

# COUNTY OF LAKE

2004R057064

LAKE COUNTY OHIO  
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**FRANK A. SUPONCIC, CPA, CFE**  
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**DECLARATION OF COVENANTS AND RESTRICTIONS PINE VALLEY  
SUBDIVISION  
City of Willoughby Hills, OHIO**

THIS DECLARATION, made this day of Sept. 29, 2004 by and between MAPLEGROVE DEVELOPMENT COMPANY LLC, an Ohio Limited Liability Company, organized and existing under and pursuant to the laws of the State of Ohio; and the PINE VALLEY SUBDIVISION OWNERS' ASSOCIATION, INC., an Ohio non-profit corporation, hereinafter sometimes referred to as "the Association".

**WITNESSETH THAT**

WHEREAS, Declarant is the owner of the real property described in Article II, Section 1 of this Declaration (hereinafter referred to as the "Declaration") and desires to create thereon a residential community, to be called PINE VALLEY SUBDIVISION. ("Pine Valley"). Pine Valley shall contain single family sublots and facilities, and to this end, Declarant desires to subject said real property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Pine Valley. is being developed as a residential subdivision in accordance with the requirements of the City of Willoughby Hills, the County of Lake and the Lake County General Health District; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in Pine Valley, to create an entity for the purpose of accepting certain easements conveyed and to be conveyed by Declarant, and the maintenance and repair responsibilities associated therewith, and to which should be delegated and assigned the powers of administering and enforcing the covenants and restrictions and collection and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has therefore incorporated under the laws of the State of Ohio, as a non-profit corporation, The Pine Valley Subdivision Owners' Association, Inc. (the "Association") for the purpose of exercising the functions aforesaid; and

WHEREAS, the Association joins in the Declaration for the purpose of accepting the duties and responsibilities imposed upon it by the protective covenants and restrictions herein contained;

NOW THEREFORE, Declarant declares that the real property described in Article II, Section 1 (the "Property") shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements charges and liens contained in this Declaration, and further specifies that this Declaration shall constitute covenants to 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 grantees, successors, heirs, executors, administrators, or assigns.

PLAT VOL. 48 / PG. 17

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CHICAGO TITLE INSURANCE CO.  
Order No. P-27733/838

## ARTICLE I DEFINITIONS

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

(a) "Declaration" shall mean and refer to this Declaration of Covenants and Restrictions and any supplements or amendments thereto.

(b) "Living Unit" shall mean and refer to any detached single family dwelling located on a subplot.

(c) "Sublot" shall mean and refer to any subdivision of land shown upon any recorded Subdivision map of all or any portion of the Property described in Article II, Section 1 hereof.

(d) "Member" shall mean and refer to all persons or entities who are members of the Association as provided in Article III, Section 1 hereunder.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Sublot and/or Living Unit situated upon the Property, but, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired Fee Simple title pursuant to foreclosure or any proceeding in lieu of foreclosure.

## ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 1 - The Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration ("Property") is located in the City of Willoughby Hills, Ohio and is described in Exhibit "A" attached hereto and incorporated herein.

Section 2 - Conflicting Laws, etc. It is intended by the Declarant, its successors and assigns, that this Declaration shall not in any way supersede, prevail or control over any laws, ordinances, rules and regulations now in effect or hereafter enacted by the City of Willoughby Hills.

## ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1 - Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Sublot or unallotted land comprising a portion of the Property shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be a Member.

Section 2 - Voting Rights. The membership of the Association shall be divided into two classes entitled to the rights hereinafter set forth with respect to such classifications. The Association shall have two classes of voting membership, namely Class A and Class B.

Class A. Class A Members shall be all those Owners as defined in Article 1, Subsection (e), with the exception of the Declarant. Class A Members shall be entitled to one vote for each Living Unit or Sublot in which they hold the fee simple interest or interests. When more than one person holds such interest or interests in any Living Unit or Sublot, all such persons shall be Members, and the vote for such Living Unit or Sublot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Living Unit or Sublot.

Class B. The Class B Member shall be the Declarant, and Declarant as the Class B Member shall be entitled to ten (10) votes for each Living Unit or Sublot owned by Declarant with respect to the Exhibit "A" property. Class B membership shall cease and become converted to Class A membership when Declarant no longer owns any Living Units or Sublots.

Section 3 - Articles and Code of Regulations of the Association. The Articles of Incorporation and Code of Regulations of the Association may contain any provisions not in conflict with this Declaration which are permitted to be set forth in such Articles and Code of Regulations by the non-profit corporation laws of the State of Ohio as they may be in effect from time to time.

ARTICLE IV  
DUTIES OF ASSOCIATION AND  
COVENANTS FOR ASSESSMENTS, RIGHTS OF CITY  
OF WILLOUGHBY HILLS

Section 1 - Duties of Association In addition to any other duties and responsibilities elsewhere herein set forth, the Association, acting through its Board of Trustees, shall (i) promote the recreation, health, safety, and welfare of the members; (ii) if required by the City of Willoughby Hills, County of Lake, or otherwise in order to facilitate the efficient and harmonious operation of Pine Valley to accept, maintain, and repair drainage easements, and lay, maintain, replace, or remove storm sewer pipe, drainage ditches, swales, and related appurtenants; (iii) maintain, improve and repair landscaping and lawns within easement areas or dedicated right-of-ways; (iv) inspect and enforce the maintenance and repair of on-site sewage systems servicing each Living Unit; (v) maintain, improve and repair any storm detention pond or basin servicing the Property; (vi) erect, maintain and repair signs and lighting of signs; (vii) improve, manage, and maintain any property, services, or facilities devoted to the aforementioned purposes; and (viii) perform such other services and take such other actions as are approved by the Association and are not inconsistent with this Declaration.

Section 2 - Creation of the Lien and Personal Obligation of Assessment Declarant from and after the filing of the Subdivision Plat and each Owner of any Living Unit or Sublot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, shall be deemed to covenant and agree to pay the Association, and the Association shall levy and collect such assessments as are herein provided for, and any additional: (1) reasonable general assessments or charges; (2) reasonable special assessments for capital improvements and other expenditures. Anything to the contrary herein notwithstanding, the Association shall levy and collect assessments in such amounts as shall be sufficient to enable the Association to discharge its duties as provided in this Declaration. The general and special assessments together and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due.

Section 3 - Purpose of Assessments The assessments levied by the Association shall be used exclusively for the purpose of providing the Association with funds sufficient to enable the Association to discharge its duties and responsibilities as provided in this Declaration.

Section 4 - Initial Amount of Assessments, Adjustments, Etc. Until otherwise determined by the Board of Trustees, the owner of each Sublot shall pay annual dues to the Association in the following amounts: (a) \$120.00 for Lake County General Health District inspection of on-site sewage system; (b) \$55.00 for maintenance of common area landscape; and (c) \$25.00 for the cost of liability insurance. Such amounts may be increased or decreased from time to time to reflect amounts aggregating two times the Association's estimates of the actual costs for such items, and to reflect two times the amount of the Association's estimates of the actual cost of otherwise discharging the responsibilities of the Association as set forth in Section 1 of this Article 4. The Board of Trustees shall revise such estimates and establish an annual budget as being necessary and prudent by the Board of Trustees.

Section 5 - Special Assessments for Capital Improvements, Etc. In addition to the general assessments authorized by Section 3 hereof and the specific assessment authorized by Section 4 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement including necessary fixtures and personal property related thereto, and furthermore, including, but not limited to repair or replacement of a septic system(s) as is hereinafter set forth, provided that any such special assessment shall have the assent of two-thirds (2/3rds) of the Board of Trustees.

The assessments set out in Section 3 and 4 above are enforceable as provided by law or under Article IV, Section 7 of this Declaration.

Section 6 - Date of Commencement of Assessments All of the assessments provided for in Section 4 hereof shall commence with respect to each Sublot on a date determined by the Board of Trustees, provided that the assessment for the annual inspection of each on-site sewage system shall be collected commencing within six (6) months after the construction of a Living Unit on each Sublot. Unless otherwise determined by the Board of Trustees, all assessments shall be paid annually.

Section 7 - Certain Duties of the Board of Trustees Regarding Assessments Except as otherwise herein provided, the Board of Trustees of the Association shall fix the date of commencement and the amount of the assessment against each Living Unit or Sublot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Property and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

Section 8 - Assessments a Lien; Effect of Non-payment of Assessment; Personal Obligation of the Owner; The Lien Remedies of the Association All assessments shall be a lien against the subject Sublots and/or Living Units in the amount attributable thereto as hereinabove set forth from and after the date on which same are levied or assessed by the Trustees. If the assessments are not paid on the date when due, or within thirty (30) days thereafter, then such assessments shall become delinquent, together with interest thereto and costs of collection thereof as hereinafter provided.

If any installment of a general or special assessment is not paid within thirty (30) days after the due date, such delinquent assessment or installment shall bear interest from the due date at the rate of ten percent (10%) per annum, and the Association may after such thirty (30) day period bring an action at law against the Owner responsible for the payment of such assessment, and may foreclose the lien, and in the event a judgment is obtained, such judgment shall include interest on the assessment or installment amount as above provided, together with the costs of the action and reasonable attorney's fees in an amount to be determined by the court.

The personal obligation of the then Owner to pay such assessments shall remain his personal obligation; provided, however, upon the Association's filing of a lien of record against the property, the same shall be enforceable against the Owner's successor in title, if not satisfied by the Owner.

The Association may file in the office of the County Recorder an Affidavit of Lien to evidence any delinquent assessment or installment, but the Association shall not be under any duty to file such Affidavit of Lien and its failure or omission to do so shall not in any way impair or affect the Association's lien and other rights in and against the property and against the Owner of such property. The Association shall cause a copy

of said Affidavit of Lien to be served by regular United States certified mail postage prepaid, to the last known address of the Owner.

Section 9 - Subordination of the Lien to Primary Mortgagee. The lien of the assessments provided for herein shall be subordinate to the lien of a first mortgage, if any, placed upon the Property subject to assessment provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 10 - Exempt Property. The following property shall be exempted from the assessments and liens created herein: (a) All properties to the extent of any easement or other interest therein dedicated to and accepted by the City of Willoughby Hills or any other governmental agency or the Association and devoted to public or common use; (b) All properties of the City of Willoughby Hills which are exempted from taxation by the laws of the State of Ohio, (c) All unallotted property; and (d) All properties owned by the Association.

Section 11 – Rights of City of Willoughby Hills. In the event that the Association shall fail to discharge any of its duties and responsibilities as herein set forth, then and in such event, after thirty days notice of such failure (except in cases of emergency), the City of Willoughby Hills shall have the right to undertake, perform and discharge such duties and responsibilities for and on behalf of the Association. In such event, costs incurred by the City of Willoughby Hills in connection with its performance and discharge of the duties of the Association shall, within thirty days of receipt of an itemized demand for same, be reimbursed by the Association to the City of Willoughby Hills. In the event that the Association fails to remit payment for such costs to the City of Willoughby Hills within said thirty day period, the City of Willoughby Hills shall have the right to levy and collect assessments against the Owner of each Living Unit or Sublot within the Subdivision, and any assessments so levied by the City of Willoughby Hills shall constitute a lien upon all such Sublots and such liens may thereafter be certified by the City of Willoughby Hills to the Lake County Auditor for collection and payment together with general real estate taxes. Amounts due for such assessments shall bear interest at the statutory rate for judgments in accordance with applicable Ohio statutory law.

## ARTICLE V ARCHITECTURAL CONTROL

Section I - Architectural Control No building, fence, wall or other structure shall be erected, placed, or altered within the Property, until the plans and specifications showing the nature, kind, shape, heights, materials, colors and location of the same shall have been submitted to and approved by the Declarant or its representative in writing to assure harmony of external design and location in relation to surrounding structures, topography, landscape plans, signage types, project and street names, lighting, etc. Responsibility for Architectural Control as described above will transfer

from the Declarant to the Association when Declarant ceases to own any Sublots, whereupon the Board of Trustees may, if it so desires, establish an Architectural Review Committee comprised of three (3) Members. The Board of Trustees shall then establish rules and regulations by which the Architectural Review Committee shall conduct its meetings.

Section 2 - Architectural Review - City The procedures established for architectural control set forth in Section 1 above by the Declarant for itself, the Association and the Architectural Review Committee to be hereafter established, shall not in any manner conflict with, supersede, abridge or limit the architectural review procedures now existing or hereafter established by the City of Willoughby Hills. Declarant's right of review and approval of structures to be built upon the Sublots within Pine Valley is intended to be in cooperation with the architectural approval procedures adopted by the City of Willoughby Hills in order to further ensure, preserve and obtain a desirable, suitable and harmoniously designed residential community containing high aesthetic values.

## ARTICLE VI GENERAL RESTRICTIONS

Section 1 - Television Antennas No satellite dish or other external or outside antenna of any kind shall be maintained except that a satellite dish not exceeding three feet in diameter may be maintained on any Sublot. No television antennas shall be permitted.

Section 2 - Signs No sign or other advertising device of any nature shall be placed upon any Sublot except for signs placed by the Declarant or by builders and developers approved in advance by the Declarant promoting the development and providing information to Owners and prospective purchasers. House "For Sale" signs shall be permitted in accordance with the Willoughby Hills Zoning Resolution as amended from time to time.

Section 3 - Use No Living Unit shall be used for other than residential purposes, except that this restriction shall not apply to dwelling units used as model homes by Declarant, builders and developers.

Section 4 - Clotheslines No clothing or any other household fabric shall be hung outside of any Living Unit.

Section 5 - Machinery After construction of a Living Unit, no machinery shall be placed or operated upon any Sublot except such machinery as is used in landscaping or in maintenance of a private residence, or such machinery as is used in connection with approved additions to the Living Unit or construction of additional improvements on such Sublot as approved by the Declarant and/or the Board of Trustees.

Section 6 - Fences Fences in general shall be discouraged. No fence of any kind whatsoever shall be erected or placed on any Sublot until the construction plans and specifications and a plan showing the location of the fence have been approved by the Declarant or the Architectural Review Committee as to quality of workmanship and



materials, type of fence, harmony of design with existing structures and as to location with respect to topography and finished grade elevation. The Declarant and the Board of Trustees may in their sole discretion refuse to permit any particular fence or fences in general, notwithstanding the foregoing.

Section 7 - Mail Boxes Declarant shall develop and distribute as soon as practicable a plan for a uniform type of mail box to be used throughout the Pine Valley Subdivision. No mail box nor any newspaper or magazine box or receptacle mount or support shall be erected, placed or altered on any Sublot except in accordance with such uniform plan.

Section 8 - Dumping Trash, Etc. No dumping is permitted on any part of the Property unless necessary for construction or improvements and authorized by the Declarant or the Board of Trustees of the Association. No Sublot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in a sanitary container. All equipment for the storage or disposal of Such materials shall be kept in a clean and sanitary condition. All trash cans, garbage cans and waste and refuse containers shall be kept and stored inside the garage of the main dwelling or inside any approved out-building and further, may only be deposited at the street for collection on the evening prior to the date of the scheduled collection, and shall be removed to the Living Unit or other enclosed structure by midnight on the date of collection. Each Sublot must be kept and maintained in good visual order, with no debris or unsightly refuse permitted to accumulate by the Owner or Owners. The Association reserves the right to require a uniform week day for the pick up of trash and garbage from all Sublots and Living Units throughout the Subdivision. The Association may elect to contract on behalf of all Owners of Sublots and Living Units within the Subdivision for the pickup of trash and garbage, and in the event of such election, the Association may levy assessments in the manner hereinafter set forth to defray the costs thereof.

Section 9 - Motor Vehicles Except as otherwise herein provided, no campers, camping trailers, motor homes, boats, canoes, boat trailers, snowmobiles, snowmobile trailers, trailers of any type, trail bikes, mini-bikes, motorcycles or other recreational vehicles or commercial vehicles, including, but not limited to, trucks, vans, tow trucks or building equipment shall be placed, parked or maintained, either temporarily or permanently on any Sublot or dedicated roadway in said Subdivision; provided, however, any of the foregoing may be stored and kept within an enclosed structure approved by the Declarant or the Architectural Review Committee.

Necessary trucks and building equipment may be placed, parked, maintained or stored on any Sublot and/or adjacent roadway in said Subdivision during the period of construction and in connection with any necessary repair or maintenance of a Living Unit or permitted structure on any Sublot. Delivery vehicles and moving and storage vehicles shall be permitted for the servicing of houses and permitted structures on any Sublot in Pine Valley.

Section 10 - Miscellaneous Vehicles No motorized vehicles (mini-bikes, motorcycles, mopeds, snowmobiles, etc.) shall be permitted to operate on any common areas.

Section 11 - Firearms and Hunting No fishing, hunting, trapping, or poisoning of wildlife is permitted, except for rodent control, or except upon prior written approval of the Declarant or the Board of Trustees.

Section 12 - Temporary Structures No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Sublot at any time, either temporarily or permanently, unless approved by the Declarant or Architectural Review Committee.

Section 13 - Construction Trailers etc. Construction trailers utilized by builders and/or developers shall be placed as far as possible off public and private rights-of-way, and shall be concealed from view as much as possible. Disturbed areas adjacent to public or private rights-of-way shall be graded and seeded as soon as possible after construction by the Owner. Every reasonable effort shall be made by the builder and/or owner to keep the sites clear of debris during construction.

Section 14 - Landscaping and Driveway No dwelling house constructed on any Sublot shall be occupied for a period longer than twelve (12) months after completion unless and until (i) a paved concrete driveway approved by Declarant and/or the Board of Trustees has been installed, and (ii) unless and until the entire area of each Sublot which has been disturbed during construction and/or which is suitable for development of a lawn, exclusive of the area used for the house, drives, patios, and walks, has been seeded for grass or sodded with grass turf, or planted with decorative or ornamental flowers and/or shrubs. All landscaped areas, including grass, ornamental flowers and/or shrubs, shall be maintained by each owner of a Sublot in a clean, crisp manner.

Section 15 - Repairs and Maintenance All necessary maintenance of the dwelling or other permitted structures shall be done in a manner to conform to the original architectural design. Each Owner of a Sublot shall, at his sole cost and expense, repair his dwelling, keep the same in condition comparable to the condition of such dwelling at the time of its initial construction, excepting only normal wear and tear.

Section 16 - Garages Each residence shall have one (1) attached garage with garage space adequate for the parking of not less than two (2) automobiles. Front-loading garages are discouraged and side or rear-loading garages are preferred.

Section 17 - Building Materials: Size of Living Units The exterior materials of all permitted structures on each Sublot shall consist of wood, stone, brick, or aluminum siding. All exterior surfaces of permitted structures other than brick, stone or mortar shall be painted, stained, and/or washed as required in order to maintain same and preserve the original "as built" integrity.

Each Living Unit shall have a principal roof which is pitched at an angle of not less than 6:12, and in the case of asphalt shingles, a minimum of 235 pound (Woodline or comparable) shingles shall be required, and no Living Unit shall be more than three (3) stories or thirty (30) feet in height measured from first-floor grade level to highest roof pitch. All such Living Units shall contain not less than 2,200 square feet of total living area with respect to a one-story Living Unit, and not less than 2,600 square feet of total living area with respect to a Living Unit of more than one story. "Living Area" shall be measured without inclusion of breeze-ways, porches, verandas, basements, foundations, or crawl spaces. No wooden steps, porches, decks, or similar structures shall be permitted on the front elevation of any Living Unit. No log or geodetic homes shall be permitted.

The front, rear and sides of each Living Unit shall cause any exposed portions of the foundation to be covered with brick to grade. The front elevation of each Living Unit shall include brick or stone treatment as approved by the Declarant and/or by the Architectural Committee.

All Sublots shall be graded in accordance with the overall drainage plan for Pine Valley and with any other criteria provided by Declarant and/or by the Association. Draining and grading shall also comply with all requirements of applicable governmental authorities.

Similar appearing architectural elevations shall not be constructed within 250 feet of each other. Identical or similar floor plans may be repeated within said 250 feet, provided different architectural elevations are employed.

Section 18 – Yards All yards on each Sublot shall at all times be maintained by the Sublot Owner or Owners in a satisfactory and sightly manner, including, but not limited to, the following:

(a) weed killer, of a type appropriate to control, inhibit and prohibit the growth of weeds, shall be applied on all yard areas as frequently as is needed to control, inhibit and prohibit the growth of weeds in yard areas;

(b) all grass and other open areas intended to be maintained in grass shall be kept cut, mowed and trimmed to a height of not more than 3 1/2";

(c) each open storm water drainage swale, waterway, creek or pond on any Sublot or parcel shall be maintained by the Owner thereof in good condition and repair so that there will be no interference with the normal flow of water therein. Neither the location nor the grade of any such drainage swale shall be altered so as to interfere with the normal flow of the water therein, nor shall any swale be replaced with pipe, except with the approval of Declarant or the Board of Trustees.

Section 19 - Accessory Structures. Accessory structures shall be subject to the architectural control provisions of Article V hereof. All accessory structures shall be similar, compatible with, or matching with respect to the exterior character, design, and type of construction of the Living Unit, provided the aggregate floor area of all such

accessory structures shall not exceed five percent (5%) of the gross area of any Sublot. To the extent that same do not interfere with the requirements of on-site sewage systems, easements, or common areas, swimming pools and related enclosed equipment may be constructed and maintained on any Sublot.

Section 20 – Animals No animals, livestock or poultry of any kind shall be raised, bred or kept on any Sublot, except that dogs, cats or other household pets may be kept; provided that they are not kept, bred or maintained for any commercial purposes. Furthermore, no dogs, cats or other household pets shall be housed on any Sublot or kept on any Sublot outside the main permitted dwelling structure. Without limiting the generality of the foregoing, no structure for the housing, exercising or keeping of dogs, cats or other household pets shall be erected on any Sublot, including, but not limited to, dog kennels, rabbit hutches, dog runs, exercise runs or similar structures, except that dog runs may be erected with the consent and approval of Declarant and/or the Board of Trustees as to location, type of material, and other details.

## ARTICLE VII TREES AND EASEMENTS

Section 1. Trees Except as otherwise provided herein, the trees upon each Sublot shall be maintained to the fullest extent possible. Every reasonable effort shall be made to protect and preserve the natural characteristics of the land to avoid soil erosion and the introduction of any material or waste which will damage the soil or vegetation or contaminate the same or pollute the water table or any permanent or temporary streams or water courses or standing water.

Section 2 - Easements The Declarant reserves the sole right to grant consents, easements and rights-of-way for the construction of public or private utility facilities, electric or gas lights, telephone, and television poles and conduits, cable television lines, security systems, gas pipes, sewer and water lines in, over, under and upon any and all highways or roadways now existing or hereafter established upon which any portion of any Sublot may now or hereafter front or abut. No structures, planting or other material shall be placed or permitted to remain within such easement areas which may damage or interfere with the installation and maintenance of such utilities or which may change direction of flow or drainage channels or which may obstruct or retard the flow of water through drainage channels and/or the facilities referred to in this paragraph. The easement area of each Sublot and all improvements in it shall be maintained continuously by the Owner of the Sublot for those improvements therein for which a public or private authority or utility is responsible. The holder of any such easement shall have the right to enter upon and across each Sublot at any place or time that is required in order to make any installation, to carry out any maintenance, or to perform any other such function or operation in accordance with such easements. Furthermore, Declarant reserves easements and rights-of-ways, within, over, under and across the front ten (10) feet of each Sublot parallel with and contiguous to all street right-of-way lines for the installation, maintenance, repair and operation of underground gas lines, electric lines, water lines, telephone lines, cable television lines, security system lines and any other utility lines, wires, pipes and conduits; and, additionally, reserves the right to assign the use of said easements and rights-of-ways,

or to grant easements or rights-of-ways for the same, to the respective utility companies and others to service the Sublots, or to dedicate the same to public use.

### ARTICLE VIII SEWAGE SYSTEM

The Association shall have the right and obligation, subject to the Owner's responsibility as set forth below, to provide the maintenance, repair and replacement of the individual on lot sewage system serving each Sublot, hereinafter referred to as "system" as provided herein. Such maintenance, repair and replacement shall be performed in accordance with the Lake County General Health District requirements, as now in affect or as may be from time to time amended.

Each Owner has or will assume responsibility for the proper maintenance and operation of the system located on the property, of such Owner. In conjunction therewith the Association shall conduct inspections of each system semi-annually. A written report of the semi-annual inspection shall be produced, and a copy submitted to the Lake County General Health District, the Association and the Owner. In the event that maintenance, repair or replacement of any system is found to be necessary as a result of the routine inspection conducted by the Association, or the Lake County General Health District or its successor, the Owner shall have the obligation within fourteen (14) days from receipt of the report from the Association to commence to maintain, repair or replace the system. Thereafter, such Owner shall diligently pursue completion of such maintenance, repair or replacement. In the event the Owner fails to commence or complete the necessary action within the time period prescribed, the Association shall have the authority to maintain, repair and/or replace the defective system and charge the Owner with the cost thereof.

The inspection shall be performed only by "qualified" individuals. A qualified individual shall be defined as a person having such qualifications and/or licenses as the Lake County General Health District or its successors may reasonably adopt from time to time, and shall be trained and/or certified by the manufacturer of the system.

The Association shall have the authority to order and contract for on behalf of the Owner for the maintenance, repair and/or replacement of any system which needs maintenance, repair or replacement or which is a result of a failure to comply with the design, specifications and installation procedures as specified by Declarant and/or by the Lake County General Health District. The full costs of such maintenance, repair and/or replacement shall be borne by the Owner.

By acceptance of a deed for a Sublot or any other interest in the real property subject to this Declaration, each Owner and/or subsequent Owner consents to the entry upon the property by the Association, its agents or employees to perform such inspections, maintenance, repairs and/or replacements and waives any right the Owner may have to object to such entry upon the property, provided, however, that such entry upon the property by the Association, its agents or employees shall be reasonable in all respects, and shall be limited as to area and duration to the extent reasonably necessary in connection with such maintenance, repair, or replacement activities. Declarant further reserves to the Association such easements as may be

necessary to perform such inspections, maintenance, repairs or replacements as may become necessary to keep the system in proper working order.

By acceptance of a deed for a Sublot or any other interest in the real property subject to these Restrictions, each Owner and/or subsequent Owner waives any rights or claims the Owner may then or at any time in the future have against the Lake County General Health District and/or Declarant which result from the approval by the Lake County General Health District of the systems being used by each Sublot.

The Association shall levy and collect from Owners assessments in such amounts and at such times as are herein specified or as shall be sufficient to enable the Association to discharge its responsibilities hereunder. The Association shall use funds accumulated through such assessments for inspection of systems, for administration of the Association's affairs including legal and accounting fees and any other directly related expenses necessary to accomplish the Association's purposes. The cost of maintaining, repairing, and/or replacing a septic system may be covered by assessments or special assessments, if so required.

The following provisions shall also constitute restrictions to which each Sublot is subject and which must be complied with by the Owner of each Sublot prior to or in the construction of a residence on the Sublot:

(a) Each Sublot will be considered separately for the installation of an individual household sewage disposal system. If a Sublot is found to be unsuitable, a sewage disposal system installation permit will not be issued and the Sublot will be considered unbuildable.

b) A backhoe will be provided by the Association at the request of the Lake County General Health District for any or all Sublots to confirm soil types and/or to determine the depth to bedrock or ground water table.

(c) The system shall be constructed in accordance with approved plans. All changes must be reported to and approved by the Lake County General Health District.

(d) Each residence constructed on a Sublot within the proposed Subdivision must utilize water saving toilets, shower heads and faucets.

(e) A sewage disposal system installation permit must be obtained for each Sublot. Prior to permit issuance, a site inspection will be conducted by a representative of the Lake County General Health District. Once the type, size and location of the sewage disposal system to be utilized is determined, the applicant must submit a plot plan drawn by a registered engineer or surveyor depicting the location and design of the sewage disposal system, house location, existing and final grades, downspout drainage and any other information deemed necessary by the Lake County General Health District.

(f) Drainage improvements or changes from existing grade noted on the approved plan shall be installed prior to sewage disposal system installation permit issuance.

- (g) Off-lot disposal of sewage effluent will not be permitted.
- (h) Trees on the east, west and north sides of the sewage disposal system will be cleared to allow the system to receive at least eight (8) hours of sun per day for those residences using an evaporation system.
- (i) The minimum elevation of the splitter box used in the sewage disposal system shall be six (6) inches above the finish grade of the individual trenches.
- (j) All laws and rules of the Lake County General Health District and the Ohio Department of Health pertaining to individual sewage disposal and water supply systems shall be followed.
- (k) All sewage effluent lift pumps must be designed to lift residential sewage effluent to meet the necessary load and rate requirements. Check valves must be used. A visual or audible alarm must be placed in the building served by the pump to indicate any electrical or mechanical failure. The pump must be readily removable from the manhole in case of pump failure.
- (l) Systems shall be installed only by installers approved by the Lake county General Health District.
- (m) On-lot sewage systems shall be designed only by Declarant or its authorized agents.
- (n) Site-specific soil work must be conducted for all Sublots utilizing drip distribution.
- (o) No on-site sewage systems shall be installed on any field tiles encountered during construction. All field tiles located in the areas designated for on-site sewage systems must be flagged prior to site evaluation by the Lake County Health District.
- (p) No on-site sewage systems or duplication areas shall be located in the so-called "Nursery Road Areas" delineated on the Improvement Plans for the Subdivision.
- (q) On-site sewage systems located in proximity to proposed adjacent public right of ways shall be roped off and adequately protected during the construction of said roadways and related utilities.

The deed restrictions contained in this Article VIII entitled "Sewage System" shall continue to apply to each Sublot until the Sublot, if ever, is tied into a sanitary sewer system.

#### ARTICLE IX

Section 1 – NPDES Permit, Individual Lot Notice Federal law at 40 CFR Part 122 prohibits point source discharges of storm water associated with construction activity to a water body(ies) of the United States without a National Pollutant Discharge Elimination System (NPDES) permit.

The development of Pine Valley Subdivision is covered by an Ohio EPA General Storm Water NPDES Permit for Construction Activities issued to the Declarant, Maplegrove Development Company, LLC.

The Declarant is required to inform each purchaser of a Lot within Pine Valley Subdivision of said purchaser's obligation to file an Individual Lot Notice of Intent (Individual Lot NOI), and advise that the lot purchaser is required to abide by the terms and conditions of the NPDES Permit.

Each property owner in Pine Valley Subdivision is required to submit an Individual Lot Notice of Intent for coverage under Ohio EPA Storm Water Construction General Permit, a form prescribed by the Ohio EPA. To obtain the form, or if you have questions regarding the form or need the form, contact the Ohio EPA Storm Water Unit at (614) 644-2001. The NOI must be sent to the following address:

Ohio Environmental Protection Agency  
General Permit Program  
P.O. Box 1049  
Columbus, Ohio 43266-0149

Each purchaser of an individual Lot at Pine Valley Subdivision is notified of the foregoing requirements and agrees to comply with all of the foregoing requirements and to indemnify and hold the Declarant absolutely harmless from any loss, claim or liability in any manner connected with the individual lot NOI and/or purchaser's (or purchaser's contractor's) failure to comply with the applicable regulations now in effect or if hereafter modified.

Each purchaser/owner assumes responsibility for storm water control and silt and erosion control with respect to each Lot from the date of transfer of ownership. This provision shall apply to the purchaser of a vacant lot or a lot having greater than 30% unstabilized soil subject to erosion.

## ARTICLE X GENERAL PROVISIONS

Section 1 – Duration The Covenants and Restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owner of any land subject to this Declaration, and with regard to those provisions hereof, dealing with on-site sewage system by the Lake County General Health District.

Section 2 - Notices Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.



Section 3 - Enforcement Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4 - Binding Effect Each Grantee accepting a deed, lease or other instrument conveying any interest in a Sublot or Living Unit, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, successors and assigns to observe, perform and be bound by this Declaration.

Section 5 - Assignability The Declarant, its successors and assigns, notwithstanding any other provision herein to the contrary, shall at all times have the right to fully transfer, convey and assign all of its rights, title and interest under this Declaration, provided that such transferee, grantee or assignee shall take such rights subject to all obligations also contained herein.

Section 6 – Amendments The terms and conditions of this Declaration (except those relating to on-site sewage systems) may be amended, annulled or waived by an instrument in writing recorded in the public records of Lake County, Ohio, in the following manner and subject to the following conditions:

(a) Until such time as Declarant no longer owns any Sublots or Living Units, Declarant shall have the sole right and power of granting waivers to provisions of this Declaration and amending this Declaration.

(b) Except as otherwise specifically prohibited herein, after Declarant no longer owns any Sublots or Living Units, an amendment, annulment or waiver of any provision hereof shall be effective if approved at a duly called and held meeting by not less than sixty-six and two-thirds percent (66 2/3rds%) of the membership in person or by proxy.

(c) In addition to the above, the Declarant shall have the right to amend this Declaration without the consent of any person to correct errors of omission or commission or as required to comply with requirements of any governmental agency or public, quasi-public or private entity, or to bring the Declaration in compliance with applicable laws, statutes and ordinances.

Section 7 - Severability Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

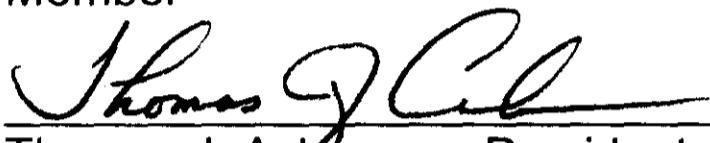
Section 8 - Word Usage. Words used herein in the singular shall be construed to mean the plural, words used in the plural, the singular, words used in the masculine or neutral, the feminine or neutral, whenever the context so requires.

Section 9 - Copy of Declaration. A copy of this Declaration of Covenants and Restrictions shall be furnished to the Purchaser of each Sublot within the Subdivision prior to the sale of a Sublot and receipt thereof shall be acknowledged in the sales agreement.


IN WITNESS WHEREOF, the Declarant and the Association have hereunto set their hands at Painesville, Ohio the date and year first above written.

**MAPLEGROVE DEVELOPMENT  
COMPANY, LLC**

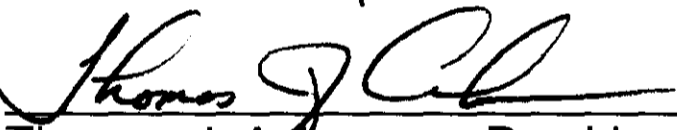
BY: **T.J. ACKERMAN, INC.**  
Member

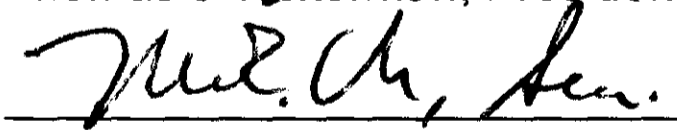
BY:   
Thomas J. Ackerman, President

**ROYCE PROPERTIES, INC.**  
Member

BY:   
Michael E. Osborne, President

**PINE VALLEY SUBDIVISION OWNERS'  
ASSOCIATION, INC.**  
A Non-Profit Corporation

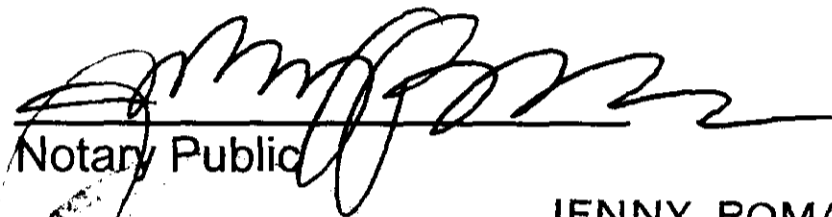
BY:   
Thomas J. Ackerman, President

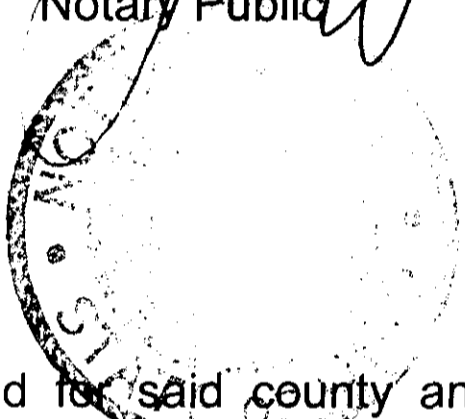
BY:   
Michael E. Osborne, Secretary

STATE OF OHIO )  
 ) SS.  
COUNTY OF LAKE )

BEFORE ME, a Notary Public in and for said county and state personally appeared the above-named **MAPLEGROVE DEVELOPMENT COMPANY LLC** by its Member, **T.J. ACKERMAN, INC.** Member, by **THOMAS J. ACKERMAN** who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said limited liability company and the free act and deed of said corporation and his free act and deed personally and as such President.

IN WITNESS WHEREOF, I have hereunto set my official hand and seal at Mentor, Ohio, this 29<sup>th</sup> day of Sept 2004.

  
Notary Public

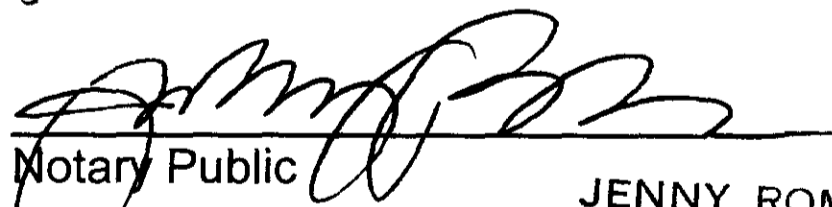


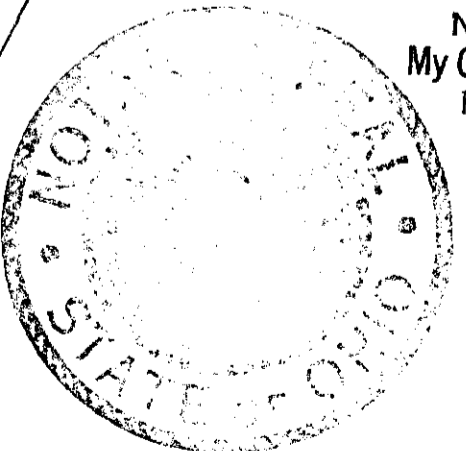
**JENNY ROMAN**  
Notary Public, State of Ohio  
My Commission Expires 10/15/08  
Recorded in Lake County

STATE OF OHIO )  
 ) SS.  
COUNTY OF LAKE )

BEFORE ME, a Notary Public in and for said county and state personally appeared the above-named **MAPLEGROVE DEVELOPMENT COMPANY LLC** by its Member **ROYCE PROPERTIES, INC.**, by **MICHAEL E. OSBORNE**, its President, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said limited liability company and the free act and deed of said corporation and his free act and deed personally and as such President.

IN WITNESS WHEREOF, I have hereunto set my official hand and seal at Mentor, Ohio, this 29<sup>th</sup> day of Sept 2004.

  
Notary Public

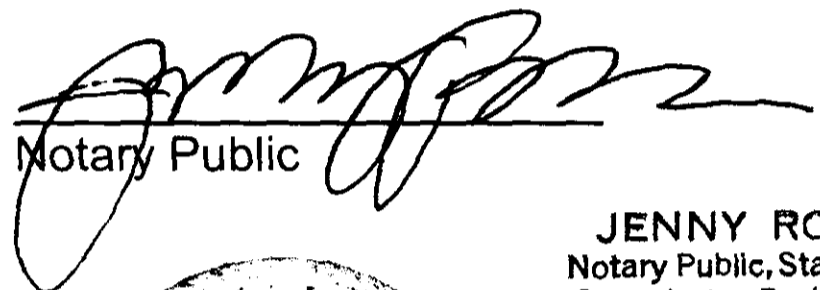


**JENNY ROMAN**  
Notary Public, State of Ohio  
My Commission Expires 10/15/08  
Recorded in Lake County

STATE OF OHIO            )  
                                  ) SS.  
COUNTY OF LAKE        )

BEFORE ME, a Notary Public in and for said county and state personally appeared the above-named **PINE VALLEY SUBDIVISION OWNERS' ASSOCIATION, INC.** by **THOMAS J. ACKMERMAN**, its President and by **MICHAEL E. OSBORNE**, its Secretary who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said non-profit corporation and the free act and deed of each of them personally and as such officers.

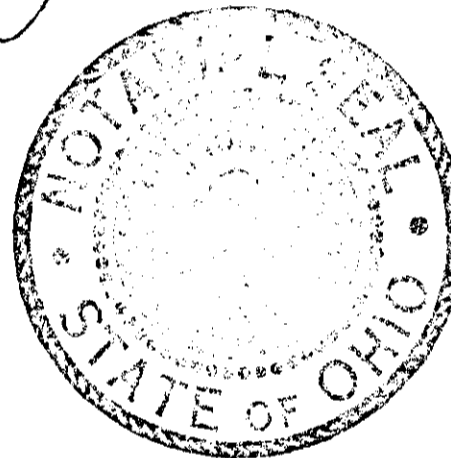
IN WITNESS WHEREOF, I have hereunto set my official hand and seal at Mentor, Ohio, this 29<sup>th</sup> day of Sept 2004.

  
Notary Public

**JENNY ROMAN**  
Notary Public, State of Ohio  
My Commission Expires 10/15/08  
Recorded in Lake County

This instrument was prepared by:

David J. Richards, Jr., Esq.  
60 South Park Place  
Painesville, Ohio 44077



SCANNED IMAGE LEGIBILITY IS POOR

## EXHIBIT A

Situated in the City of Willoughby Hills, County of Lake and State of Ohio and known as being part of Lot 7 Tract 10 and Lot 6 Tract 10 and being further bounded and described as follows:

Beginning at a 1" iron pipe found in the Northerly R/W of Maple Grove Road, 60 foot R/W, said point being in the Lot Line of Lot 7 Tract 10 and Lot 6 Tract 10 and also being in the Westerly line of lands conveyed to Robert W and Norma P Meyer as recorded in Volume 668, Page 319 (P.P. No. 31-A-017-022) and also being in the Easterly line of lands conveyed to Robert L Speece as recorded in Volume 797, Page 686 (P.P. No. 31-A-017-007) of the Lake County Deed Records;

Thence North  $02^{\circ} 19' 23''$  West along said Lot Line and the Westerly line of said Meyer and the Easterly line of said Speece, a distance of 298.90 feet to an iron pin set, said iron pin being the Northwesterly corner of said Meyer and being in the Easterly line of said Speece and the Principal Place of Beginning;

Course I: Thence North  $02^{\circ} 19' 23''$  West continuing along said Lot Line and the Easterly line of said Speece and the Easterly line of lands conveyed to Thomas L & Joyce A Azre as recorded in Volume 765, Page 1017 (P.P. No. 31-A-017-008) and Cheryl Beal as recorded in Document No. 990047505 of the Lake County Deed Records (P.P. No. 31-A-017-009), a distance of 803.03 feet to an iron pin set;

Course II: Thence North  $89^{\circ} 57' 12''$  West along the Northerly line of said Beal and along the Northerly line of lands conveyed to Nancy Klenk as recorded in Volume 102, Page 1314 of the Lake County Deed Records (P.P. No. 31-A-017-012), a distance of 441.68 feet to a 5/8" iron pin found, said point being the Northwesterly corner of said Klenk;

Course III: Thence South  $01^{\circ} 59' 15''$  East along the Westerly line of said Klenk and said Azre, a distance of 691.71 feet to an iron pin set, said point being in the Westerly line of lands conveyed to Evelyn M Globaker as recorded in Document No. 960019207 (P.P. No. 31-A-017-023) and also being the Northeasterly corner of lands conveyed to Don A & Mary L Arhar as recorded in Volume 485, Page 538 of the Lake County Deed Records (P.P. No. 31-A-017-016);

Course IV: Thence South  $89^{\circ} 09' 10''$  West along the Northerly line of said Arhar, a distance of 100.00 feet to an iron pipe set, said point being the Northwesterly corner of said Arhar;

Course V: Thence South  $01^{\circ} 44' 26''$  East along the Westerly line of said Arhar, passing through a 3/4" iron pipe found at a distance of 413.69 feet, a total distance of 439.03 feet to a point in the centerline of Maple Grove Road, 60' R/W;

Course VI: Thence South  $89^{\circ} 58' 37''$  West along the centerline of said Maple Grove Road, a distance of 273.47 feet to a point;

Course VII: Thence North  $01^{\circ} 53' 23''$  West, passing through an iron pin set in the Northerly R/W of said Maple Grove Road at a distance of 30.02 feet, a total distance of 772.44 feet to an iron pin set, said point being a point of curvature;

Course VIII: Thence along a curve to the right having a radius of 1030.00 feet, tangent 37.52 feet, length 75.00 feet, chord 74.98 feet, chord bearing North  $00^{\circ} 11' 47''$  East and delta  $04^{\circ} 10' 19''$  to an iron pin set;

File No: 200428563

**STEWART TITLE**  
GUARANTY COMPANY

Course IX: Thence South  $89^{\circ} 33' 59''$  West, a distance of 248.82 feet to an iron pin set, said point being in the Easterly line of Somrack Subdivision as recorded in Plat Volume R, Page 24 of the Lake County Plat Records;

Course X: Thence North  $01^{\circ} 57' 16''$  West along the Easterly line of said Subdivision, a distance of 567.48 feet to an iron pin set, said point being the Northeasterly corner of said Subdivision and also being in the Southerly R/W of Interstate 90, said point being R/W Station 173+51.77, 465' R referenced by centerline monumentation on Interstate 90;

Thence along the following 5 courses which follow the Southerly R/W of said Interstate 90;

Course XI: Thence  $01^{\circ} 46' 39''$  West along the Southerly R/W of said Interstate 90, a distance of 78.17 feet to a point, said point being R/W Station 174+00.00, 403.53 foot Right referenced by centerline monumentation on Interstate 90;

Course XII: Thence North  $02^{\circ} 09' 58''$  West continuing along the Southerly R/W of said Interstate 90, a distance of 130.96 feet to a point, said point being R/W Station 174+81.23, 300 foot Right referenced by centerline monumentation on Interstate 90;

Course XIII: Thence North  $50^{\circ} 03' 55''$  East continuing along the Southerly R/W of said Interstate 90, a distance of 1219.97 feet to a point, said point being R/W Station 187+00.00, 300 foot Right referenced by centerline monumentation on Interstate 90;

Course XIV: Thence North  $44^{\circ} 20' 24''$  East continuing along the Southerly R/W of said Interstate 90, a distance of 402.07 feet to a point, said point being R/W Station 191+00.00, 258 foot Right referenced by centerline monumentation on Interstate 90;

Course XV: Thence North  $50^{\circ} 02' 58''$  East continuing along the Southerly R/W of said Interstate 90, a distance of 282.77 feet to a point, said point being referenced by a  $5/8''$  iron pin found 2.08 feet North and said point also being in the Westerly line of lands conveyed to Loreto Venture Group, LLC as Recorded in Document No. 2003R044683, 2 of the Lake County Deed Records (P.P. No. 31-A-017-030), said point being R/W Station 193+82.77, 260 foot Right;

Course XVI: Thence South  $02^{\circ} 21' 53''$  East along the Westerly line of said Loreto Venture Group, LLC, Willis R Nash as recorded in Document No. 960004168 (P.P. No. 31-A-017-028), Judith C Moore as recorded in Document No. 960004167 (P.P. No. 31-A-017-027), Edith F Scarbrough as recorded in Document No. 960004166 (P.P. No. 31-A-017-026), Douglas E & Karen S Nash as recorded in Document No. 960004165 (P.P. No. 31-A-017-019) and Bretta & Luann Key as recorded in Document No. 960006287 (P.P. No. 31-A-017-025), passing through a  $5/8''$  iron pin found capped "CT", at a distance of 2044.46 feet, said point being the Southwesterly corner of said Loreto Venture Group LLC and the Northwesterly corner of said Nash, a total distance of 2545.08 feet to a point, said point being referenced by a  $5/8''$  iron pin found 0.07 feet South and said point being in the Northerly line of lands conveyed to Phillip Scott Jr. as recorded in Document No. 200133343 of the Lake County Deed Records (P.P. No. 31-A-017-005);

Course XVII: Thence South  $89^{\circ} 46' 58''$  West, along the Northerly line of said Scott and the Northerly line of lands conveyed to David & Susan D. Kalman as recorded in Document No. 200141069 (P.P. No. 31-A-017-006) and along the Northerly line of said Meyer, passing through a 1" iron pipe found at a

distance of 25.00 feet, and a 5/8" iron pipe found at a distance of 25.00 feet, and a 5/8" iron pin found at a distance of 219.05 feet, a total distance of 427.11 feet to the Principal Place of Beginning.

Said Parcel containing 55.7997 acres or 2,430,635.78 square feet of land, be the same more or less, but subject to all legal highways as surveyed and described in January, 2004 by Ralph W. Gromley, Ohio Registered Surveyor Number 7431. Bearings used herein are to an assumed meridian and are used to denote interior angles only. The intent of the above description is to combine a 4.1787 acres split parcel of land from the lands deeded to David M. & Vivian C. Rowell as recorded in Document No. 970042485 and combine it to the lands deeded to D.W.S.R. Corporation as recorded in Volume 738, Page 581 & 584 and Warner Nurseries, Inc., as recorded in Document No. 2002R060732 of the Lake County Deed Records. All iron pins set are 5/8" X 30" rebar capped with #7431.