be deleted and the following will be inserted in its place:

(c) Exclusive right of enjoyment of the area adjacent to Lot. Each Member and the Member's lessee and guests have an easement of enjoyment of a limited area surrounding their Lot. This easement of enjoyment will be for the purpose of recreational use which will not interfere with any other member's use or enjoyment of said other Member's lot

or, the Association or Developer. The Association will have the right to determine the reasonableness and extent including, but not limited to location of the recreational use.

The area to be used will be from the front of the Lot to the curb or sidewalk, if any, and the area for this easement on sides of each Lot will be 10 feet or ½ distance to adjacent Lot if the distance is less than 20 feet.

In the rear of each Lot the Member is hereby granted an exclusive easement of enjoyment for the purpose of recreational use an area from the rear of the Lot a distance of 25 feet. The rear easement area will have to be maintained by the Member and may contain landscaping and other customary landscaping that is in the opinion of the Association or Developer consistent with the neighborhood and character of the development.

The Member may place a fence around the rear easement area or as otherwise approved by the Developer or the Association, which fence may only be black in color and consist of a wrought iron style of material, the fence and its, color, style, location type, size and other characteristics are subject to approval of the Developer or Association.

Additionally, along the side and in the front and rear as necessary, a sidewalk may be placed to access the side or rear of the Lot from the driveway, the location, size, material, configuration and other characteristics are subject to approval of the Developer or Association.

In the rear, side and front of this area, landscape lights may be placed including along walks, subject to approval of the Developer or Association including the number, style, wattage, location and any other characteristics.

Improvements, fixtures and any other structure that extend from the Lot into this area or separately located in this area, including for example and without limitation bay windows, air conditioners, decks, stairs, porches, or other items reasonably necessary for the enjoyment of the use of the Lot and this area may be permitted subject to any restriction and approval of the Developer or Association, or are permitted to be originally installed by the Developer. The Member will have the right to repair or replace these items.

The Association or Developer shall have the right to eliminate, limit or restrict the use of this easement and to determine the reasonableness of use and arbitrate any disputes or uses

This easement is subject to right of Association and Developer over and through this easement area.

Article IV, Section 1. (d) will be deleted and the following will be inserted in its place:

### 4. ARTICLE V, Section 1 and 2

Will be deleted and the following will be inserted in its place:

Section 1. Creation of Liens and Personal Obligations of Assessments. Each Owner, shall pay the Association assessments. Each Lot is subject to a lien, as hereinafter provided, in favor of the Association, as security for the payment of the Assessments levied on the Lot. The assessments include: (a) an annual assessment levied in accordance herewith for the purposes of paying taxes and insurance premiums and of operating, maintaining, constructing, repairing and replacing the recreational and landscaped areas and facilities on the Common Properties, including but not limited to lights, garbage collection, snow removal, street cleaning, electricity, utility service fees, professional fees, including legal and accounting, and other expenses reasonably necessary to operate, maintain, replace or construct facilities of the Common Properties in a manner consistent with the quality of the development, and operation, maintenance, repair and replacement of the infrastructure, including streets and utilities, including a reserve fund, and of administering the affairs of the Association; (b) special assessments levied in accordance herewith for improvements or other capital expenditures, including the acquisition of additional property for use as Common Properties, for emergency, operating, maintenance, replacement or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment, or for shortfalls in such. Each such assessment shall be in the same amount for each Lot provided, however, that, if a Lot is conveyed by the Developer to the Owner (hereinafter the "Initial Conveyancer") after the date on which an annual assessment is due and payable, the amount of such annual assessment to be paid by such Owner shall be prorated by multiplying the total amount of such annual assessment by a fraction, the numerator of which is the number of days remaining in the year of Initial Conveyance and the denominator of which is three hundred sixty-five (365), unless said annual assessment is levied for a period of less than one year, in which case the denominator shall be the total number of days in the period for which the assessment is levied. The annual assessment may be paid in monthly installments due and payable to the Association on the first of each month, or due and payable as otherwise required by the Association. The annual assessment for the first 27 Lots sold to Owners will be fixed at \$130.00 per month for the year 2000 and may be increased annually by the Developer, however, such increase will not exceed 10% increase per year ("Initial Assessment"). The Developer will pay the difference between the total Initial Assessment collected and actual costs for operation and maintenance as provided above for the Initial Assessment period. Assessment will be in effect until January 1, 2004 or until 28 Lots are transferred by the Developer, whichever occurs first, at which time the annual assessment will be recalculated and determined as provided in this paragraph without any contribution by the Developer. Until January 1, 2004, no funds will be collected to contribute to a reserve fund as provided above. The Initial Assessment and regular Assessment charge will not include extraordinary costs incurred by the Association as a result of excessive garbage, utilities or other use or negligent conduct by any individual Lot Owner, in such case of excessive use the additional charges over and above the regular charges will be charged

(d) Easement for Landscaping on the Lot. The Member's grant an easement to the Association and the Developer for the purpose of placing and maintaining landscape on the Lot, including an easement and authorization by each Owner to permit the maintaining landscaper to use the faucets and water on the lots for landscaping of the Lot and the Common Area which may be used by the adjacent Owner's as provided in Article IV Section 1(c). Such water charges will be the responsibility of the Owner.

### 3. ARTICLE IV, Section 1(e)

Create a new subparagraph (e) as follows:

(e) Easement for Stairs Connected to Decks or Patios. Each Member has the right to construct stairs to be attached to a deck or patio, which deck or patio is located within the Member's Lot. The deck stairs or patio stairs are permitted to be placed in the common area as reasonably necessary to access said deck or patio, except such easement for such stairs may not extend beyond a reasonable distance from the Owner's Lot and decks and patios may only be placed at the rear of the home, subject to review and approval by the Developer and the Association.

to the Owner and immediately due and payable the same as an assessment payment. If annual and/or special assessments, together with interest thereon as hereinafter provided, are not paid within sixty (60) days after the assessment has become due and payable, said assessments, together with said interest, shall be a charge upon the Lot for which such assessment has not been paid and the Association shall have a lien upon said Lot.

Section 2. Annual Assessments. Each year, the annual assessment for the following year shall be levied by the Board of Managers, prior to the date of the annual meeting of the Members, in such amount as in its discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for future operating and capital expenditures and reserve. At said annual meeting of the Members, the amount of the annual assessment for the following year as levied by the Board of Managers may be increased or decreased by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association. Annual assessments will not increase more than 10% per year, except with the majority approval of the Members.

### 5. ARTICLE VI, Section 4(d)

Will be deleted and the following will be inserted in its place:

(d) Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, including but not limited to the Common Areas and Lots except that dogs, cats, or other usual and common household pets in the opinion of the Association, not to exceed a total of three (3) pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such liter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Property shall be removed upon request of the Association. If the owner fails to honor such request, the pet may be removed by the Association at the Pet Owner's cost. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a home be confined on a leash held by a responsible person.

### 6. ARTICLE VI, Section 5

Will be deleted and the following will be inserted in its place:

Section 5. Maintenance. Except for the Association's maintenance obligations, each Owner shall maintain, repair and replace all buildings, structures, fixtures and improvements located upon the Lot owned by the Owner, in substantially the same condition as when constructed, except for the interior portions of any building or structure which are not visible from the outside of the residence. All of the foregoing

required activities shall be subject to the Rules of the Association, promulgated as provided below. At the Association's expense, the Association shall maintain all buildings and improvements and landscaping located on the Common Properties in a uniform manner such that the same remain substantially the same as constructed and the Association will maintain the landscaping on the Lots, pursuant to the easements granted by Owner of each Lot for landscaping. The Owners will not landscape on the Lots which right and duty is the exclusive right and duty of the Association except as provided in the Rules and Regulations adopted by the Association. Notwithstanding any provision of this Declaration to the contrary, no Owner (except the Developer) may paint or otherwise decorate or cause to be painted or otherwise decorate any exterior portion of any building or structure located on the Owner's Lot, without approval of the Association.

### 7. ARTICLE VI, Section 7

Will be deleted and the following will be inserted in its place:

Section 7. Garbage and Refuse Disposal. No portion of the Common Properties and no Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other discarded or waste material, except by the Declarant or any other developer of any portion of the Properties in connection with the development of the same. Garbage, waste material and containers for such may not be kept outside any residence except in a sanitary, plastic, clean and covered container which may only be placed outside of the garage the night before or the day of trash day, and if the trash is not collected it must be placed back in the garage. The Association is responsible for arranging and paying for garbage and refuse disposal which costs will be assessed to the Owners, in an amount determined by the Association. Owners may be assessed different amounts if in the determination of the Association the garbage and refuse costs are different as a result of an Owner's garbage and refuse production.

### 8. ARTICLE VI, Section 8

Will be deleted and the following will be inserted in its place:

Section 8. Insurance. The Board of Managers shall choose an insurance company, licensed to do business in Ohio with a Best Insurance Rating of B+ or better for fire and extended coverage and public liability insurance and shall name the Developer as additional insured. Each Owner shall obtain, immediately upon acquiring an interest in any Lot, fire and extended coverage insurance for no less than the full insurable value of all buildings and structures located on the Owner's Lot, public liability insurance for an amount not less than a combined single liability limit of Three Hundred Thousand Dollars (\$300,000.00), and upon the contents of any building or structure located on the Lot with a coverage amount determined by the Owner. Written proof of insurance must be provided to the Association by the Owner. The Association shall provide evidence to the Developer that such insurance is in force and is being maintained and each such policy shall contain a provision that it shall not be canceled without at least ten (10) days written notice to the Developer. If the Association or Owner fails to maintain such

insurance, the Association, on behalf of the Owner or Developer on behalf of the Association may do so.

### 9. ARTICLE VI, Section 11

Create a new Section 11 under Article VI as follows:

<u>Section 11</u>. <u>Renting and Leasing of Lots</u>. Lots may only be temporarily rented or leased for up to one year as follows:

- (a) No lot shall be rented for transient or hotel purposes. This shall be defined as (i) Rental for any period less than sixty (60) days, or (ii) any rental if the occupants of the Lot are provided customary hotel services.
- (b) All tenants shall be subject to the terms and conditions of this Declaration, and the Rules and regulations promulgated thereunder as though such tenant was an Owner.
- (c) Each Owner agrees to cause his or her lessee, occupant or persons living with such Owner or with his or her lessee to comply with the Declaration, and the rules and regulations promulgated thereunder. Each Owner is fully responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Lots are fully liable for any violation of the documents and regulations. Failure of the tenants or occupants to so comply shall be considered a default in the lease.
- (d) In the event that a lessee, occupant or person living with the lessee violates a Provision of the Declaration, or rules and regulations adopted pursuant thereto, the Association shall have the power to bring an action or suit against the lessee to
  - recover sums due for damages or injunctive relief. The Association shall also have all of the remedies available to a landlord upon the breach or default of the lease agreement by the lessee.
- (e) The Owner of a Lot has the right to lease the Lot one time for a total period not to Exceed one year. The Owner may not lease the Lot for multiple one year terms. The purpose of this lease right is to provide Owners with the ability to lease their Lot while they are attempting to sell or transfer their Lot or for situations in which the Owner has a temporary transfer. Further, exceptions to this leasing restriction may be provided with the consent and approval of the Association, which approval will not be unreasonably withheld if the reason for such extension is consistent with the purpose of this paragraph. An Owner may not transfer or assign its rights in an attempt to gain additional leasing rights. Subsequent Owners who are bonified purchasers will be provided the right to lease the Lot as provided herein.

### HUDSON BUILDERS, Ltd PO BOX 368·Hudson·Ohio·44236 330·655·2897 330·528·0290

### SPECIFICATIONS FOR VILLAS OF TUSCANY

### **STRUCTURE**

7/16"OSB used on exterior of home Studs and joists to be 16"on center 2x4 kiln dried studs used on walls 1st and 2nd floor to be made of 3/4" tongue & groove OSB 5/8" OSB structurally rated roof sheeting

Premade engineered trusses to be used 2' on center

Stick built framing in some areas 2 x 10 Douglas Fir floor joists used

### EXTERIOR

Wolverine American Legend 4" double vinyl siding with wood grain on exterior Dutch Quality 3 ½"Veneer stone detailing Vinyl window trim per elevation Certainteed 25 year dimensional fiberglass shingles to be used over 30 lb felt Aluminum Gutters and Downspouts

### SITE UTILITIES

Builder provides sewer, city water, gas electric, telephone, and cable to home Downspouts to run underground Fully landscaped yard

### CONCRETE

3' wide concrete sidewalk with stone embossed accents
16' wide concrete drive from street to house
12' X 12' concrete patio

### HEATING AND AIR

80% efficiency gas forced air heating system, 75,000 BTU's by Lennox
2½ or 3 ton (per plan) central air conditioning system with 10 seer rating by Lennox

### DOORS/WINDOWS/MISC.

Wire shelving in all closets and pantries 2-car garage door with steel insulated raised panel door ,Amarr Heritage III, and decatrim glass Pella double hung wood/clad windows with screens Wood grids on all upper sashes, per plan Therma-Tru steel insulated front door with decorative glass, model #730, sidelights With decorative glass model # SL730 per plan Pease steel insulated service door into garage model # H101 Deadbolts on all exterior doors 4 panel smooth masonite doors throughout Polished brass lever door hardware Chrome towel bars and tissue holders in all baths

9' ceiling on 1st floor, unless noted

### FIREPLACE

Heatilator gas fireplace per plan

Model GDFL (Peninsula model)

Model GNRC (Rear Vent model)

Model GDST (Two Sided model)

Choice of Fireplace marble or tile surround

### INSULATION

Tyvek insulation wrap on exterior of living areas, or equivalent Exterior walls R-13 fiberglass batt Ceilings R-38 fiberglass insulation Sound insulation, per plan

### HUDSON BUILDERS, Ltd PO BOX 368·Hudson·Ohio·44236 330·655·2897 330·528·0290

### SPECIFICATIONS FOR VILLAS OF TUSCANY

Villas of Tuscany cont...

### **PLUMBING**

Porcelain double bowl model # 5823-4
sink in kitchen with Kohler faucet
& sprayer model # K-12172 CP
Water line for icemaker provided
Master bath to include 5'garden tub
and Kohler Fairfax-K T12885-4CP fixture
Master bath also includes one piece
4' shower with Fairfax K-T12014-4-CP
Basco chrome sliding shower door
with obscure glass in master bath
One piece fiberglass tub/shower in
main with plumbing hardware Fairfax

K-T 12007-4S-CP Kohler Fairfax chrome single lever faucets model #K-12181-CP in guest & master baths

in guest & master baths
White Pedestal sink with
12265-4 CP chrome faucet

in powder room, per plan Plumbing on first floor for washer Mustee #18 W fiberglass utility sink in laundry room with chrome faucet

Bradford White 50 gallon gas hot water heater

Two frost proof faucets on exterior of home

Cold water faucet and drain in garage
All toilets, tubs and showers to be white
All plumbing according to local
building codes
Copper pipes for water supply

Insinkerator disposal model 333 Enlongated toilet in master and guest bath

### FINISH FLOORS

Bruce Hardwood flooring in foyer
Armstrong Starstep vinyl in kitchen
laundry, main bath
Armstrong Successor vinyl in master
Wet areas
100% Stain resistant nylon carpet by
Mohawk

### DRYWALL

House, garage and stairway to basement to be drywalled
Textured ceilings throughout

### PAINT AND STAIN

Sherwin Williams Promar 200 flat Latex paint 2 coats on all interior

Created on 5-01 Tuscanyspecs/exhibit h

walls choice of two colors Sherwin Williams painted semi-gloss woodwork elsewhere

### **ELECTRIC**

150 AMP underground electric service Smoke detectors on all levels Door bell with Chime Three recessed lights Buyer to locate All weather outlets front and rear One GFI outlet in basement and garage. Exhaust fans in all baths Electric hookup for washer & dryer Wiring for 3 phone jacks (cat 5) and 3 cable (fiber optic) outlets Fixture package or allowance Prewired for garage door opener Ceiling fan in master bedroom and great room Prewired for security Prewired for central vacuum system

### INTERIOR WOODWORK & CABINETRY

3 1/4" casing and 5 1/4" base on 1st and 2nd floor, MDF
4 1/2" crown molding in foyer and dining room (per plan), MDF
Stairways to have wooden spindles, handrail, and post
42" oak Merillat cabinets in kitchen
Merillat Tilt out sink trays and drawer organizer in kitchen
Merillat Arbor Falls style cabinets in all baths
Merillat Rutland style wall cabinets in laundry over washer & dryer
Laminate countertops in kitchen
Plate glass mirrors in all baths

Cultured marble vanities with oval

bowls in all baths, per plan

### **APPLIANCES**

Whirlpool electric range, smooth top Whirlpool dishwasther Model DU 810 Whirlpool microwave Model MH 6130

## REFERENCE NUMBERS

Nordonia Hills	
Chamber of Commerce	330-467-8956
Emergency Ems, Fire, Police	
Non-Emergency Fire	
Police	
Poison Control Akron Regional	
·	-800-362-9922
Nordonia Local Schools	
Nordonia Hills Branch Library	
Macedonia/Northfield Post Office	467-5111
City Of Macedonia 9699 Valley View Road	
Macedonia, Ohio	
	330-650-0929
Emergency Number	
Macedonia Recreation Center	
Tourist/Business Information Center	468-8687
Weather Forecast	869-8686
State of Ohio	
Cuyahoga Valley National Recreation Area	
Happy Days Visitor Center	1-800-257-9477
Driver's License/Plates Northfield	440-468-1155
Ohio State Highway Patrol	
To Report a Suspected DUI1-	
Cuyahoga County	
Poison Control (Cleveland)	231-4455
Summit County	
Board of Elections	330-643-5200
Dog Warden	
Health Department	
SCAT Transportation	
Sheriff Department	330-643-2181
Services and Utilities	
Electric: Ohio Edison	1-800-633-4766
Gas: East Ohio Gas	
Water: City of Cleveland	
Sewer: Summit Cnty Dept. of Environmental Services.	
Cable: Aldelphia Cable	
Telephone: Western Reserve Alltel	
releptione. Western Neselve Alitei	1-800-347-1991
	1-000-34/-1991

# Description Approved By TAX MAP DEPARTMENT 6-75

# MODIFICATIONS TO DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR MACEDONIA LAND DEVELOPMENT, LTD.

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### 2. ARTICLE IV, Section 1.(c) and (d)

Article IV, Section 1.(c) will be deleted and the following will be inserted in its place:

(c) Exclusive right of enjoyment of the area adjacent to Lot. Each Member and the Member's lessee and guests have an easement of enjoyment of a limited area surrounding their Lot. This easement of enjoyment will be for the purpose of recreational use which will not interfere with any other member's use or enjoyment of said other Member's lot or, the Association or Developer. The Association will have the right to determine the reasonableness and extent of said recreational use including, but not limited to the location of said recreational use.



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The area to be used for said exclusive right of enjoyment will be from the front of the Lot to the curb or sidewalk, if any, whichever is less, and the area for this easement on sides of each Lot will be 10 feet or ½ distance to adjacent Lot if the distance is less than 20 feet, or when the Lot has a side adjacent to the curb or sidewalk until said sidewalk or curb, if any, whichever is less.

In the rear of each Lot the Member is hereby granted an exclusive easement of enjoyment for the purpose of said recreational use an area from the rear of the Lot a distance of 25 feet and only as wide as the Lot. If these area's intersect with any other adjacent easement of enjoyment, the area will be equally divided between the intersecting properties. The rear easement area will be maintained by the Association as a common area, however, any and all landscaping or other structures that are provided by the Member in addition to that landscaping provided by the association will have to be maintained by the Member and all landscaping or other structures installed by the Member must be approved by the Association or Developer and must be in the opinion of the Association or Developer consistent with the neighborhood and character of the development. It is understood and agreed by the Members that any landscaping or other structures provided by the Member, all of which must be approved by the Association or Developer, must be maintained by the Member at its cost and any additional burden placed on the Association as a result of such landscaping or structures, including but not limited to costs for such, will be the responsibility of said Member.

The Member may place a fence around the rear easement area or as otherwise approved by the Developer or the Association, which fence may only be black in color and consist of a wrought iron style of material. The fence and its, color, style, location, type, size, material, configuration and other characteristics are subject to approval of the Developer or Association.

Additionally, along the side and in the front and rear as necessary, a sidewalk may be placed to access the side or rear of the Lot from the driveway, the location, size, material, configuration and other characteristics are subject to approval of the Developer or Association.

In the rear, side and front of this area, landscape lights may be placed including along walks, subject to approval of the Developer or Association including the number, wattage, style, location and other characteristics.

Improvements, fixtures and any other structure that extend from the Lot into this area or separately located in this area, including for example and without limitation bay windows, air conditioners, decks, stairs, porches, or other items reasonably necessary for the enjoyment of the use of the Lot and this area may be permitted subject to any restriction and approval of the Developer or Association, or are permitted to be originally installed by the Developer. The Member will have the right to repair or replace these items.

Whether or not the use has been approved by the Developer or the Association, if the Association or Developer determines that the use of this area by the Member, including but not limited to any landscaping or other structures placed within this area, are creating a negative or



adverse impact on the neighboring lots, common area, or the development the Association or Developer shall have the right to eliminate, limit or restrict the use of this easement and to determine the reasonableness of use and arbitrate any disputes or uses.

This easement is subject to right of Association and Developer over and through this easement area.

Article IV, Section 1.(d) will be deleted and the following will be inserted in its place:

(d) Easement for Landscaping on the Lot. The Member's grant an easement to the Association and the Developer for the purpose of placing and maintaining landscape on the Lot, including an easement and authorization by each Owner to permit the maintaining landscaper to use the faucets and water on the lots for landscaping of the Lot and the Common Area which may be used by the adjacent Owner's as provided in Article IV Section 1(c). Such water charges will be the responsibility of the Owner.

### 3. ARTICLE IV, Section 1(e).

Create a new subparagraph (e) as follows:

(e) Easement for Stairs Connected to Decks or Patios. Each Member has the right to construct stairs to be attached to a deck or patio, which deck or patio is located within the Member's Lot. The deck stairs or patio stairs are permitted to be placed in the common area as reasonably necessary to access said deck or patio, except such easement for such stairs may not extend beyond a reasonable distance from the Owner's Lot and decks and patios may only be placed at the rear of the home, subject to review and approval by the Developer and the Association.

### 4. ARTICLE V, Section 1 and 2

Will be deleted and the following will be inserted in its place:

Section 1. Creation of Liens and Personal Obligations of Assessments. Each Owner shall pay the Association assessments. Each Lot is subject to a lien, as hereinafter provided, in favor of the Association, as security for the payment of the Assessments levied on the Lot. The assessments include: (a) an annual assessment levied in accordance herewith for the purposes of paying taxes and insurance premiums and of operating, maintaining, constructing, repairing and replacing the recreational and landscaped areas and facilities on the Common Properties, including but not limited to lights, garbage collection, snow removal, street cleaning, electricity, utility service fees, professional fees, including legal and accounting, and other expenses reasonably necessary to operate, maintain, replace or construct facilities of the Common Properties in a manner consistent with the quality of the development, and operation, maintenance, repair and replacement of the infrastructure, including streets and utilities, including a reserve fund, and of administering the affairs of the Association; (b) special assessments levied in accordance herewith for improvements or other capital expenditures,

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for emergency, operating, maintenance, replacement or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment, or for shortfalls in such. Each such assessment shall be in the same amount for each Lot provided, however, that, if a Lot is conveyed by the Developer to the Owner (hereinafter the "Initial Conveyancer") after the date on which an annual assessment is due and payable, the amount of such annual assessment to be paid by such Owner shall be prorated by multiplying the total amount of such annual assessment by a fraction, the numerator of which is the number of days remaining in the year of Initial Conveyance and the denominator of which is three hundred sixty-five (365), unless said annual assessment is levied for a period of less than one year, in which case the denominator shall be the total number of days in the period for which the assessment is levied. The annual assessment may be paid in monthly installments due and payable to the Association on the first of each month, or due and payable as otherwise required by the Association. The annual assessment for the first 27 Lots sold to Owners will be fixed at \$130.00 per month for the year 2000 and may be increased annually by the Developer, however, such increase will not exceed 10% increase per year ("Initial Assessment"). The Developer will pay the difference between the total Initial Assessment collected and actual costs for operation and maintenance as provided above for the Initial Assessment period. The Initial Assessment will be in effect until January I, 2004 or until 28 Lots are transferred by the Developer, whichever occurs first, at which time the annual assessment will be recalculated and determined as provided in this paragraph without any contribution by the Developer. Until January 1, 2004, no funds will be collected to contribute to a reserve fund as provided above. The Initial Assessment and regular Assessment charge will not include extraordinary costs incurred by the Association as a result of excessive garbage, utilities or other use or negligent conduct by any individual Lot Owner, in such case of excessive use the additional charges over and above the regular charges will be charged to the Owner and immediately due and payable the same as an assessment payment. If annual and/or special assessments, together with interest thereon as hereinafter provided, are not paid within sixty (60) days after the assessment has become due and payable, said assessments, together with said interest, shall be a charge upon the Lot for which such assessment has not been paid and the Association shall have a lien upon said Lot.

### ARTICLE VI, Section 4(d)

Will be deleted and the following will be inserted in its place:

(d) Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, including but not limited to the Common Areas and Lots except that dogs, cats, or other usual and common household pets in the opinion of the Association, not to exceed a total of three (3) pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Property shall be removed upon request of the Association. If the owner fails to honor such request, the pet may be removed by the Association at the Pet Owner's cost. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs

54558836 Page: 4 of 9 05/15/2001 04:19F 44:00 shall at all times whenever they are outside a home be confined on a leash held by a responsible person.

### 6. ARTICLE VI, Section 5

Will be deleted and the following will be inserted in its place:

Section 5. Maintenance. Except for the Association's maintenance obligations, each Owner shall maintain, repair and replace all buildings, structures, fixtures and improvements located upon the Lot owned by the Owner, in substantially the same condition as when constructed, except for the interior portions of any building or structure which are not visible from the outside of the residence. All of the foregoing required activities shall be subject to the Rules of the Association, promulgated as provided below. At the Association's expense, the Association shall maintain all buildings and improvements and landscaping located on the Common Properties in a uniform manner such that the same remain substantially the same as constructed and the Association will maintain the landscaping on the Lots, pursuant to the easements granted by Owner of each Lot for landscaping. The Owners will not landscape on the Lots which right and duty is the exclusive right and duty of the Association. Notwithstanding any provision of this Declaration to the contrary, no Owner (except the Developer) may paint or otherwise decorate or cause to be painted or otherwise decorate any exterior portion of any building or structure located on the Owner's Lot, without approval of the Association.

### 7. ARTICLE VI, Section 7

Will be deleted and the following will be inserted in its place:

Section 7. Garbage and Refuse Disposal. No portion of the Common Properties and no Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other discarded or waste material, except by the Declarant or any other developer of any portion of the Properties in connection with the development of the same. Garbage, waste material and containers for such may not be kept outside any residence except in a sanitary, plastic, clean and covered container which may only be placed outside of the garage the night before or the day of trash day, and if the trash is not collected it must be placed back in the garage. The Association is responsible for arranging and paying for garbage and refuse disposal which costs will be assessed to the Owners, in an amount determined by the Association. Owners may be assessed different amounts if in the determination of the Association the garbage and refuse costs are different as a result of an Owner's garbage and refuse production.

### 8. ARTICLE VI, Section 8

Will be deleted and the following will be inserted in its place:

Section 8. Insurance. The Board of Managers shall choose an insurance company, licensed to do business in Ohio with a Best Insurance Rating of A- or better for fire and extended coverage and public liability insurance and shall name the Developer as additional insured. Each Owner shall obtain, immediately upon acquiring an interest in any Lot, fire and extended



coverage insurance for no less than the full insurable value of all buildings and structures located on the Owner's Lot, public liability insurance for an amount not less than a combined single liability limit of Three Hundred Thousand Dollars (\$300,000.00), and upon the contents of any building or structure located on the Lot with a coverage amount determined by the Owner. Written proof of insurance must be provided to the Association by the Owner. The Association shall provide evidence to the Developer that such insurance is in force and is being maintained and each such policy shall contain a provision that it shall not be canceled without at least ten (10) days written notice to the Developer. If the Association or Owner fails to maintain such insurance, the Association, on behalf of the Owner or Developer on behalf of the Association may do so.

### 9. ARTICLE VI, Section 11

Create a new Section 11 under Article VI as follows:

Section 11. Renting and Leasing of Lots. Lots may only be temporarily rented or leased for up to one year as follows:

- (a) No Lot shall be rented for transient or hotel purposes. This shall be defined as (i) Rental for any period less than ninety (90) days, or (ii) any rental if the occupants of the Lot are provided customary hotel services.
- (b) All tenants shall be subject to the terms and conditions of this Declaration, and the Rules and regulations promulgated thereunder as though such tenant was an Owner.
- (c) Each Owner agrees to cause his or her lessee, occupant or persons living with such Owner or with his or her lessee to comply with the Declaration, and the rules and regulations promulgated thereunder. Each Owner is fully responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Lots are fully liable for any violation of the documents and regulations. Failure of the tenants or occupants to so comply shall be considered a default in the lease.
- (d) In the event that a lessee, occupant or person living with the lessee violates a Provision of the Declaration, or rules and regulations adopted pursuant thereto, the Association shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief. The Association shall also have all of the remedies available to a landlord upon the breach or default of the lease agreement by the lessee.
- (e) The Owner of a Lot has the right to lease the Lot one time for a total period not to exceed one year. The Owner may not lease the Lot for multiple one year terms. The purpose of this lease right is to provide Owners with the ability to lease their Lot while they are attempting to sell or transfer their Lot or for situations in which



the Owner has a temporary transfer. Further, exceptions to this leasing restriction may be provided with the consent and approval of the Association, which approval will not be unreasonably withheld if the reason for such extension is consistent with the purpose of this paragraph. An Owner may not transfer or assign its rights in an attempt to gain additional leasing rights. Subsequent Owners who are bonified purchasers will be provided the right to lease the Lot as provided herein.

(f) The Owner has the right to rent or lease the Lot for an unlimited time and without being subject to Section 11(e) above only in-cases when the Lot is rented or leased to immediate family members, being children, siblings or parents of the Owner, all other terms set forth in 11(a)-(d) apply.

IN WITNESS THEREOF, Declar this 12thday of June , 2001	
Signed and Acknowledged In the Presence of:  May Sulvivous  Print Name: Mark Sullivan  Print Name: Jeff White	By:  Who being Member Dinvi Investment Group, Ltd an Chio Limited Liability Company, Managing Member, By: Laura P. DiNovi, Managing Member

SEC.318.202 REV. CODE COMPLIED WITH
DOTALGARDON
FRANK WILLIAMS
COUNTY Auditor
Deputy Auto-

)

TRANSFER NOT NECESSARY
Frank Williams County Auditor

STATE OF OHIO



STATE OF OHIO

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\*of DiNovi Investment Group, Ltd. an Ohio Limited Liability Company, Managing Member of Macedonia Land Development, Ltd.

SUMMIT COUNTY )

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named MACEDONIA LAND DEVELOPMENT, LTD., acting by and through its duly authorized officer, Laura DiNovi , its Managing Member, who acknowledged that he did sign the foregoing instrument, and that the same is his free act and deed personally and as said Officer and the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Boston Heights , Ohio, this 12thay of June , 2001.

YOTARY PUBLIC

PATRICIA AMATO, Notary Public Residence - Summit County State Wide Jurisdiction, Ohio My Commission Expires Jan. 15, 2003

«CL2:116496\_4»

54558836 Page: 8 of 9 66/15/2001 04:19F FRANK WILLIAMS, SUMMIT CO SUDITOR

### EXHIBIT "A"

Lot 1	33-11667	TW-00031-99-003.000
Lot 2	33-11668	TW-00031-99-004.000
Lot 3	33-11669	TW-00031-99-005.000
Lot 4	33-11670	TW-00031-99-006,000
Lot 5	33-11671	TW-00031-99-007.000
Lot 6	33-11672	TW-00031-99-008,000
Lot 7	33-11673	TW-00031-99-009.000
Lot 8	33-11674	TW-00031-99-010,000
Lot 9	33-11675	TW-00031-99-011.000
Lot 10	33-11676	TW-00031-99-012,000
Lot 11	33-11677	TW-00031-99-013,000
Lot 12	33-11678	TW-00031-99-014.000
Lot 13	33-11679	TW-00031-99-015.000
Lot 14	33-11680	TW-00031-99-016.000
Lot 15	33-11681	TW-00031-99-017.000
Lot 16	33-11682	TW-00031-99-018.000
Lot 17	33-11683	TW-00031-99-019.000
Lot 19	33-11685	TW-00031-99-021.000
Lot 20	33-11686	TW-00031-99-022.000
Lot 21	33-11687	TW-00031-99-023.000
Lot 22	33-11688	TW-00031-99-024.000
Lot 23	33-11689	TW-00031-99-025.000
Lot 24	33-11690	TW-00031-99-026.000
Lot 25	33-11691	TW-00031-99-027.000
Lot 26	33-11692	TW-00031-99-028.000
Let 27	33-11693	TW-00031-99-029.000
Lot 28	33-11694	TW-00031-99-030.000
Lot 29	33-11695	TW-00031-99-031.000
Lot 30	33-11696	TW-00031-99-032,000
Lot 31	33-11697	TW-00031-99-033.000
Lot 32	33-11698	TW-00031-99-034.000
Lot 33	33-11699	TW-00031-99-035.000
Lot 34	33-11700	TW-00031-99-036.000
Lot 35	33-11701	TW-00031-99-037.000
Lot 36	33-11702	TW-00031-99-038.000

