


30/7

Document Number	<b>THIRD AMENDMENT OF DECLARATION OF CONDOMINIUM FOR WESTWIND VILLAS CONDOMINIUM</b>	<b>DOC# 1123644</b> Recorded December 31, 2019 9:57 AM JAMES M KREBS REGISTER OF DEEDS FOND DU LAC COUNTY Fee Amount: \$30.00 
Return Address:	Attorney Paul W. Rosenfedt Dempsey, Edgarton, St. Peter, Petak & Rosenfeldt P. O. Box 1276 Fond du Lac, WI 54936-1276	
Parcel I.D. Number:	Not Applicable	

Recording Area

This document affects the real estate described in Exhibit A, attached and made a part hereof and amends the Declaration of Condominium of Westwind Villas Condominium (the "Declaration") recorded in the Fond du Lac County Registry on June 17, 2005 as Document No. 849367 and previously amended by documents recorded in said Registry as Document Nos. 889985 and 899083.

The undersigned President and Secretary of the Westwind Villas Owners' Association (the "Association") hereby certify that they have duly obtained the written consent of at least two-thirds (2/3) of the total voting interests held by all Unit Owners as defined in Section 3.01 of the Declaration and either the written consent or consent pursuant to Wis. Stat., § 703.09(2m) of each first mortgagee of each unit for which the written consent of its Unit Owner or Unit Owners has been obtained to the following provisions amending the Declaration and the Declaration is hereby so amended:

Section 3.02(a), (b) and (c) of the Declaration are amended to provide as follows:

**(a) Upper Boundary.** The upper boundary of the Unit shall be the interior lower surface of the ceiling joists of the ceiling directly above the highest level of the living area, extended to an intersection with the perimetrical boundaries.

**(b) Lower Boundary.** The lower boundary of the Unit shall be the top surface of the unfinished concrete floor of the lowest level of the Unit, consisting of the garage and basement extended to an intersection with the perimetrical boundaries.

{07537429.DOCX.1}

(c) **Perimetrical Boundary.** The perimetrical boundaries of the Unit shall be vertical planes of the inside surface of the studs supporting the interior walls for all areas of the Unit except for the basement and the vertical planes of the inside surface of the concrete walls of the basement, in either case extending to intersections with the upper and lower boundaries.

Section 3.02(d) of the Declaration is hereby created to provide as follows:

(d) **Owner Responsibilities.** All paint, coatings, coverings, drywall, plaster, paneling, carpeting, tile and other materials, structures, improvements or applications of any kind that are located over, upon or within the boundaries described in Sections 3.02(a), (b) and (c) are the responsibility of the Unit Owner.

Section 6.04(a) of the Declaration is amended to provide as follows:

(a) **Common Elements.** The Association shall be responsible for the management and control of the Common Elements and Limited Common Elements and shall maintain the same in good, clean and attractive order and repair. In addition, the Association shall be responsible for providing and maintaining all Limited Common Elements; for snow plowing all sidewalks, driveways, private streets, parking areas; and maintenance, repair and replacement of all outdoor amenities, including lawns, landscaping, sidewalks, bicycle paths, driveways and parking areas. Unit Owners may, however, with prior Association approval, plant, maintain and subsequently remove and replace plants and shrubs and related landscaping, such as decorative stone, mulch and borders that were planted or installed by the same Unit Owners or their predecessors in interest along the sides, back and front of the structural exterior of their Unit, and extending to the existing or other edging approved by the Association. The Unit Owner shall be solely responsible for the care and maintenance of all plants, shrubs and related landscaping planted or installed by the Unit Owner or the Unit Owner's predecessors in interest. The Unit Owner may not interfere with or obstruct the Association in its maintenance of Common Elements and Limited Common Elements.

The first two paragraphs of the first Section 6.04(c) of the Declaration, bearing the heading "Common Area Lighting," are amended and the second of said paragraphs redesignated as Section 6.04(ca) to provide as follows:

(b) **Common Area Lighting.** The Declarant will provide common area lighting which will light the walking trail and gazebo of the Subdivision. The electrical expenses associated with this lighting will be the responsibility of the Association as a Common Area Expense.

(ca) **General.** Except where otherwise expressly provided, it will be the responsibility of the Association to maintain all of the above Common and Limited Common Elements, including the landscaping, drainage facility, decorative fencing, identification signs, roadway and common area amenities and common area lighting.

The next four paragraphs of the first Section 6.04(c) are hereby assigned the following Section and heading: **6.04(cb) Assessments Against Units Owned by the Declarant.**

The second Section 6.04(c), which bears the heading, "Units," is hereby redesignated as Section 6.04(cc).

Section 6.04(d) of the Declaration is hereby amended to provide as follows:

(e) **Private Street Lighting.** In lieu of the function which would be typically provided by public street lights, the Condominium, through the Declarant, shall install a light post and light for each unit. Each light post will be adjacent to boundary of Westwind Private Drive. Each of these light posts and lights will be in accord with plans and specifications to be approved, prior to installation, by representatives of the Town of Fond du Lac. Each of such lights shall be equipped with either a timer or photosensitive device in such a manner that they will operate from dusk to dawn. The Association will be responsible for the maintenance of said light posts and lights, together with timer or photosensitive device and promptly repair or replace them as necessary to keep them in a functional status.

Section 6.05 of the Declaration is hereby amended to provide as follows:

**6.05. Common Expenses.** Any and all expenses incurred by the Association in connection with the management of the Condominium, maintenance of the Common Elements and Limited Common Elements and other areas described in Section 6.04 and administration of the Association shall be deemed to be common expenses ("the Common Expenses"), including, without limitation, expenses incurred for: landscaping and lawn care, snow shoveling and plowing; improvements of the Common Elements; and reasonable maintenance and management salaries and wages.

Section 6.06 of the Declaration is hereby amended to include the following addition:

In addition to monthly general assessments and special assessments authorized by this Declaration, an assessment in the amount of One Thousand Dollars (\$1,000) shall be due and payable to the Association by the transferee upon the transfer, with or without consideration, of an ownership interest in a Unit or in an entity that owns a Unit. "Ownership" means sole ownership or ownership of a controlling interest in the Unit or entity that owns the Unit. This

assessment is due and payable in full upon the closing of such transfer and before the deed, land contract or other instrument of such transfer is recorded. Any unpaid portion of this assessment shall be a lien on the Unit without further notice or other action. The following types of transfers are exempt from this assessment: transfers resulting from foreclosure of a mortgage or other lien, deeds in lieu of such foreclosure, transfers to a trustee or spouse solely for estate planning or tax reasons, transfers upon death to an heir or beneficiary under a will, trust, other governing instrument under Wis. Stat., § 854.01(2), or law of intestate succession or pursuant to a judgment of divorce or legal separation.

Section 7.1(d) of the Declaration is hereby created to provide as follows:

(f) All improvements and alterations within a Unit must be constructed in full compliance with all applicable building codes. The Unit Owner is solely responsible for maintaining and insuring all such improvements and alterations and shall indemnify and hold the Association harmless from all claims that may arise from such improvements and alterations.

Section 7.06 of the Declaration is hereby amended to provide as follows:


**7.06. Signs and Other Attachments.** Except as specifically provided herein, no sign or other attachment of any kind shall be displayed to the public view on any Unit without the written consent of the Association. Exceptions: (a) tasteful and reasonably attractive seasonal and holiday decorations may be displayed without prior approval, provided that they are removed in a timely and seasonable manner; (b) when the Unit is listed for sale by its Owner or by a licensed realtor on behalf of its Owner, a standard real estate sale sign may be displayed without prior approval, provided that its dimensions are no more than 2' x 3', it is well maintained and is removed in a timely manner after the Unit has been sold.

Section 8.01 of the Declaration is hereby amended to provide as follows:

**8.01. Fire and Extended Loss Insurance.** The board of directors of the Association shall obtain and maintain fire, casualty, and special form insurance coverage for the Common Elements for the Unit as originally constructed as of the date the occupancy permit for the Unit was originally issued, and for the Association's service equipment, supplies and personal property. In the event of uncertainty or dispute concerning which portions or structural components of the Unit were constructed as of the date of issuance of the occupancy permit for the Unit, it shall be presumed that original construction included only the minimum amount of construction that was required for the issuance of the occupancy permit. Each Unit Owner shall obtain and maintain fire, casualty, and special form insurance coverage for all improvements to the Unit as defined in Section 3.02 hereof and all improvements located therein for not less than the full replacement value thereof. In all cases of overlap or duplication of insurance coverage obtained in compliance with this Section 8.01, the Unit Owners' coverage for their Unit shall be

the primary coverage and the Unit Owner shall notify the insurer of this requirement upon obtaining such coverage and provide the Association with proof of such notice and their insurer's acceptance of this term. Insurance coverage for the Common Elements shall be reviewed and adjusted by the board of directors of the Association from time to time to ensure that the required coverage is at all times provided. The insurance maintained by the Association shall be written on the Condominium's Common Elements on the name of the Association as insurance trustee for the individual Unit Owners in their respective percentage interests in the Common Elements, and may list each Unit Owner as an additional insured with respect to its Unit. The policy shall contain the standard mortgagee clause, which shall be endorsed to provide that any proceeds shall be paid to the Association, as insurance trustee, for the use and benefit of any Mortgagee as its interest may appear. All premiums of such insurance shall be Common Expenses. In the event of damage to or destruction of all or part of the Condominium insured hereunder, the proceeds of the insurance shall be paid to the Association, as insurance trustee, for the Unit Owners and the Mortgagees and distributed as provided in Article IX. Nothing herein shall be construed to make the Association liable for property damage to a Unit as defined in Section 3.02 without proof that an act or omission of the Association was the legal cause of such damage.

Dated this 20 day of December, 2019.

  
James Schmidt, President 2017-2019

Signature of James Schmidt, authenticated this 20<sup>th</sup> day of December, 2019.

  
Paul W. Rosenfeldt  
State Bar No. 1018606

  
Gordon Prellwitz, President 2019-2020

Signature of Gordon Prellwitz, authenticated this 20<sup>th</sup> day of December, 2019.

  
Paul W. Rosenfeldt  
State Bar No. 1018606

Sharon Tollner  
Sharon Tollner, Secretary

Signature of Sharon Tollner, authenticated this 26th day of December, 2019.

Paul W. Rosenfeldt  
Paul W. Rosenfeldt  
State Bar No. 1018606

This document drafted by Attorney Paul W. Rosenfeldt

WESTWIND VILLAS CONDOMINIUM

EXHIBIT A

Units One through Twenty-Four (1-24) together with Common Elements and Limited Common Elements, of the Westwind Villas Condominium, more particularly described as follows:

Lot Two (2), Certified Survey Map No. 6839, recorded in Volume 48, Page 36, Fond du Lac County Register of Deeds Office, being a part of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 7, Township 15 North, Range 17 East, Town of Fond du Lac, Fond du Lac County, Wisconsin (now known as Westwind Villas Condominium).

2/0

**WESTWIND VILLAS CONDOMINIUM  
AMENDMENT NUMBER TWO TO  
DECLARATION OF CONDOMINIUM**

DOC# 899083

Recorded  
JULY 24, 2007 AT 11:00AM

Document Number

Return Address:

Attorney Robert V. Edgerton  
Edgerton, St. Peter, Petak,  
& Rosenfeldt  
P. O. Box 1276  
Fond du Lac, WI 54936-1276

*Patricia Kraus*

PATRICIA KRAUS  
REGISTER OF DEEDS  
FOND DU LAC COUNTY  
Fee Amount: \$27.00

Parcel I.D. Number:

Recording Area



**WESTWIND VILLAS CONDOMINIUM  
AMENDMENT NUMBER TWO  
DECLARATION OF CONDOMINIUM**

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Affecting real estate described as follows:

*Units One (1) through Twenty-Four (24), together with each Unit's undivided appurtenant interest in the Common Elements and Limited Common Elements, all in WESTWIND VILLAS CONDOMINIUM, a condominium declared and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin by a Declaration as to such condominium recorded June 17, 2005 in the Fond du Lac County Registry as Document No. 849367, as thereafter amended by Amendment Number One recorded March 6, 2007 in the Fond du Lac County Registry as Document No. 889985. Said condominium being located in the Town of Fond du Lac, Fond du Lac County, Wisconsin on the real estate described in said Declaration and incorporated therein by this reference thereto.*

Also more particularly described on Exhibit "A", which is attached hereto and made a part hereof.

\* \* \* \* \*

Amending Declaration recorded June 17, 2005 in the Fond du Lac County Registry as Document No. 849367 and subsequently amended by Amendment Number One recorded March 6, 2007 in the Fond du Lac County Registry as Document No. 889985 (collectively "Declaration").

**WHEREAS:**

- A. The undersigned Declarant is currently the owner of nine (9) Units located in Westwind Villas Condominium.
- B. The owners of seven (7) or more additional Units have indicated their consent and agreement with respect to this Amendment, a copy of which consent is on file with the Declarant and with the Association.
- C. The requisite two-thirds (2/3) of the Unit Owners have agreed to amend the Declaration in the following respects.

**NOW, THEREFORE, IT IS AGREED THE DECLARATION SHALL BE AMENDED AS FOLLOWS:**

1. Those provisions of the Declaration relating to the style or elevation of two of the Units which were known as Kingston and the other known as Lindenwood shall be amended to provide that the elevation or appearance shall also provide for what will be known as Kingston II and Lindenwood II with these being more particularly described as follows:

- a. Attached hereto as Exhibit "B" is an elevation of Kingston II.
- b. Attached hereto as Exhibit "C" is a floor plan of Kingston II.
- c. Attached hereto as Exhibit "D" is an elevation for Lindenwood II.
- d. Attached hereto as Exhibit "E" is the floor plan for Lindenwood II.

It is specifically agreed that these styles and floor plans shall be allowed to be built within the

Condominium subject to the limitation set forth in the following paragraph.

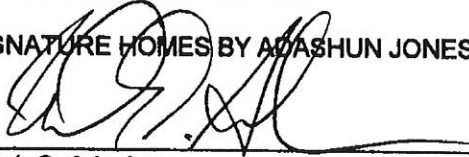
3. The provisions Declaration shall be amended to provide that all of the duplex-style buildings containing Unit may be located as shown on the Condominium Plat or may be otherwise located at the discretion of the Declarant provided that no two of the same style duplex buildings shall adjoin each other.

4. In all other respects the Declaration as previously amended shall remain in full force and effect.

5. National Exchange Bank and Trust is joining in this Amendment Number Two exclusively by virtue of its having a mortgage upon Units owned by the Declarant, which mortgage shall not be limited or abridged in any manner by virtue of consenting to this Amendment Number Two.

SIGNATURE HOMES BY ADASHUN JONES, INC.

By:



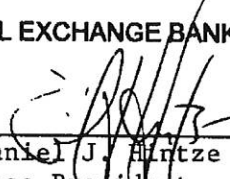
Frank G. Adashun  
President

(The above Signature Homes by Adashun Jones, Inc. being the owner of Units 9, 10, 11, 12, 15, 16, 18, 21, and 22, 24

The Owners of seven (7) or more Units in the Condominium have indicated their consent to this Amendment Number Two, a copy of which is on file with the Declarant and the Association.

NATIONAL EXCHANGE BANK AND TRUST

By:



Name: Daniel J. Hirtze  
Title: Vice President

Attest:



Name: Michael L. Burch  
Title: President

STATE OF WISCONSIN:

: ss

FOND DU LAC COUNTY

Personally came before me this 16 day of July, 2007, the above-named Signature Homes by Adashun Jones, Inc, a Wisconsin corporation, by Frank G. Adashun, its President, known to me to be the person who executed the foregoing instrument, acknowledged the same, and is authorized to do so on behalf of said corporation.

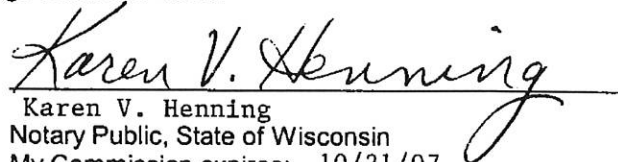


Notary Public, State of Wisconsin

My Commission expires: 9/21/09

STATE OF WISCONSIN :  
 : ss  
FOND DU LAC COUNTY :

Personally came before me this 23rd day of July, 2007, the above named Daniel J. Hintze and Michael L. Burch, holding the offices set forth above, known to be to be the persons who executed the foregoing instrument, acknowledged the same, and are authorized to do so on behalf of National Exchange Bank and Trust.

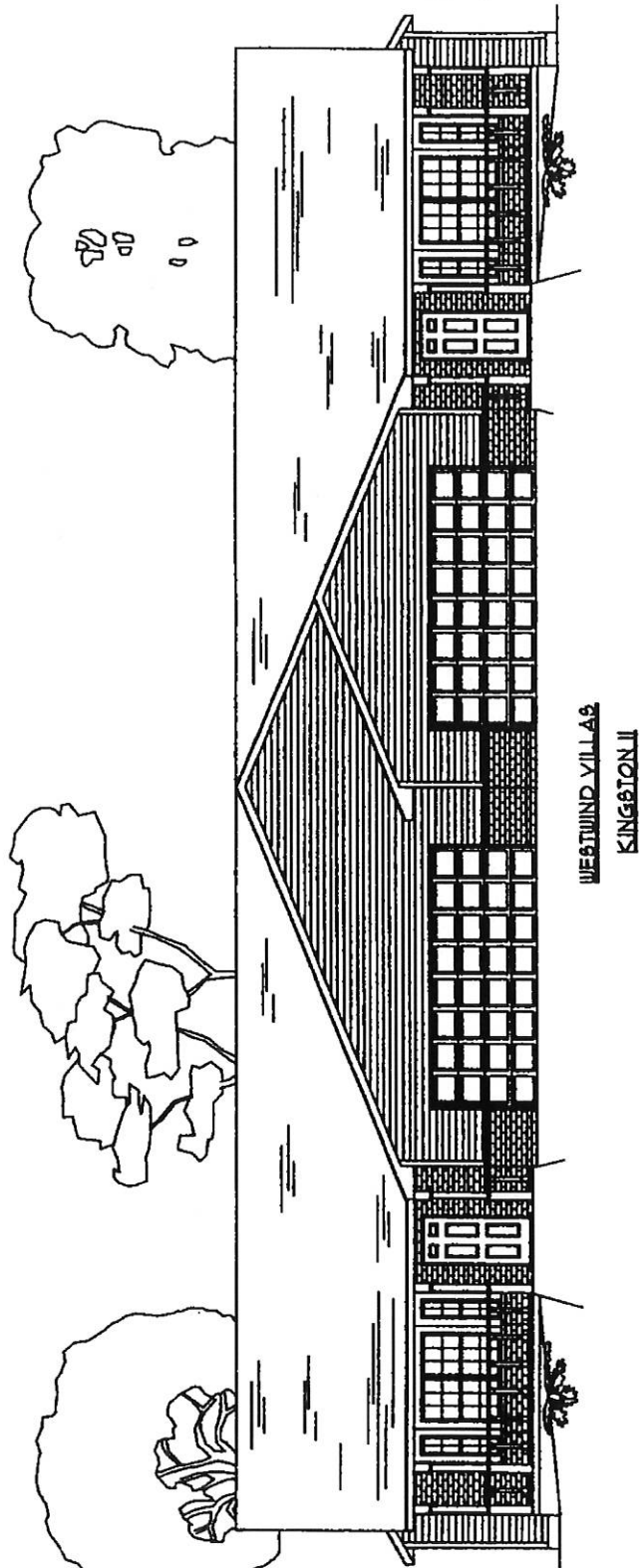
  
Karen V. Henning  
Notary Public, State of Wisconsin  
My Commission expires: 10/21/07

THIS INSTRUMENT DRAFTED BY:  
ROBERT V. EDGARTON (#1011146)  
ATTORNEY AT LAW

Exhibit "A"

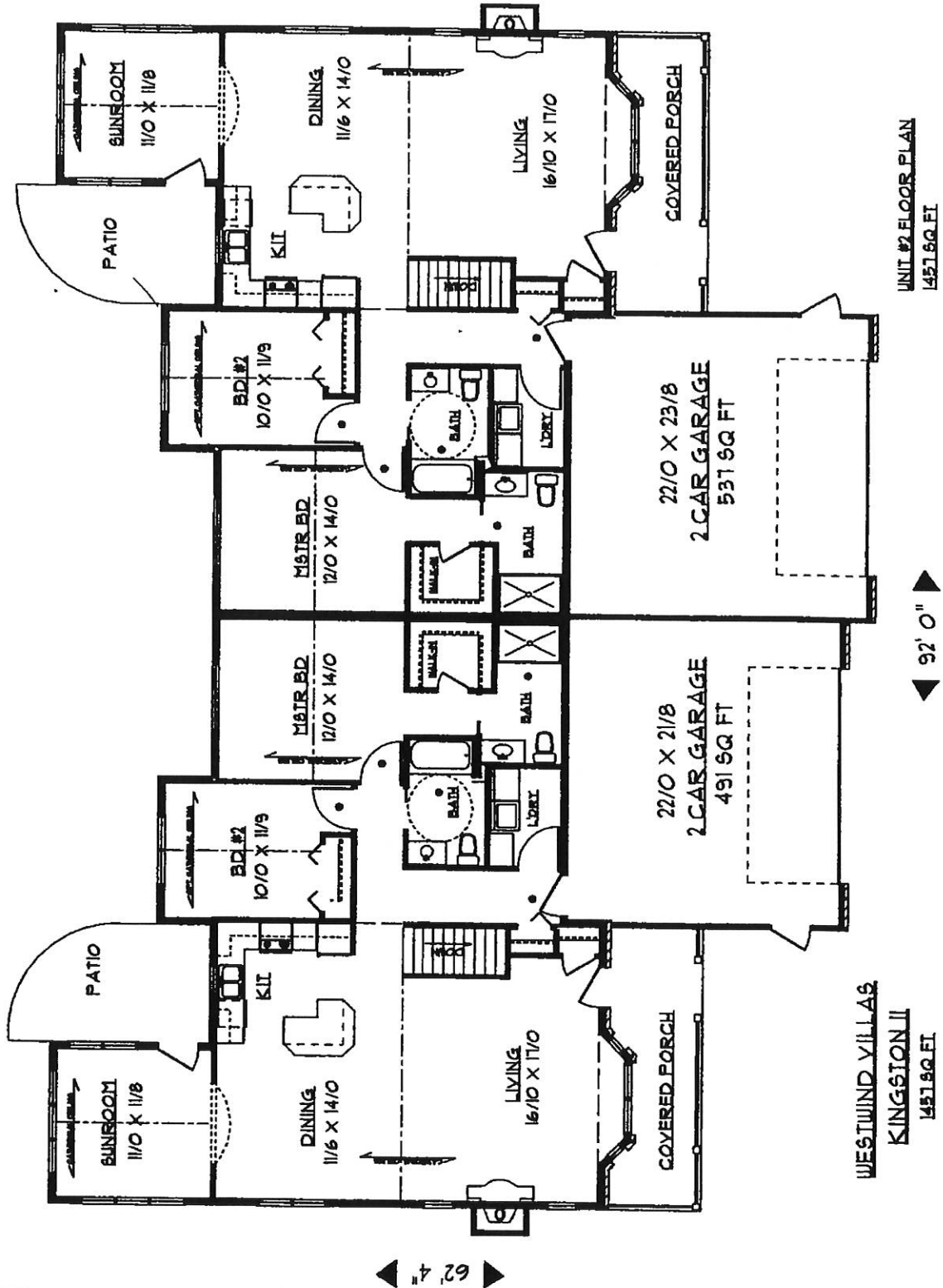
Lot Two (2), Certified Survey Map No. 6839, recorded in Volume 48, Page 36, Fond du Lac County Register of Deeds Office, being a part of the Southeast 1/4 of the Southeast 1/4 of Section 7, Township 15 North, Range 17 East, Town of Fond du Lac, Fond du Lac County, Wisconsin.  
(now known as Westwind Villas Condominium)

Exhibit "B"



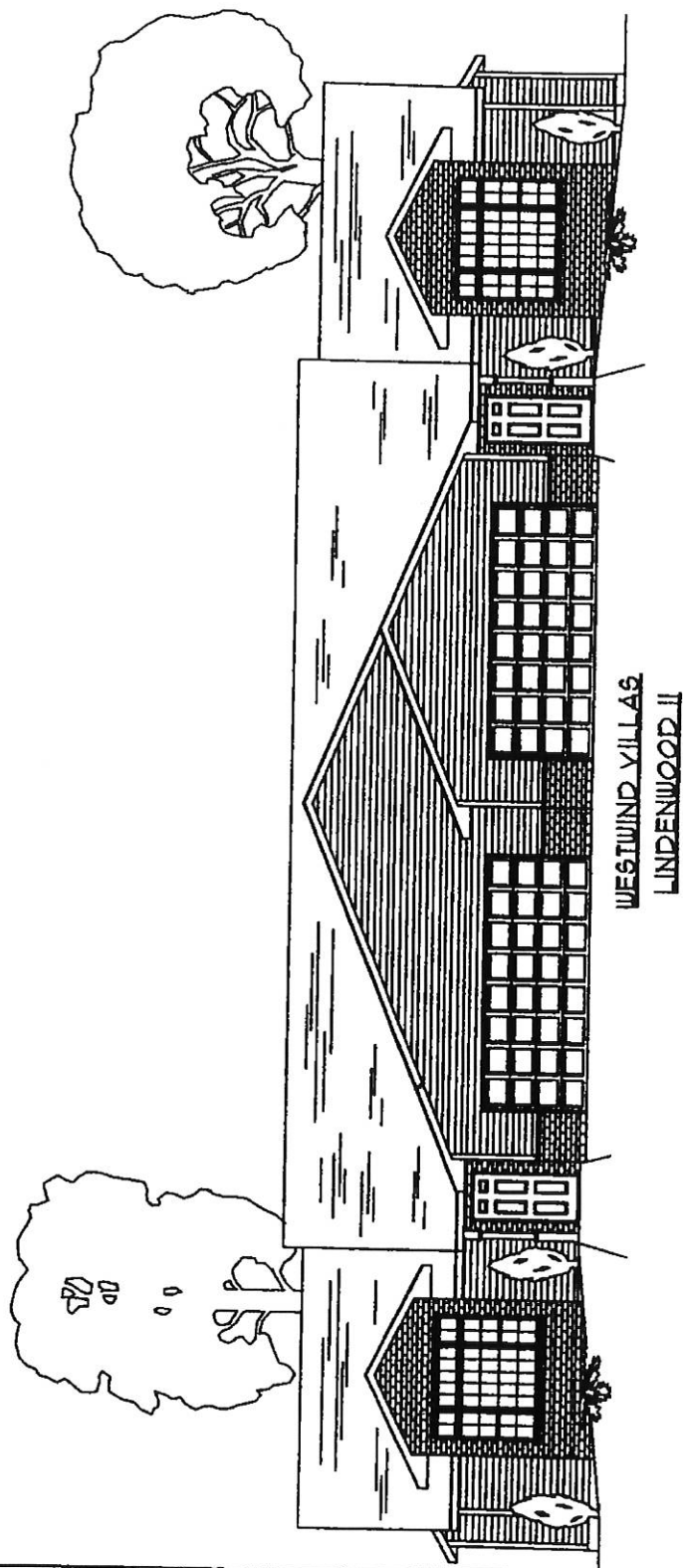
WESTWIND VILLAS  
KINGSTON II

EXHIBIT "C"



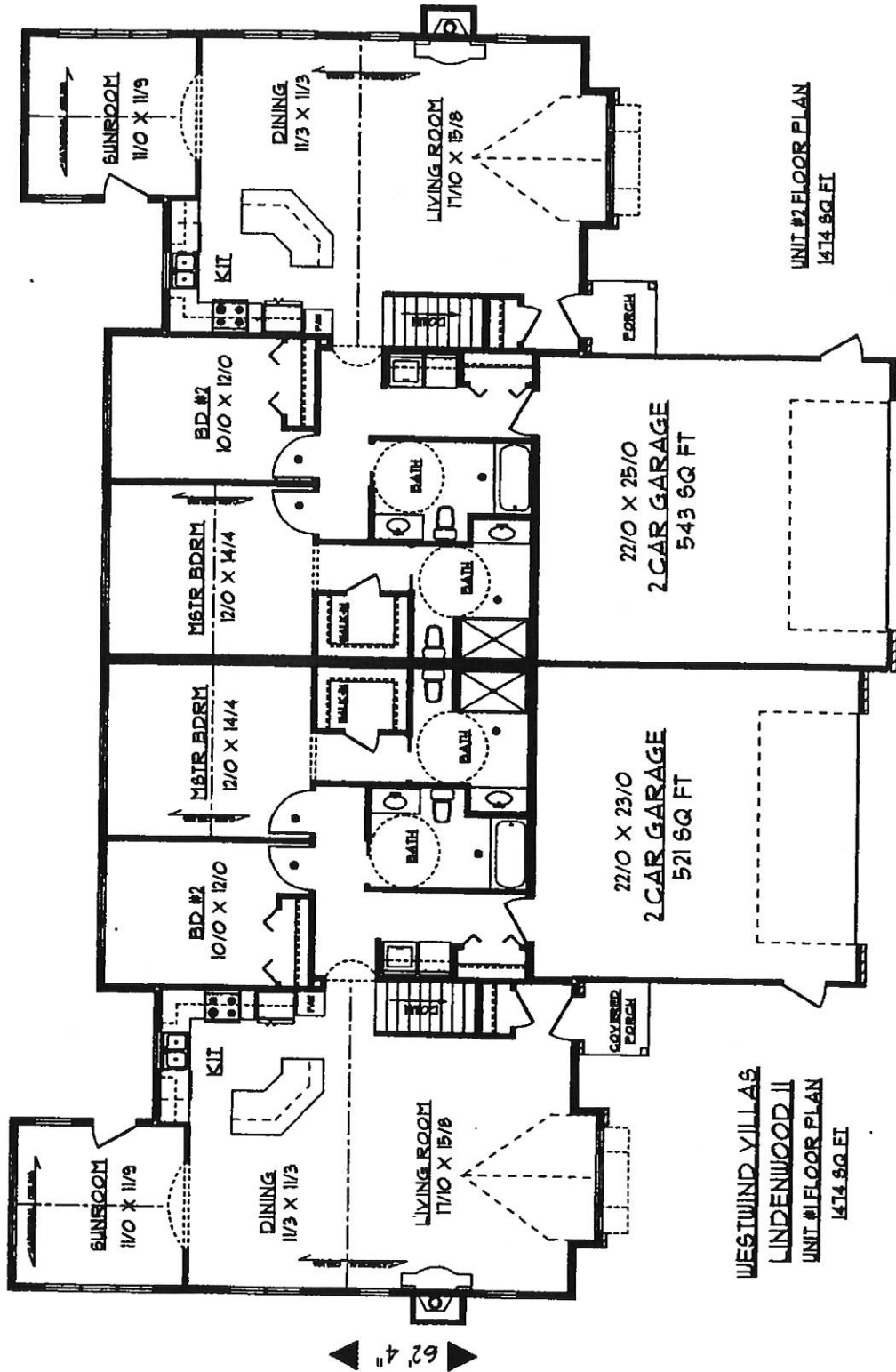
7

Exhibit "E"



2

Exhibit "D"



UNIT #2 FLOOR PLAN  
1474 SQ. FT.

WESTWIND VILLAS  
LINDENWOOD II  
UNIT #1 FLOOR PLAN  
1474 SQ. FT.



2/12

**WESTWIND VILLAS CONDOMINIUM  
AMENDMENT NUMBER ONE  
DECLARATION OF CONDOMINIUM**

DOC# 889985

Recorded  
MAR. 06, 2007 AT 09:36AM

Document Number

Return Address:

Attorney Robert V. Edgerton  
Edgerton, St. Peter, Petak,  
& Rosenfeldt  
P. O. Box 1276  
Fond du Lac, WI 54936-1276

*Patricia Kraus*

PATRICIA KRAUS  
REGISTER OF DEEDS  
FOND DU LAC COUNTY  
Fee Amount: \$21.00

Parcel I.D. Number:

Recording Area

**AMENDMENT NUMBER ONE  
DECLARATION OF CONDOMINIUM  
WESTWIND VILLAS CONDOMINIUM**

Affecting real estate described as follows:

***Westwind Villas Condominium  
Units One (1) through Twenty-Four (24)  
together with Common Elements and Limited Common Elements***

Also more particularly described on Exhibit "A", which is attached hereto and made a part hereof.

\* \* \* \* \*

Amending Declaration recorded June 17, 2005 in the Fond du Lac County Registry as Document No. 849367, ("Declaration").

**RECITALS:**

1. The undersigned being the owner of the requisite number of Units located within Westwind Villas Condominium ("Condominium") required to amend the Declaration.

2. Those provisions of the Declaration relating to the style or elevation of one of the Units as "Barrington" shall be amended to provide where applicable that this style will be known as Barrington II. A copy of the elevation being attached hereto as Exhibit "B".

The otherwise optional sunroom/patio shall be amended as to this style to provide that there shall be an enclosed sunroom and patio.

3. In all other respects the Declaration as may have previously been amended shall remain in full force and effect.

4. National Exchange Bank and Trust is joining in this Amendment exclusively by virtue of its having a mortgage upon Units owned by the Declarant.

SIGNATURE HOMES BY ADASHUN JONES, INC.

By:



\_\_\_\_\_  
Frank G. Adashun, President

7

Attest: Jeffrey A. Jones  
Jeffrey A. Jones, Secretary

NATIONAL EXCHANGE BANK AND TRUST

By: Daniel J. Hintze  
Name: Daniel J. Hintze  
Title: Vice President

Attest: Michael L. Burch  
Name: Michael L. Burch  
Title: President

STATE OF WISCONSIN :  
: ss.  
FOND DU LAC COUNTY :

Personally came before me this 21 day of February, 2007, the above-named Signature Homes by Adashun Jones, Inc, a Wisconsin corporation, by Frank G. Adashun, its President, and Jeffrey A. Jones, its Secretary, known to me to be the persons who executed the foregoing instrument, acknowledged the same, and are authorized to do so on behalf of said corporation.

Frank G. Adashun  
Notary Public, State of Wisconsin  
My Commission expires: 9/21/09

STATE OF WISCONSIN :  
: ss.  
FOND DU LAC COUNTY :

Personally came before me this 1st day of March, 2007, the above named Daniel J. Hintze and Michael L. Burch, holding the offices set forth above, known to me to be the persons who executed the foregoing instrument, acknowledged the same, and are authorized to do so on behalf of said entity.

Jeff Kalkreuth  
Notary Public, State of Wisconsin  
My Commission expires:

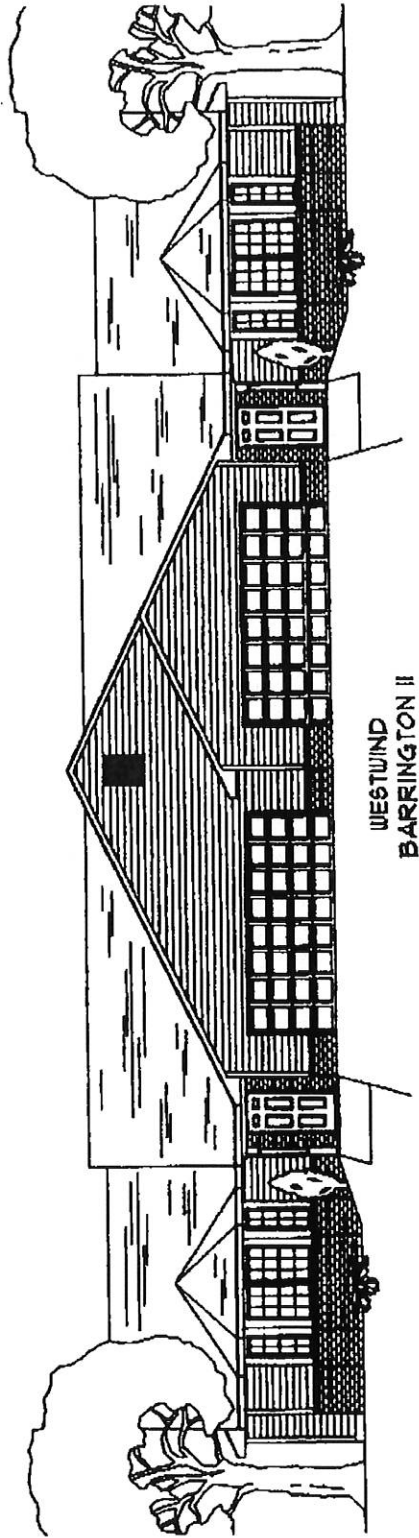
THIS INSTRUMENT DRAFTED BY:  
ROBERT V. EDGARTON (#1011146)  
ATTORNEY AT LAW

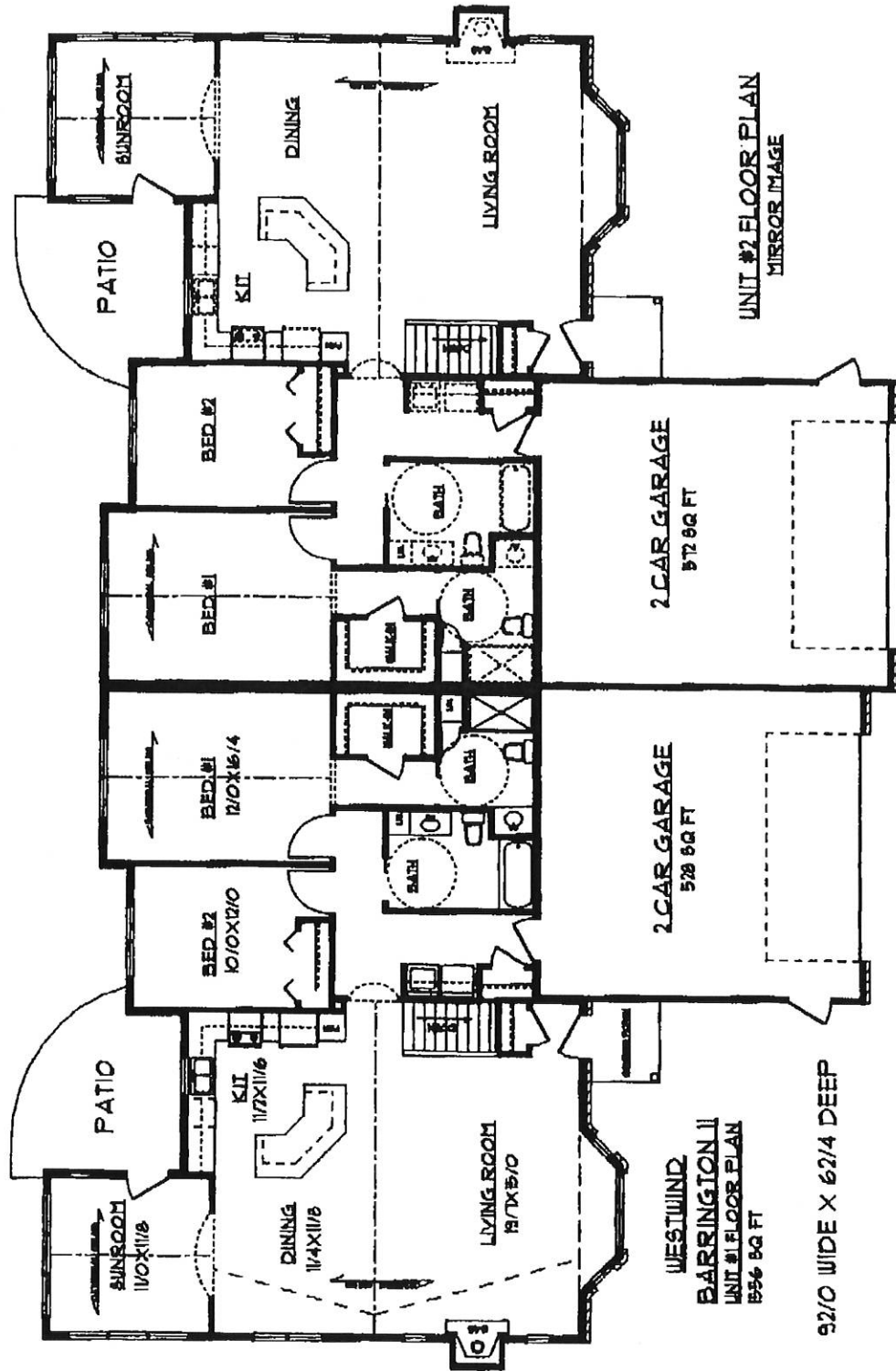
Exhibit "A"

Lot Two (2), Certified Survey Map No. 6839, recorded in Volume 48, Page 36, Fond du Lac County Register of Deeds Office, being a part of the Southeast 1/4 of the Southeast 1/4 of Section 7, Township 15 North, Range 17 East, Town of Fond du Lac, Fond du Lac County, Wisconsin.  
(now known as Westwind Villas Condominium)

4

Exhibit "B"





117  
22

Document Number

Title of Document

DOC# 849367

Recorded  
JUNE 17, 2005 AT 03:28PM

**DECLARATION OF CONDOMINIUM**

*Patricia Kraus*

PATRICIA KRAUS  
REGISTER OF DEEDS  
FOND DU LAC COUNTY  
Fee Amount: \$77.00

Recording Area

Name and Return Address  
**Attorney Robert V. Edgerton**  
**Edgerton, St. Peter, Petak & Rosenfeldt**  
**P. O. Box 1276**  
**Fond du Lac, WI 5493601276**

Parcel Identification Number (PIN)

**Declaration of Condominium**

**for**

**Westwind Villas Condominium**



**INDEX  
TO  
DECLARATION OF CONDOMINIUM**

**ARTICLE I**  
**DECLARATION** ..... 1

**ARTICLE II**  
**NAME; DESCRIPTION OF PROPERTY** ..... 1  
2.01. Name ..... 1  
2.02. Legal Description ..... 2  
2.03. Address ..... 2

**ARTICLE III**  
**DESCRIPTION OF UNITS** ..... 2  
3.01. Identification of Units ..... 2  
3.02. Boundaries of Units ..... 3  
3.03. Description of Units ..... 4

**ARTICLE IV**  
**COMMON ELEMENTS; LIMITED COMMON ELEMENTS** ..... 5  
4.01. Common Elements ..... 5  
4.02. Limited Common Elements ..... 5  
4.03. Conflict Between Unit Boundaries; Common Element Boundaries ..... 6

**ARTICLE V**  
**PERCENTAGE INTERESTS; VOTING** ..... 6  
5.01. Percentage Interests ..... 6  
5.02. Conveyance, Lease, or Encumbrance of Percentage Interest ..... 7  
5.03. Voting ..... 7  
5.04. Multiple Owners ..... 7  
5.05. Limitations on Voting Rights ..... 7

**ARTICLE VI**  
**CONDOMINIUM ASSOCIATION** ..... 7  
6.01. General ..... 7  
6.02. Declarant Control ..... 7  
6.03. Board of Directors ..... 8  
6.04. Maintenance and Repairs ..... 8  
6.05. Common Expenses ..... 11  
6.06. General Assessments ..... 11  
6.07. Special Assessments ..... 11  
6.08. Common Surpluses ..... 12  
6.09. Certificate of Status ..... 12  
6.10 Westwind Private Drive / Sewer and Water ..... 12

**ARTICLE VII**

**ALTERATIONS AND USE RESTRICTIONS** ..... 13

7.01. Unit Alterations ..... 13

7.02. Separation, Merger and Boundary Relocation ..... 14

7.03. Use and Restrictions on Use of Unit ..... 14

7.04. Nuisances ..... 15

7.05. Lease or Rental of Units ..... 15

7.06. Signs ..... 15

7.07. Garbage and Refuse Disposal ..... 15

7.08. Storage ..... 15

7.09. Pets ..... 15

7.10. Landscaping ..... 15

**ARTICLE VIII**

**INSURANCE** ..... 16

8.01. Fire and Extended Loss Insurance ..... 16

8.02. Public Liability Insurance ..... 16

8.03. Fidelity Insurance ..... 16

8.04. Mutual Waiver of Subrogation ..... 16

8.05. Standards for All Insurance Policies ..... 17

**ARTICLE IX**

**RECONSTRUCTION, REPAIR, OR SALE IN  
THE EVENT OF DAMAGE OR DESTRUCTION** ..... 17

9.01. Determination to Reconstruct or Repair ..... 17

9.02. Plans and Specifications ..... 17

9.03. Responsibility for Repair ..... 17

9.04. Insurance Proceeds and Construction Fund ..... 17

9.05. Assessments For Deficiencies ..... 18

9.06. Surplus in Construction Funds ..... 18

9.07. Damage or Destruction of Unit ..... 18

**ARTICLE X**

**CONDEMNATION** ..... 18

10.01. Allocation of Award ..... 18

10.02. Determination to Reconstruct Common Elements ..... 18

10.03. Plans and Specifications for Common Elements ..... 18

10.04. Responsibility for Reconstruction ..... 19

10.05. Assessments for Deficiencies ..... 19

10.06. Surplus in Construction Fund ..... 19

10.07. Percentage Interests Following Taking ..... 19

**ARTICLE XI**

**MORTGAGEES** ..... 19

11.01. Notice ..... 19

11.02. Amendment of Provisions Affecting Mortgagees ..... 19

11.03. Owners of Unmortgaged Units ..... 20

11.04. Condominium Liens ..... 20

**ARTICLE XII**  
**AMENDMENT** ..... 20

**ARTICLE XIII**  
**REMEDIES** ..... 20

**ARTICLE XIV**  
**GENERAL** ..... 21

- 14.01. Utility Easements ..... 21
- 14.02. Right of Entry ..... 21
- 14.03. Notices ..... 22
- 14.04. Severability ..... 22
- 14.05. Declarant Access During Construction of Improvements ..... 22
- 14.06. Resident Agent ..... 22
- 14.08. Assignment of Declarant's Rights ..... 22
- 14.09. Conflicts ..... 22

5

Document No.

**DECLARATION OF  
CONDOMINIUM**

Return to:  
Attorney Robert V. Edgerton  
Edgerton, St. Peter, Petak & Rosenfeldt  
P. O. Box 1276  
Fond du Lac, WI 54936-1276

Parcel Numbers

**DECLARATION OF CONDOMINIUM**

THIS DECLARATION OF CONDOMINIUM (this "Declaration"), is made this 16<sup>th</sup> day of June, 2005, by **SIGNATURE HOMES BY ADASHUN JONES, INC.**, a Wisconsin Corporation (the "Declarant").

**ARTICLE I  
DECLARATION**

Declarant hereby declares that it is the sole owner of the Land (as defined in Section 2.02), together with all improvements located thereon and all easements, rights, and appurtenances pertaining thereto (the "Property"), and further declares that the Property is hereby submitted to the condominium form of ownership as provided in Chapter 703, Wisconsin Statutes (the "Condominium Ownership Act").

**ARTICLE II  
NAME; DESCRIPTION OF PROPERTY**

**2.01. Name.** The name of the condominium created by this Declaration (the "Condominium") is "**WESTWIND VILLAS CONDOMINIUM**".

6

**2.02. Legal Description.** The land comprising the Property (the "Land") is located in the Town of Fond du Lac, County of Fond du Lac, State of Wisconsin, and is legally described on **EXHIBIT "A"** attached hereto and made a part hereof.

**2.03. Address.** The address of the Condominium is Westwind Private Drive, Fond du Lac, Wisconsin, 54935.

### **ARTICLE III DESCRIPTION OF UNITS**

**3.01. Identification of Units.** The Condominium shall consist of twenty-four (24) units (individually a "Unit" and collectively the "Units") located in the buildings (individually, a "Building" and, collectively, the "Buildings") identified on the condominium plat attached hereto as "**EXHIBIT B**" and made a part hereof (the "Condominium Plat"). The Condominium Plat shows the floor plan for each Unit showing the layout, boundaries, and dimensions of each Unit.

A general description of the buildings within which the Units are located and the style and floor plans of the buildings surrounding the Units is as follows:

- (a) The dwelling structures within the Condominium will consist of 12 duplex-style buildings, each containing 2 Units for a total of 24 Units.
- (b) As provided below, there will be 4 separate building styles and 4 separate floor plans.
- (c) Each of the duplex buildings will have in common vinyl siding of a compatible color together with stucco and brick accents or stone accents which will be of a different color or tone.

Each duplex building will be one of 4 Styles which differ as to exterior appearance and as to floor plans ("Styles").

The Plans and Specifications concerning construction of each of the buildings which surround the Units are those Plans and Specifications which have been prepared and are in the possession of the Declarant. The floor plan and elevations were prepared on behalf of the Declarant by At Home Design, LLC, and these floor plans and elevations are part of the Disclosure Documents and have been filed with the Town of Fond du Lac in connection with approval of the Declaration and this Condominium.

More specifically, the 4 Styles of exterior appearance and floor plans, subject to the modification provided below, are identified in these Plans and Specifications and Styles by the following names:

- (a) Berkshire
- (b) Lindenwood
- (c) Kingston
- (d) Balboa

By pairs of Unit numbers which are located within each duplex-style building, the exterior appearance and floor plan (subject to 3-season or 4-season room addition below), will be as follows:

Berkshire Style will contain Units 1 & 2, 13 & 14, 19 & 20.  
Lindenwood Style will contain Units 3 & 4, 9 & 10, 21 & 22.  
Kingston Style will contain Units 5 & 6, 11 & 12, 15 & 16.  
Balboa Style will contain Units 7 & 8, 17 & 18, 23 & 24.

Reduced and not to scale copies of the floor plans and elevations of each of the variations of duplexes described above are attached to the Condominium Disclosure Materials.

The Units shall be identified as Units 1 through 24, inclusive, as numbered on the Condominium Plat. Each owner of a Unit is referred to as a "Unit Owner." Where a Unit has been sold under a land contract, the purchaser (and not the vendor) shall be the Unit Owner.

**3.02. Boundaries of Units.** The boundaries of each Unit shall be as follows:

(a) **Upper Boundary.** The upper boundary of the Unit shall be the interior lower surface of the supporting members of the roof above the highest level of the living area, extended to an intersection with the perimetrical boundaries.

(b) **Lower Boundary.** The lower boundary of the Unit shall be the upper surface of the unfinished floor of the lowest level of the Unit consisting of the garage and basement extended to an intersection with the perimetrical boundaries.

(c) **Perimetrical Boundary.** The perimetrical boundaries of the Unit shall be vertical planes of the inside surface of the studs supporting the interior walls, in either case extending to intersections with each other and with the upper and lower boundaries.

(d) **3-Season or 4-Season Room/Patio.** Each Unit will, in the rear thereof, have an option of the following:

i. A concrete patio as shown on the Condominium Plat; or

ii. The area where a concrete patio is shown on the rear of the duplex building behind each Unit or the area where the concrete patio is shown to be located may, at the time of initial construction, be converted to a 3-season or 4-season room. In this case, there will be a small additional patio constructed next to this 3-season or 4-season room. The Declarant reserves the right to construct a landscaped berm for privacy purposes between the Units and any building where a Unit Owner or both Unit Owners have elected to have a 3-season and/or 4-season room constructed. In such event, the landscaped berm will thereafter be maintained by the Association as part of the common element.

iii. These 3-season and 4-season rooms will, if elected to be constructed by the purchasers or by the Declarant of the Units to be constructed, become part of the Units to the same extent as though they had originally been shown on the floor plans.

iv. The patios, whether constructed without the 3-season or 4-season room, or constructed adjacent to it, will be considered limited common element appurtenant to that particular Unit Owner. However, notwithstanding anything else contained herein to the contrary, the structural maintenance of these patios will be the responsibility of the Association. Similarly, if a 3-season or 4-season room is constructed at the time of the original construction of the Unit, then, in addition to that becoming part of the Unit, the structure itself will be considered part of the common element to be maintained by the Association with the exception of those portions of the Condominium which are the responsibility of the individual Unit Owner as otherwise provided in the Declaration.

v. If a 3-season or 4-season room is not constructed at the time of initial construction of the building and a patio is therefore constructed, at the request of the Unit Owner the Association may, by vote of its Board of Directors, elect to allow Unit Owner to later construct a 3-season or 4-season room provided that the same is of substantially the same style and quality as was the case with those which were constructed by the Declarant or representatives of the Declarant at the time of initial construction of the duplex building which surrounds that Unit. The decision of the Association as to subsequent construction of 3-season or 4-season rooms shall be binding upon all parties.

**3.03. Description of Units.** It is intended that the surface of each plane described above (be it drywall, tiles, wallpaper, paneling, carpeting, or otherwise covered) is included as part of each defined Unit. The Unit shall include, without limitation, all improvements now or hereafter located within such boundaries, including:

- (a) Windows, doors, and garage doors (with all opening, closing, and locking mechanisms and all hardware) that provide direct access to or within the Unit.
- (b) Interior lights and light fixtures.
- (c) Cabinets.
- (d) Floor, wall, baseboard, or ceiling electrical outlets and switches and the junction boxes serving them.
- (e) Telephone, fax, cable television, computer, Internet, stereo, or other sound systems, if any, including outlets, switches, hardware, and other appurtenances serving them.
- (f) Plumbing fixtures, hot water heaters, fire sprinklers, if any, water softeners, if any, and the piping, valves, and other connecting and controlling mechanisms and devices lying between the fixture and water or sewage lines serving more than one (1) Unit.

(g) The heating, ventilating, and air conditioning system, including the furnaces, air conditioning equipment, the control mechanisms, all vents from the Unit to the exterior of the Condominium, including vents for furnaces, clothes dryer, range hood, all other exhaust fans, and such other vents appurtenant to each Unit, condensers and all connections thereto serving each Unit.

Specifically not included as part of a Unit are those structural components of each Building and any portion of the plumbing, electrical, or mechanical systems of the Building serving more than one (1) Unit or another Unit, even if located within the Unit. Any structural components, plumbing, electrical, mechanical, and public or private utility lines running through a Unit that serve more than one Unit or another Unit are Common Elements.

#### **ARTICLE IV COMMON ELEMENTS; LIMITED COMMON ELEMENTS**

**4.01. Common Elements.** The common elements (the "Common Elements") include the following:

- (a) The Land;
- (b) The paved driveway approaches, private street, parking areas herein described, and pedestrian walkway situated on the Land;
- (c) The foundations, columns, pilasters, girders, beams, front balconies, supports, main walls (which shall be defined as exterior walls and surfaces, structural walls, roof trusses, and roofs);
- (d) The gazebo, wrought iron style entry fences, entry identification signs and compacted granite walkway, all of which will be maintained by the Association.
- (e) Those drainage facilities which serve to control storm water drainage and which have been designed by J. E. Arthur & Associates and submitted to the Town of Fond du Lac as governing authority in connection with the land use approval to create this condominium. For reference purposes, the designation of J. E. Arthur & Associates is Project No. 592-010.
- (f) Mailboxes will be provided by the Declarant. These will either be individual mailboxes which are compatible in appearance with the buildings which contain the Units, or, if required, a mailbox island or common mailbox area will be established which will also be compatible with the Condominium.

**4.02. Limited Common Elements.** Certain Common Elements as described in this Section shall be reserved for the exclusive use of the Unit Owners of one or more but less than all of the Units. Such Common Elements shall be referred to collectively as "Limited Common Elements." The following Common Elements shall be reserved for the exclusive use of one or more Unit Owners as described herein:

- (a) All sidewalks, access ways, steps, stoops, decks, and patios attached to, leading directly to or from, or adjacent to each Unit; and



(b) That area of the driveway approach between the exterior of each Unit boundary extended to Westwind Private Street, this being the approach and parking apron behind each garage.

(c) Notwithstanding anything to the contrary, that portion of Westwind Private Drive which is the approach from the main traveled portion thereof to the garages of each of the Units shall be considered a Limited Common Element appurtenant to that particular Unit. Each Unit Owner shall have this Limited Common Element from the exterior of the building which adjoins the driveway approach to the traveled portion of Westwind Private Drive, with the common boundary line of each Unit Owner being the demising wall extended from the front of the Unit to the traveled portion of Westwind Private Drive.

#### **4.03. Conflict Between Unit Boundaries; Common Element Boundaries.**

(a) If any portion of the Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the Common Elements as a result of the duly authorized construction, reconstruction, or repair of a Building, or as a result of settling or shifting of a Building, then the existing physical boundaries of such Units or Common Elements shall be conclusively presumed to be the boundaries of such Units or Common Elements, regardless of the variations between the physical boundaries described in Sections 3.02 and 3.03 or elsewhere in this Declaration or shown on the Condominium Plat and the existing physical boundaries of any such Units or Common Elements.

(b) If any portion of the Common Elements shall encroach upon any Unit, or if any Unit shall encroach upon any other Unit or upon any portion of the Common Elements as a result of the duly authorized construction, reconstruction, or repair of a Building, or as a result of settling or shifting of a Building, then a valid easement for the encroachment and for its maintenance shall exist so long as such Building stands; provided, however, that if any such encroachment or easement materially impairs any Unit Owner's enjoyment of the Unit owned by such Unit Owner or of the Common Elements in the judgment of the board of directors of the Association (as defined below), such encroachment shall be removed or just compensation shall be provided to each injured Unit Owner within ninety (90) days of the discovery of the encroachment.

(c) Following any change in the location of the boundaries of the Units under this Section 4.03, the square footages of all affected Units or Common Elements shall continue to be determined by the square footages, if any, shown on the Condominium Plat for all purposes under this Declaration.

### **ARTICLE V PERCENTAGE INTERESTS; VOTING**

**5.01. Percentage Interests.** Each Unit Owner shall have an undivided one twenty-fourth (1/24th) interest in the Common Elements and Limited Common Elements.

**5.02. Conveyance, Lease, or Encumbrance of Percentage Interest.** Any deed, mortgage, lease, or other instrument purporting to convey, encumber, or lease any Unit shall be deemed to include the Unit Owner's undivided percentage interest in the Common Elements and in the insurance proceeds or condemnation awards even though such interest is not expressly described or referred to therein.

**5.03. Voting.** The vote of each Unit at meetings of the Association (as defined in Article VI) shall be one (1) vote each, or a total of twenty-four (24) votes.

**5.04. Multiple Owners.** If there are multiple owners of any Unit, their votes shall be counted in the manner provided in the Bylaws.

**5.05. Limitations on Voting Rights.** No Unit Owner shall be entitled to vote on any matter submitted to a vote of the Unit Owners until the Unit Owner's name and current mailing address, and the name and address of the Mortgagee of the Unit, if any, has been furnished to the secretary of the Association. The bylaws of the Association may contain a provision prohibiting any Unit Owner from voting on any matter submitted to a vote of the Unit Owners if the Association has recorded a statement of condominium lien on the Unit and the amount necessary to release the lien has not been paid at the time of the voting.

## ARTICLE VI CONDOMINIUM ASSOCIATION

**6.01. General.** Following the conveyance of the first Unit to any person other than Declarant, all Unit Owners shall be entitled and required to be a member of an association of Unit Owners known as "**WESTWIND VILLA OWNERS' ASSOCIATION**" (the "Association"), which shall be responsible for carrying out the purposes of this Declaration, including exclusive management and control of the Common Elements and facilities of the Condominium, which may include the appointment and delegation of duties and responsibilities hereunder to a committee or subcommittee commissioned by the Association for that purpose. The Association shall be incorporated as a nonprofit corporation under the laws of the State of Wisconsin. The powers and duties of the Association shall include those set forth in the Association's articles of incorporation (the "Articles") and bylaws (the "Bylaws"), the Condominium Ownership Act, this Declaration, and Chapter 181, Wisconsin Statutes (the "Wisconsin Nonstock Corporation Law"). All Unit Owners, tenants of Units, and all other persons and entities that in any manner use the Property or any part thereof shall abide by and be subject to all of the provisions of all rules and regulations of the Association (collectively, the "Rules and Regulations"), this Declaration, the Articles, and Bylaws. The Association shall have the exclusive right to promulgate, and to delegate the right to promulgate, the Rules and Regulations from time to time and shall distribute to each Unit Owner the updated version of such Rules and Regulations upon any amendment or modification to the Rules and Regulations. Any new rule or regulation or any revision to an existing rule and regulation shall become effective immediately upon distribution to the Unit Owners unless otherwise stated in such amendment or modification.

**6.02. Declarant Control.** Notwithstanding anything contained in this Declaration to the contrary, the Declarant shall totally govern the affairs of the Condominium and pay all expenses thereof until a Unit has been sold to any person other than the Declarant. The Declarant may exercise any rights granted to, or perform any obligations imposed upon, Declarant under this Declaration through its duly authorized agent.

After a Unit has been sold to any person other than the Declarant, except as provided in Section 7.03, the Declarant shall have the right to appoint and remove the officers of the Association and to exercise any and all of the powers and responsibilities assigned to the Association and its officers by the Articles, Bylaws, the Condominium Ownership Act, this Declaration, and the Wisconsin Nonstock Corporation Law from the date the first Unit of this Condominium is conveyed by the Declarant to any person other than Declarant, until the earliest of: (a) ten (10) years from such date, unless the statute governing expansion of condominiums is amended to permit a longer period, in which event, such longer period shall apply; or (b) thirty (30) days after the conveyance of seventy-five percent (75%) of the Common Element interest to purchasers; or (c) thirty (30) days after the Declarant's election to waive its right of control.

**6.03. Board of Directors.** The affairs of the Association shall be governed by a board of directors. Prior to the conveyance of twenty-five percent (25%) of the Common Element interest of the Condominium to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least twenty-five percent (25%) of the directors on the board of directors. Prior to the conveyance of fifty percent (50%) of the Common Element interest of the Condominium to purchasers, the Association shall hold a meeting, and the Unit Owners other than the Declarant shall elect at least thirty-three and one-third percent (33 1/3%) of the directors on the board of directors. For purposes of calculating the percentages set forth in Section 6.02 and this Section 6.03, the percentage of Common Element interest conveyed shall be calculated by dividing the number of Units conveyed by twenty-four (24).

**6.04. Maintenance and Repairs.**

(a) **Common Elements.** The Association shall be responsible for the management and control of the Common Elements and Limited Common Elements and shall maintain the same in good, clean, and attractive order and repair. In addition, the Association shall be responsible for providing and maintaining all Limited Common Elements; for snow plowing all sidewalks, driveways, private streets, parking areas; and the maintenance, repair, and replacement of all outdoor amenities, including lawns, landscaping, sidewalks, bicycle paths, driveways, and parking areas.

(b) As part of the approval process for the Condominium, the Declarant, as developer, has caused certain plans and specifications to be prepared by J. E. Arthur & Associates and filed with the Town of Fond du Lac. These plans include the following:

i. Wrought iron style fences will be placed by the Developer at the entrance to the Condominium from Cobblestone Drive and from Crestwood Lane. Identification signs will also be provided by the Declarant. These will thereafter be maintained by the Association.

ii. A Landscaping Plan has been prepared by the Declarant and filed with the Town of Fond du Lac. This Landscaping Plan was prepared by Touch of Earth and is incorporated by reference. The Declarant will be responsible for completing landscaping in accord with such Plan and thereafter the landscaping will be maintained by the Association.

iii. The Condominium plan provides for a walking trail to be constructed of compressed granite. Along this walking trail a gazebo will be constructed for the use of the Unit Owners and their guests and invitees. This gazebo will be subject to reasonable rules and restrictions adopted by the Association and will be maintained thereafter by the Association.

iv. For the benefit of the Condominium, and as required by the Town of Fond du Lac and other approving authorities, a grading plan and drainage plan has been prepared which calls for the construction of one (1) wet pond and one (1) dry pond to be located within the Condominium. These features to control storm water will be referred to as the "Drainage Facility", as more particularly described in J. E. Arthur & Associates Project No. 592-010.

(c) **Common Area Lighting.** The Declarant will provide common area lighting which will light the walking trail, gazebo and entrance signs to the Subdivision. The electrical expenses associated with this lighting will be the responsibility of the Association as a Common Area Expense.

It will be the responsibility of the Association to maintain all of the above, including the landscaping, drainage facility, decorative fencing, identification signs, roadway, and common area amenities and common area lighting.

Assessments Against Units Owned by the Declarant. Notwithstanding any other provision herein contained or contained in the Bylaws, during the period of Declarant Control of the Association under Section 703.15(2)(c) of the Wisconsin Statutes, no General Assessments shall be assessed against any Unit owned by Declarant. During the period of Declarant control, however, the General Assessments payable by any Unit Owner other than Declarant shall not exceed the amount that Unit Owner would be charged if Declarant's Units were subject to full General Assessments, based on the annual operation budget then in effect. During the period of Declarant control, Declarant shall pay the deficit if the total General Assessments payable by Unit Owners other than Declarant do not cover total Common Expenses. Furthermore, if the Association has established a statutory reserve account under Section 703.163 of the Wisconsin Statutes, (a) no reserve fund assessments shall be levied against any Unit until a certificate of occupancy has been issued for that Unit, and (b) payment of any reserve fund assessments against any Unit owned by Declarant may be deferred until the earlier to occur of (i) the first conveyance of such Unit, or (ii) five years from the date exterior construction of the building in which the Unit is located has been completed.

In the event that the Association fails to maintain, in the reasonable judgment of the Town of Fond du Lac, the Drainage Facility located within the Condominium, the Town may provide notice in writing to the Association of any such deficiencies which it believes exist with respect to the Drainage Facility. The notice shall provide a reasonable time within which to correct such deficiencies.

If the deficiencies are not rectified to the reasonable satisfaction of the Town of Fond du Lac, then the Town of Fond du Lac may employ representatives to make such corrections as it may deem necessary to cause the Drainage Facility to function in the manner contemplated by the Plans and Specifications which have been filed at the time of approval by the Town of Fond du Lac. In such event, 1.5 times the costs associated with rehabilitating the Drainage Facility may be levied 1/24th each to each of the Unit Owners and assessed and charged in the manner provided in Chapter 66 of the Wisconsin Statutes or as the same may hereafter be amended.

For purposes of enforcing the above provision, the Town shall be granted the right to come upon the Condominium to make an inspection as to the operation and maintenance of the Drainage Facility and, if necessary, to make such alterations, repairs or improvements as are necessary to give effect to the operation of the Drainage Facility in the manner described above.

(c) **Units.** Each Unit Owner shall be responsible for the maintenance, repair, and replacement of all other improvements constructed within the Unit (including the electrical, heating, and air conditioning systems serving such Unit, and including any ducts, vents, wires, cables, or conduits designed or used in connection with such electrical, heating, or air conditioning systems), except to the extent any repair cost is paid by the Association's insurance policy described in Section 9.01. Each Unit shall at all times be kept in good condition and repair. If any Unit or portion of a Unit for which a Unit Owner is responsible falls into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, or a condition that results in damage to the Common Elements, the Association, upon fifteen (15) days' prior written notice to the Unit Owners of such Unit, shall have the right to correct such condition or to restore the Unit to its condition existing prior to the disrepair, or the damage or destruction if such was the cause of the disrepair, and to enter into such Unit for the purpose of doing so, and the Unit Owners of such Unit shall promptly reimburse the Association for the cost thereof. All amounts due for such work shall be paid within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Association, be levied against the Unit as a Special Assessment under Section 6.07.

(d) **Private Street Lighting.** In lieu of the function which would be typically provided by public street lights, the Condominium, through the Declarant, shall install a lightpost and light for each Unit. Each lightpost will be adjacent to boundary of Westwind Private Drive. Each of these lightposts and lights will be in accord with Plans and Specifications to be approved, prior to installation, by representatives of the Town of Fond du Lac. Each of such lights shall be equipped with either a timer or a photosensitive device in such a manner that they will operate from dusk to dawn. Each individual Unit Owner will be responsible for maintenance of the lightpost and light, together with timer or photocell which services that Unit and promptly repair or replace as may be necessary to keep the lights in a functional status. Should any Unit Owner fail to assume such responsibility in a timely manner, the Association may repair or replace such light, the cost of which shall be assessed against that particular Unit Owner and the charges therefor collected by the Association in the manner provided by the Declaration or by the Bylaws of the Association.

(e) **Damage Caused by Unit Owners.** To the extent (i) any cleaning, maintenance, repair, or replacement of all or any part of any Common Elements or the Unit is required as a result of the negligent, reckless, or intentional act or omission of any Unit Owner, tenant, or occupant of a Unit, or (ii) any cleaning, maintenance, repair, replacement, or restoration of all or any part of any Common Element or the Unit is required as a result of an alteration to a Unit by any Unit Owner, tenant, or occupant of a Unit, or the removal of any such alteration (regardless of whether the alteration was approved by the Association or any committee thereof) or (iii) the Association is required to restore the Common Elements or the Unit following any alteration of a Common Element or Limited Common Element required by this Declaration, or the removal of any such alteration, the Unit Owner that committed the act or omission or that caused the alteration, or the Unit Owners of

the Unit occupied by such tenant or occupant or responsible for such guest, contractor, agent, or invitee, shall pay the cost of such cleaning, maintenance, repair, replacement and restoration.

**(f) Fire Numbers.** The Declarant will provide fire numbers which will be set in the masonry portion of the building in front of each Unit unless Fond du Lac County or any governing authority shall require metal-stamped fire numbers, in which case these will be provided by the Declarant as to each Unit.

**6.05. Common Expenses.** Any and all expenses incurred by the Association in connection with the management of the Condominium, maintenance of the Common Elements and other areas described in Section 6.04, and administration of the Association shall be deemed to be common expenses (the "Common Expenses"), including, without limitation, expenses incurred for: landscaping and lawn care; snow shoveling and plowing; improvements to the Common Elements; and reasonable maintenance and management salaries and wages.

**6.06. General Assessments.** The Association shall levy monthly general assessments (the "General Assessments") against the Unit Owners for the purpose of maintaining a fund from which Common Expenses may be paid. The General Assessments against the Unit Owners shall be assessed in proportion to their percentage interests in the Common Elements, except that until occupancy permits have been issued for all Units, the General Assessments for insurance premiums shall be levied evenly against all Units for which occupancy permits have been issued. General Assessments shall be due in advance on the first day of each month, or in such other manner as the Association may set forth in the Bylaws. Any General Assessment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with interest, collection costs, and reasonable attorney fees, shall constitute a lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the assessment becomes due as provided in the Condominium Ownership Act. During the period of Declarant control of the Association under Section 703.15(2)(c) of the Wisconsin Statutes, no General Assessments shall be assessed against any Unit owned by Declarant. During the period of Declarant control, however, the General Assessments payable by any Unit Owner other than Declarant shall not exceed the amount that Unit Owner would be charged if Declarant's Units were subject to full General Assessments, based on the annual operating budget then in effect. During the period of Declarant control, Declarant shall pay the deficit if the total General Assessments payable by Unit Owners other than Declarant do not cover total Common Expenses. Furthermore, if the Association has established a statutory reserve account under Section 703.163 of the Wisconsin Statutes, (a) no reserve fund assessments shall be levied against any Unit until a certificate of occupancy has been issued for that Unit, and (b) payment of any reserve fund assessments against any Unit owned by Declarant may be deferred until the earlier to occur of (i) the first conveyance of such Unit, or (ii) five years from the date exterior construction of the Building in which the Unit is located has been completed.

**6.07. Special Assessments.** The Association may, whenever necessary or appropriate, levy special assessments (the "Special Assessments") against the Unit Owners, or any of them, for deficiencies in the case of destruction or condemnation as set forth in Section 9.05 and Section 10.05; for defraying the cost of improvements to the Common Elements; for the collection of monies owed to the Association under any provision of this Declaration, including, without limitation, Section 6.04 and Article XIII, or for any other purpose for which the Association may determine a Special Assessment is necessary or appropriate for the improvement or benefit of the Condominium. Special Assessments shall be paid at such time and in such

manner as the Association may determine. Any Special Assessment or installment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with the interest, collection costs, and reasonable attorney fees, shall constitute a lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the Special Assessment becomes due as provided in the Condominium Ownership Act.

**6.08. Common Surpluses.** If the surpluses of the Association (the "Common Surpluses") should be accumulated, other than surpluses in any construction fund as described in Section 9.06 and Section 10.06, such Common Surpluses may be credited against the Unit Owners' General Assessments in proportion to their respective percentage interests in the Common Elements or may be used for any other purpose as the Association may determine.

**6.09. Certificate of Status.** The Association shall, upon the written request of an owner, purchaser, or Mortgagee of a Unit (as defined below), issue a certificate of status of lien. Any such party may conclusively rely on the information set forth in such certificate.

**6.10 Westwind Private Drive / Sewer and Water.** For purposes of this paragraph, "Westwind Private Drive" will mean that private drive which services the Units within the Condominium from the right-of-way of Cobblestone Drive to the right-of-way of Crestwood Lane, these being the two public streets which provide access to the Condominium.

The following special provisions, notwithstanding anything contained elsewhere in the Declaration, shall apply to Westwind Private Drive and to the sewer main, water main, sewer laterals, water laterals, and shut-off valves:

(a) **Easement.** The Declarant, by virtue of recording of this Declaration, grants to the Town of Fond du Lac, City of Fond du Lac, and Village of North Fond du Lac, as may be applicable, an easement within the Condominium located as described below and for the purposes described below:

i. The easement shall be that portion of the Condominium which is described in **EXHIBIT "C"** which is attached to and made a part hereof, together with a portion of the Condominium common element immediately adjacent thereto.

ii. The purpose of this easement shall be to allow maintenance of the sewer and water which will be initially installed by the Declarant in the manner provided below and thereafter maintained by the Association.

iii. An additional easement adjacent to Westwind Private Drive located within the Common Element will be provided to allow a shut-off valve to be installed for services which go from the water main and/or sewer main to each Unit.

iv. The public body, whether that be the Town of Fond du Lac, City of Fond du Lac, or the Village of North Fond du Lac making any such repair shall not be responsible for other than rough grading upon completion of the repair. The Association shall be

responsible for repairing any damage which may have been done to Westwind Private Drive or, in the case of the water or sewer shut-off, to that portion of the common elements where the water or sewer shut-off is located.

(b) The easement herein granted shall be deemed a covenant which runs with the land and in perpetuity. Provided, however, it shall be the obligation of the Declarant to comply with the Developer Agreement which is incorporated by reference and comply with the following requirements:

(c) The sewer main, sewer laterals, water main, water laterals and shut-off valves will be constructed in accord with applicable codes and ordinances and specifications of the Town of Fond du Lac, City of Fond du Lac and Village of North Fond du Lac as may be applicable to each portion of the construction thereof.

Upon completion of construction, the applicable governing body named above will accept, thereafter, responsibility for maintenance of the sewer or water facilities located within the Condominium, but this shall be subject to the inspectors of those governing bodies verifying to their reasonable satisfaction that the construction has been completed in accord with applicable codes, ordinances and specifications.

The Declarant will be responsible for construction of Westwind Private Drive which, except as to width, will meet specifications of the Town of Fond du Lac as to construction of public roads. Subject to the terms of the Developer Agreement, such construction of Westwind Private Drive may be completed immediately at one time or in phases.

As part of the construction of Westwind Private Drive, and as part of the approval process, as shown upon the Condominium Plat there are three parking areas which have 2 stalls each and one parking area which has 4 stalls which will be accessed from Westwind Private Drive and be used by the owners of the Condominium and their guests and invitees, but subject to reasonable rules and restrictions which may be adopted by the Association.

The construction of these parking areas as to grading, graveling and finished surface will be substantially similar to Westwind Private Drive.

Upon completion, Westwind Private Drive, the driveway approaches and the parking areas referred to above will be maintained by the Association.

## **ARTICLE VII ALTERATIONS AND USE RESTRICTIONS**

### **7.01. Unit Alterations.**

(a) A Unit Owner may make improvements and alterations within its Unit; provided, however, that such improvements or alterations shall not impair the structural soundness or integrity



or lessen the structural support of any portion of the Condominium, and does not impair any easement. A Unit Owner may not change the dimensions of or the exterior appearance of a Unit or any portion of the Common Elements without obtaining the prior written permission of the Association, which permission may be denied in the sole discretion of the Association. Any approved improvement or alteration that changes the exterior dimensions of a Unit must be evidenced by recording a modification to this Declaration and the Condominium Plat before it shall be effective and must comply with the then applicable legal requirements for such amendment or addendum. Furthermore, any approved improvements or alterations must be accomplished in accordance with applicable laws and regulations, must not unreasonably interfere with the use and enjoyment of the other Units and the Common Elements, and must not be in violation of any underlying mortgage, land contract, or similar security interest.

(b) A Unit Owner acquiring an adjoining Unit may remove all or any part of the intervening partition wall or create doorways or other apertures therein. This may be done even if the partition wall may, in whole or in part, be a Common Element, provided that those acts do not impair the structural integrity or lessen the support of any portion of the Condominium, do not reduce the value of the Condominium, and do not impair any easement. The creation of doorways or other apertures is not deemed an alteration of boundaries.

(c) If a Unit Owner acquires an adjoining Unit, the Unit Owner's percentage interest in the Common Elements shall be equal to the number of Units so combined divided by the total number of Units, and as otherwise provided in Section 5.01 above. If Units are combined in this manner, they shall, for the purposes of identification, retain the Unit numbers originally assigned by virtue of this Declaration and the Condominium Plat.

**7.02. Separation, Merger and Boundary Relocation.** Boundaries between the Units or separation of any Units shall not be permitted with the exception of combining two (2) Units. Boundaries between the Units may not be relocated with the exception of that combination of adjoining Units permitted in Section 7.01(c) above.

**7.03. Use and Restrictions on Use of Unit.** Each Unit shall be used for single-family residential purposes and for no other purpose. A Unit shall be deemed to be used for "single-family residential purposes" if it is occupied by no more than one family (defined to include persons related by birth, marriage, or legal adoption) plus no more than two unrelated persons. No business, whether or not for profit, may be conducted from any Unit. The foregoing restrictions as to residence and use shall not, however, be construed in such a manner as to prohibit a Unit Owner from:

- (a) maintaining his or her personal professional library in his or her Unit;
- (b) keeping his or her personal business or professional records or accounts in his or her Unit;
- (c) handling his or her personal or business records or accounts in his or her Unit; or

(d) handling his or her personal business or professional telephone calls or correspondence from his or her Unit.

Nothing in this Section 7.03 shall authorize the maintaining of an office at which customers or clients customarily call and the same is prohibited.

**7.04. Nuisances.** No nuisances shall be allowed upon the Property, nor any use or practice that is unlawful or interferes with the peaceful possession and proper use of the Condominium by the Unit Owners or that would cause an increase in the premiums for insurance required to be maintained by the Association under Section 9.01. All parts of the Condominium shall be kept in a clean and sanitary condition, and no fire or other hazard shall be allowed to exist. No Unit Owner shall permit any use of its Unit or of the Common Elements that increases the cost of insuring the Condominium.

**7.05. Lease or Rental of Units.** Each Unit Owner or any party taking any interest in any Unit through the Declarant as Unit Owner or any subsequent Unit Owner, including the holder of any mortgage, agrees that the "character" of the Condominium and the appearance and maintenance of the Condominium would be best served by prohibiting rentals of any Units with the permitted exception provided below. It is specifically provided that rental of Units shall be prohibited. This prohibition may not be amended by any amendment to the Declaration or any amendment to the Bylaws.

**7.06. Signs.** No sign of any kind shall be displayed to the public view on any Unit without the written consent of the Association. The Declarant reserves the right to erect signs, gates, or other entryway features surrounded with landscaping at the entrances to the Condominium and to erect appropriate signage for the sales of Units.

**7.07. Garbage and Refuse Disposal.** Garbage cans and refuse containers shall be kept within the garages of the Units, except the same may be placed outside the Unit for pickup not more than twenty-four (24) hours prior to such pickup and shall be removed from outside view within twenty-four (24) hours thereafter.

**7.08. Storage.** Outdoor storage of any personal property shall not be permitted with the exception of patio-type furniture or barbecue equipment which may be placed on the patio which adjoins a Unit. However, any such personal property shall be compatible with the appearance of the Condominium and be maintained in good condition at all times.

**7.09. Pets.** The rules and regulations concerning whether or not owners of Units may maintain pets shall be determined by the Association through the Bylaws and the Association's Rules and Regulations. However, nothing contained in the Bylaws or in the Rules and Regulations shall deny a Unit Owner the right to maintain a pet if the Unit Owner, at the time of acquiring such pet, complied with the then applicable rules and regulations. However, if there is a change in the Rules and Regulations which would prohibit a Unit Owner from having such pet, then upon the death of that pet or upon the sale of the Unit, the then applicable Rules and Regulations concerning pets shall apply.

**7.10. Landscaping.** Unit Owners may not plant any decorative plants, vegetables, and shrubbery outside of their Unit without the prior written consent of the Association.

## ARTICLE VIII INSURANCE

**8.01. Fire and Extended Loss Insurance.** The board of directors of the Association shall obtain and maintain fire, casualty, and special form insurance coverage for the Common Elements, for the Unit as originally constructed as of the date the occupancy permit for the Unit was originally issued, and for the Association's service equipment, supplies and personal property. Each Unit Owner shall obtain and maintain fire, casualty, and special form insurance coverage for all improvements to the Unit made after issuance of the original certificate of occupancy and all improvements located therein for not less than the full replacement value thereof. Insurance coverage for the Common Elements shall be reviewed and adjusted by the board of directors of the Association from time to time to ensure that the required coverage is at all times provided. The insurance maintained by the Association shall be written on the Condominium's Common Elements in the name of the Association as insurance trustee for the individual Unit Owners in their respective percentage interests in the Common Elements, and may list each Unit Owner as an additional insured with respect to its Unit. The policy shall contain the standard mortgagee clause, which shall be endorsed to provide that any proceeds shall be paid to the Association, as insurance trustee, for the use and benefit of any Mortgagee as its interest may appear. All premiums for such insurance shall be Common Expenses. In the event of damage to or destruction of all or part of the Condominium insured hereunder, the proceeds of the insurance shall be paid to the Association, as insurance trustee, for the Unit Owners and the Mortgagees and distributed as provided in Article IX.

**8.02. Public Liability Insurance.** The board of directors of the Association may obtain and maintain a comprehensive liability insurance policy insuring the Association, its officers, directors, and the Unit Owners against any liability arising out of the maintenance, repair, ownership, or use of the Common Elements. Liability coverage, if obtained by the Association, shall be for at least \$1,000,000 per occurrence for personal injury and/or property damage or such higher limit as may be adopted from time to time by the Association. The insurance coverage shall be written on the Condominium in the name of the Association as insurance trustee for the Association, its directors and officers, and for the individual Unit Owners in their respective percentage interests in the Common Elements. Such insurance policy shall contain a "severability of interest" or cross-liability endorsement, which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners. All premiums for such insurance shall be Common Expenses. Each Unit Owner shall have the right to insure its own Unit for personal benefit.

**8.03. Fidelity Insurance.** Subsequent to the sale by Declarant of the first Unit, the Association may require or maintain fidelity coverage against dishonest acts by any person responsible for handling the funds belonging to or administered by the Association.

**8.04. Mutual Waiver of Subrogation.** Nothing in this Declaration shall be construed so as to authorize or permit any insurer of the Association or a Unit Owner to be subrogated to any right of the Association or a Unit Owner arising under this Declaration. The Association and each Unit Owner hereby release each other to the extent of any perils to be insured against by either of such parties under the terms of this Declaration or the Bylaws, whether or not such insurance has actually been secured, and to the extent of their respective insurance coverage for any loss or damage caused by any such casualty, even if such incidents shall be brought about by the fault or negligence of either party for whose acts, omissions, or

negligence the other party is responsible. All insurance policies to be provided under this Article by either the Association or a Unit Owner shall contain a provision that they are not invalidated by the foregoing waiver. Such waiver shall, however, cease to be effective if the existence thereof precludes either the Association or a Unit Owner from obtaining such policy.

**8.05. Standards for All Insurance Policies.** All insurance policies provided under this Article VIII shall be written by companies duly qualified to do business in the State of Wisconsin, with a general policyholder's rating of at least "A" and a financial rating of at least Class VII, as rated in the latest edition of Best's Key Rating Guide, unless the board of directors of the Association determines by unanimous vote or unanimous written consent that any policy may be issued by a company having a different rating.

## **ARTICLE IX RECONSTRUCTION, REPAIR, OR SALE IN THE EVENT OF DAMAGE OR DESTRUCTION**

**9.01. Determination to Reconstruct or Repair.** If all or any part of the Common Elements become damaged or are destroyed by any cause, the damaged Common Elements shall be repaired or reconstructed even if the cost of such repair or reconstruction exceeds the available insurance proceeds by an amount of up to \$10,000 times the number of Units making up the Condominium. Acceptance by a Unit Owner of a deed to a Unit shall be deemed to be consent to the authorization to the Association to so repair or reconstruct. If such authorization is challenged, whether through action taken at a meeting of Unit Owners or otherwise, the issue of whether to repair or reconstruct shall be put to a vote of all of the Unit Owners, and such repair or reconstruction shall be deemed approved if the votes appurtenant to any one Unit are cast in favor of such repair or reconstruction.

**9.02. Plans and Specifications.** Any reconstruction or repair shall, as far as is practicable, be made in accordance with the maps, plans, and specifications used in the original construction of the damaged Common Elements, unless (1) a majority of the first Mortgagees (one vote per mortgaged Unit) approve of the variance from such plans and specifications; and (2) the board of directors of the Association authorizes the variance in the case of reconstruction of or repair to the Common Elements. If a variance is authorized from the maps, plans, and specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variance.

**9.03. Responsibility for Repair.** In all cases after a casualty has occurred to the Common Elements, the Association has the responsibility of reconstruction and repair, and immediately shall obtain reliable and detailed estimates of the cost to rebuild or repair.

**9.04. Insurance Proceeds and Construction Fund.** Insurance proceeds held by the Association as trustee pursuant to Section 8.01 shall be disbursed by the Association for the repair or reconstruction of the damaged Common Elements. The Association shall have no responsibility to repair, reconstruct, or replace any Unit or any improvements located within a Unit. Unit Owners and Mortgagees shall not be entitled to receive payment of any portion of the insurance proceeds unless there is a surplus of insurance proceeds after the damaged Property has been completely restored or repaired as set forth in Section 9.06.

**9.05. Assessments For Deficiencies.** If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair by the Association, a Special Assessment shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to Common Elements shall be in proportion to each Unit Owner's percentage interest in the Common Elements. All assessed funds shall be held and disbursed by the Association as trustee for the Unit Owners and Mortgagees involved.

**9.06. Surplus in Construction Funds.** All insurance proceeds and Special Assessments held by the Association as trustee for the purpose of rebuilding or reconstructing any damage to the Common Elements or any Property taken by eminent domain are referred to herein as "Construction Funds." It shall be presumed that the first moneys disbursed in payment of costs of reconstruction or repair are insurance proceeds. If there is a balance in the Construction Funds after payment of all costs of reconstruction or repair, such balance shall be divided among the Unit Owners according to their respective percentage interests in the Common Elements.

**9.07. Damage or Destruction of Unit.** Following any damage or destruction to any improvements located within any Unit, the Unit Owner shall repair and restore such Unit to its condition prior to the damage or destruction as soon as possible but in any case within two hundred seventy (270) days of the damage or destruction.

## ARTICLE X CONDEMNATION

**10.01. Allocation of Award.** Any damages for a taking of all or part of the Condominium shall be awarded as follows:

(a) Every Unit Owner shall be allocated the entire award for the taking of all or part of the respective Unit or any improvements located therein and for consequential damages to the Unit or improvements located therein.

(b) If no reconstruction is undertaken, any award for the taking of Common Elements shall be allocated to all Unit Owners in proportion to their respective percentage interest in the Common Elements.

**10.02. Determination to Reconstruct Common Elements.** Following the taking of all or part of the Common Elements, the Common Elements shall be restored or reconstructed.

**10.03. Plans and Specifications for Common Elements.** Any reconstruction shall, as far as is practicable, be made in accordance with the maps, plans and specifications used in the original construction of the taken Common Elements unless seventy-five percent (75%) of the Unit Owners and a majority of the first Mortgagees (one vote per mortgaged Unit) shall authorize a variance from such plans and specifications. If a variance is authorized from the maps, plans, or specifications contained in the Condominium Plat or this Declaration, an amendment shall be recorded by the Association setting forth such authorized variances.

**10.04. Responsibility for Reconstruction.** In all cases after a taking of all or part of the Common Elements, the responsibility for restoration and reconstruction shall be that of the Association and it shall immediately obtain reliable and detailed estimates of the cost to rebuild.

**10.05. Assessments for Deficiencies.** If the condemnation award for the taking of the Common Elements is not sufficient to defray the costs of reconstruction by the Association, Special Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Special Assessments shall be in proportion to each Unit Owner's respective percentage interest in the Common Elements and shall constitute a Common Expense.

**10.06. Surplus in Construction Fund.** It shall be presumed that the first moneys disbursed in payment of costs of reconstruction or restoration shall be from the award for taking. If there is a surplus of Construction Funds after payment of all costs of construction, such balance shall be divided among all Unit Owners in proportion to their respective percentage interests in the Common Elements.

**10.07. Percentage Interests Following Taking.** Following the taking of all or any part of any Unit, the percentage interest in the Common Elements appurtenant to any Unit shall be equitably adjusted to reflect the respective relative values of the remaining Units (or portions thereof) to all of the Units, determined without regard to the value of any improvements located within the Units. The Association shall promptly prepare and record an amendment to the Declaration reflecting the new percentage interests appurtenant to the Units. Such amendment need be signed only by two officers of the Association.

## **ARTICLE XI MORTGAGEES**

**11.01. Notice.** Any holder of a recorded mortgage or any vendor under a recorded land contract encumbering a Unit (the "Mortgagee") that has so requested of the Association in a writing received by the Association's agent for service of process shall be entitled to receive notice of the following matters:

(a) The call of any meeting of the membership or the board of directors of the Association to be held for the purpose of considering any proposed amendment to this Declaration, the Articles, or the Bylaws.

(b) Any default under, any failure to comply with, or any violation of, any of the provisions of this Declaration, the Articles, or Bylaws or any rules and regulations.

(c) Any physical damage to the Common Elements in an amount exceeding Twenty Thousand Dollars (\$20,000).

**11.02. Amendment of Provisions Affecting Mortgagees.** Notwithstanding the provisions of Article XII of this Declaration, neither Section 11.01 nor any Section of this Declaration requiring the approval of any Mortgagee to any action shall be amended unless all Mortgagees have given their prior written approval.

**11.03. Owners of Unmortgaged Units.** Whenever any provision contained in this Declaration requires the consent or approval (whether by vote or in writing) of a stated number or percentage of Mortgagees to any decision, each Unit Owner of any unmortgaged Unit shall be considered a "Mortgagee" as well as a "Unit Owner" for purposes of such provision.

**11.04. Condominium Liens.** Any Mortgagee who obtains title to a Unit under the remedies provided in the mortgage or land contract against the Unit or through foreclosure shall not be liable for more than six (6) months of the Unit's unpaid dues and assessments accrued before the date on which the holder acquired title.

## **ARTICLE XII AMENDMENT**

Except as otherwise provided by the Condominium Ownership Act, or as otherwise provided in this Declaration, this Declaration may be amended with the written consent of not less than the number of Unit Owners who together hold at least two-thirds (2/3) of the total voting interests held by all Unit Owners. No Unit Owner's consent shall be effective without the consent of the first mortgagee of such Unit. So long as the Declarant owns any Unit, the consent in writing of the Declarant, its successors or assigns, shall also be required. No amendment shall alter or abrogate the rights of Declarant as contained in this Declaration. Copies of amendments shall be certified by the president and secretary of the Association in a form suitable for recording. A copy of the amendment shall be recorded with the Register of Deeds for Fond du Lac County, and a copy of the amendment shall also be mailed or personally delivered to each Unit Owner at its address on file with the Association. Until the initial conveyance of all Units, this Declaration may be amended by the Declarant alone for purposes of clarification and correction of errors and omissions.

## **ARTICLE XIII REMEDIES**

The Association shall have the sole right to enforce the provisions hereof or any of its orders by proceedings at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration, either to restrain or cure the violation or to recover damages, or both, for a period which shall include thirty (30) days from the date of the filing with the Association of a petition by any person who shall be a Unit Owner subject to this Declaration on the date of the filing, petitioning the Association to redress the violation or attempted violation of any of the provisions of this Declaration by any other persons. Liability among multiple owners of a Unit shall be joint and several. Nothing herein shall be deemed to limit the rights of the Town of Fond du Lac or the County of Fond du Lac to enforce any zoning codes, ordinances, regulations, or other requirements that may be identical or similar to the requirements of this Declaration. Such period of thirty (30) days shall be considered to be a period for the consideration of the petition by the Association and if the Association denies or fails to act upon the petition to the satisfaction of the petitioner within the thirty (30) day period, thereafter petitioner shall have the right to enforce the provisions hereof (except for the collection of charges and assessments under Article VI), to the extent that he or she shall so have petitioned, by proceedings at law or in equity against any person or persons violating or attempting to violate the provisions of this Declaration, either to restrain the violation or to recover damages, or both,

provided, however, that any such person shall be a Unit Owner and commence such proceedings against such other person or persons within a period of sixty (60) days from (i) the date of the Association's denial of such petition, or (ii) the passage of the aforementioned thirty (30) day period for consideration of the petition by the Association. The Association or the petitioning Unit Owner(s), as the case may be, shall have the right to recover court costs and reasonable attorney fees in any successful action brought against another Unit Owner to enforce, or recover damages for a violation of, this Declaration. Any damages collected by the Association shall be distributed, first, to pay for all costs of enforcement, and, secondly, to the owners of the Units damaged by the violation pro rata. Notwithstanding the foregoing, if any Unit Owner fails to comply with the terms and conditions of this Declaration, and such failure continues beyond any applicable cure period, the Association shall have the right to cure on behalf of the Unit Owner and such Unit Owner shall promptly reimburse the Association for the cost thereof within ten (10) days after receipt of written demand therefor. Alternatively, the Association may, at the option of the Association, levy such amounts against the Unit as a Special Assessment under Article VI. In addition to all other remedies available to the Association, the Association shall have the right to collect from any Unit Owner who is in violation beyond any applicable cure period of this Declaration, the Association's Articles or Bylaws, or any Rules and Regulations promulgated hereunder, a fine for each day such violation continues in such amount as is from time to time set forth in the Bylaws or Rules and Regulations.

#### **ARTICLE XIV GENERAL**

**14.01. Utility Easements.** The Declarant hereby reserves for the Association acting by and in behalf of its board of directors, the rights to grant to the Town of Fond du Lac, County of Fond du Lac, Village of North Fond du Lac, City of Fond du Lac, or public or semi-public utility companies, easements and rights-of-way for the erection, construction, and maintenance of all poles, wires, pipes, and conduits for the transmission of electricity, gas, water, telephone, and for other purposes, for sewers, stormwater drains, gas mains, water pipes and mains, and similar services and for performing any public or quasi-public utility function that the board of directors may deem fit and proper for the improvement and benefit of the Condominium. Such easements and rights-of-way shall be confined, so far as possible in underground pipes or other conduits, with the necessary rights of ingress and egress and with the rights to do whatever may be necessary to carry out the purposes for which the easement is created.

**14.02. Right of Entry.** By acceptance of a Condominium Deed, each Unit Owner shall have granted a right of entry and access to its Unit to the Association to correct any condition originating in its Unit and threatening another Unit or the Common Elements, to install, alter, or repair mechanical or electrical services or other Common Elements in its Unit or elsewhere in the Condominium, and to maintain and repair Common Elements and other areas as described in Section 7.04. Such entry shall be made with prior notice to the Unit Owners, and shall be scheduled for a time reasonably convenient to the Unit Owners, except in the case of an emergency when injury or property damage will result in delayed entry. Such entry shall be done with as little inconvenience to the Unit Owners as practical, and any damage caused thereby shall be repaired by the Association and treated as a Common Expense, except as allocable to an individual Unit or Units for cause in the discretion of the board of directors.

26



**14.03. Notices.** All notices and other documents required to be given by this Declaration or by the Bylaws of the Association shall be sufficient if given to one (1) registered owner of a Unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the agent for service of process specified in Section 15.06. All owners shall provide the secretary of the Association with an address for the mailing or service of any notice or other documents and the secretary shall be deemed to have discharged his or her duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him or her.

**14.04. Severability.** The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or unenforceability of the remaining portion of said provision or of any other provision hereof.

**14.05. Declarant Access During Construction of Improvements.** During any period of construction of Buildings and other improvements on the Property by the Declarant, the Declarant and its contractors, and subcontractors, and their respective agents and employees, shall have access to all Common Elements as may be required in connection with said construction and shall have easements for the installation and construction of Buildings, improvements, utilities, driveways, parking areas, landscaping, and other repairing or servicing of all or any part of the Condominium or the expanded Condominium.

**14.06. Resident Agent.** The name and address of the resident agent under Section 703.23 of the Wisconsin Statutes is:

**GLENN ELMER  
1028 S. Main Street  
Fond du Lac, WI 54935**

The resident agent may be changed by the Association in any manner permitted by law.

**14.08. Assignment of Declarant's Rights.** The rights, powers, and obligations of the party named as "Declarant" may be assigned by a written, recorded amendment to any other party who assumes such rights, powers and obligations. Upon the recording of any such amendment, such assignee shall become "Declarant" under this Declaration and shall succeed to all such rights, powers and obligations. Such amendment need be signed only by the assignor and assignee named therein.

**14.09. Conflicts.** If a conflict exists among any provisions of this Declaration, the Articles, the Bylaws, and the Rules and Regulations, the Declaration shall prevail over the Articles, Bylaws, and Rules and Regulations; the Articles shall prevail over the Bylaws and the Rules and Regulations; and the Bylaws shall prevail over the Rules and Regulations.

IN WITNESS WHEREOF, Declarant has caused this instrument to be signed this 16<sup>th</sup> day of JUNE, 2005.

**SIGNATURE HOMES BY ADASHUN JONES, INC.**

By: [Signature]  
Name: Frank G. Adashun  
Title: President

**ATTEST:**

By: [Signature]  
Jeffrey A. Jones, Secretary

STATE OF WISCONSIN )  
 )SS  
COUNTY OF FOND DU LAC )

Personally came before me this 16<sup>th</sup> day of JUNE, 2005, **FRANK G. ADASHUN** and **JEFFREY A. JONES**, the president and secretary of Signature Homes by Adashun Jones, Inc., a Wisconsin corporation, who acknowledged the foregoing document for the purposes recited therein and on its behalf.

[Signature]  
Name: DAVID J. HENTZ  
Notary Public, State of Wisconsin  
My Commission: 10 FEB 08

**CONSENT OF MORTGAGEE**

The undersigned, being the holder of a mortgage executed by **SIGNATURE HOMES BY ADASHUN JONES, INC.** to the undersigned, does hereby consent to all of the terms and conditions of the foregoing Declaration, and agrees that its interest in the Property shall be subject in all respects to the terms thereof.

Dated this 16<sup>th</sup> day of JUNE, 2005.

**NATIONAL EXCHANGE BANK AND TRUST**

By: [Signature]  
Name: MICHAEL C. BURCH  
Title: PROBATION

28

ATTEST:

By: [Signature]  
Name: DANIEL J. HENZIS  
Title: VICE PRESIDENT

STATE OF WISCONSIN )  
                                  )SS  
COUNTY OF FOND DU LAC )

Personally came before me this 16TH day of JUNE, 2005, the above named MICHAEL L. BUNCH and DANIEL J. HENZIS, holding the offices set forth above, who acknowledged the foregoing documents for the purposes recited therein on behalf of the same.

[Signature]  
Name: KAREN V. HENNING  
Notary Public, State of Wisconsin  
My Commission: 10-21-07

This document drafted by  
and should be returned to:  
**Attorney Robert V. Edgerton (#1011146)**  
**Edgerton, St. Peter, Petak & Rosenfeldt**  
**P. O. Box 1276**  
**Fond du Lac, WI 54936-1276**  
**(920) 922-0470**

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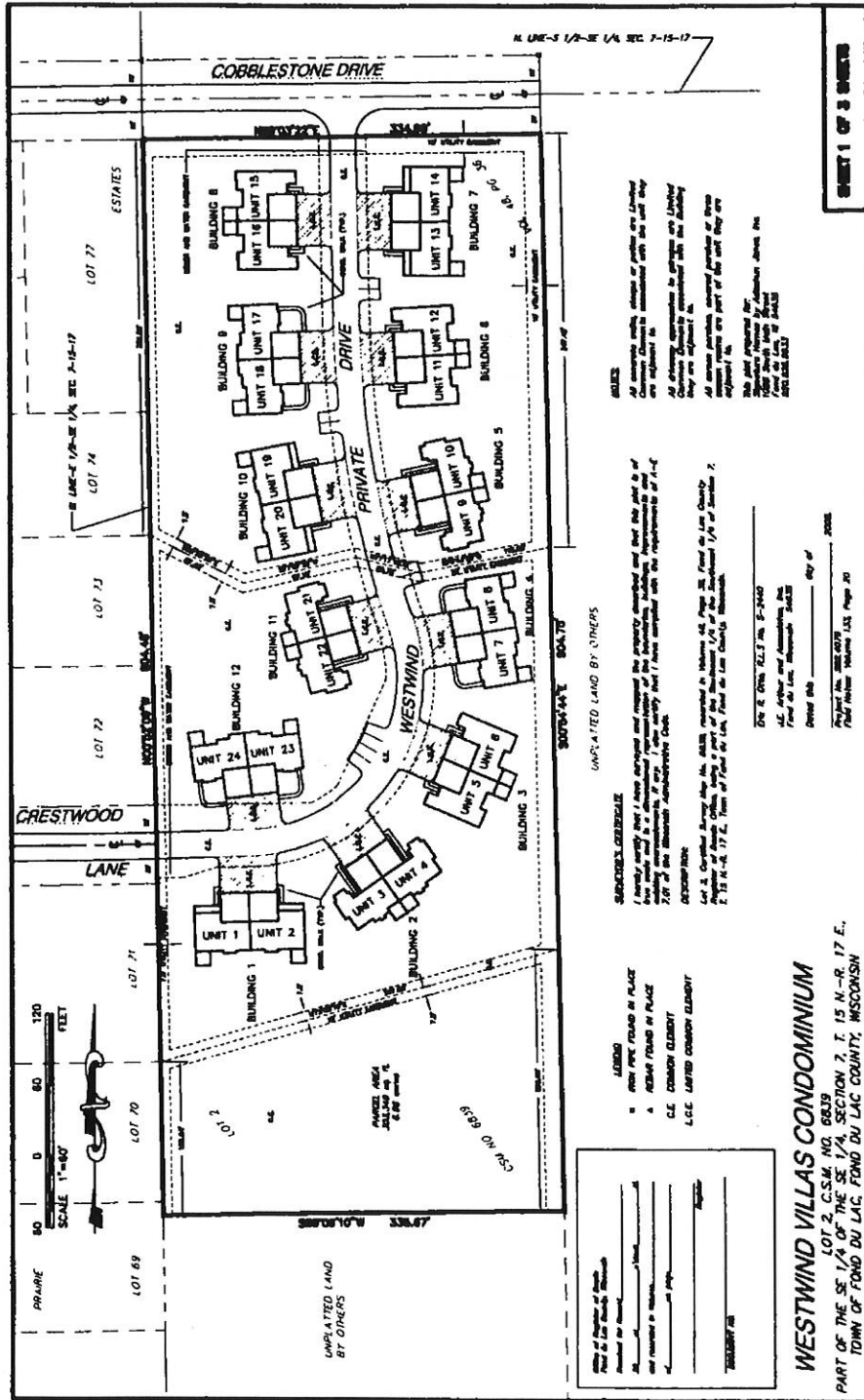
**EXHIBIT "A"**

**Legal Description of Property / Land /  
Westwind Villas Condominium**

Lot 2, Certified Survey Map No. 6839, recorded in Volume 48, Page 36, Fond du Lac County Register of Deeds Office, being a part of the Southeast 1/4 of the Southeast 1/4 of Section 7, T. 15 N.-R 17 E., Town of Fond du Lac, Fond du Lac County, Wisconsin.

EXHIBIT "B"

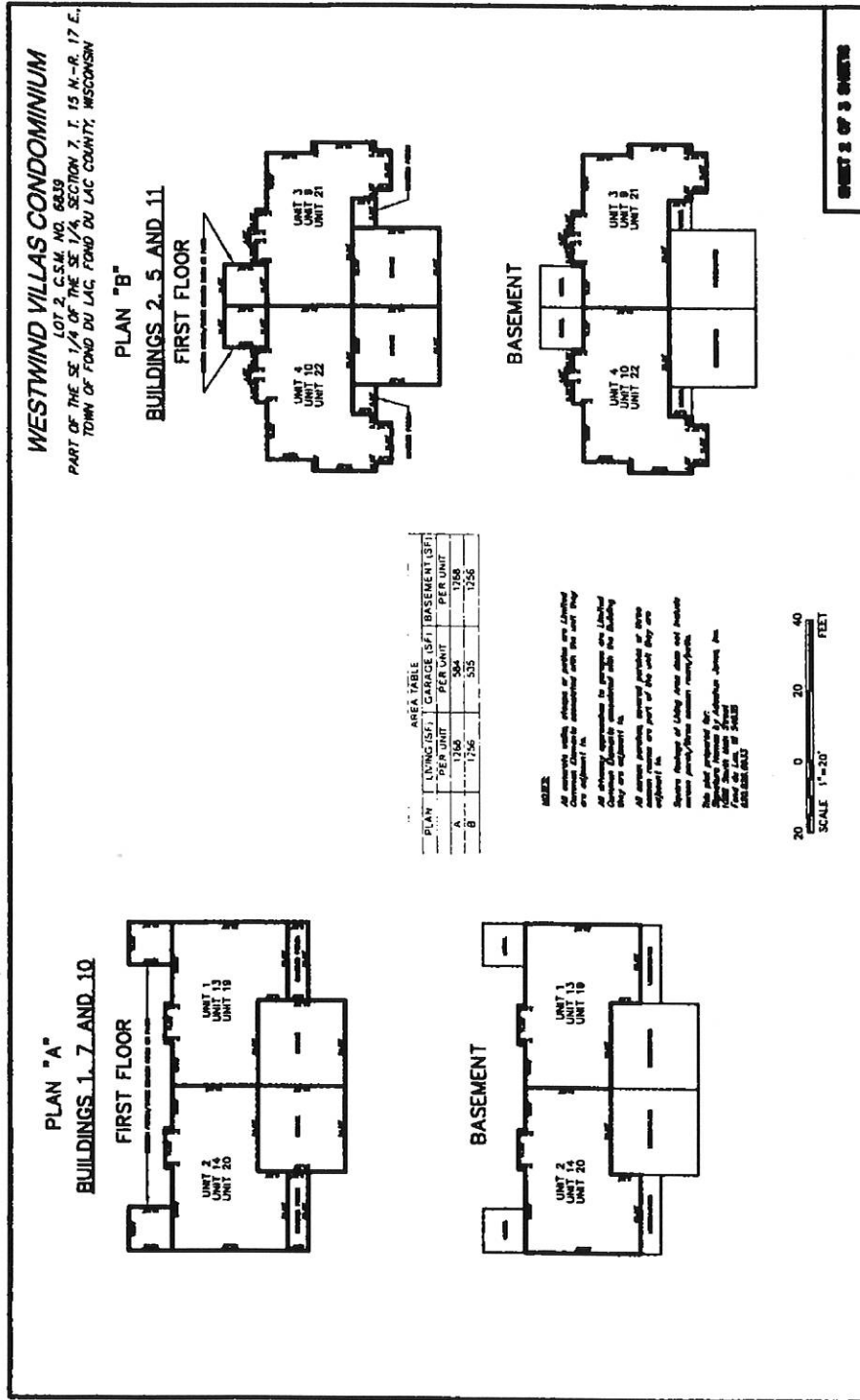
Condominium Plat - Page 1 of 3



31

EXHIBIT "B"

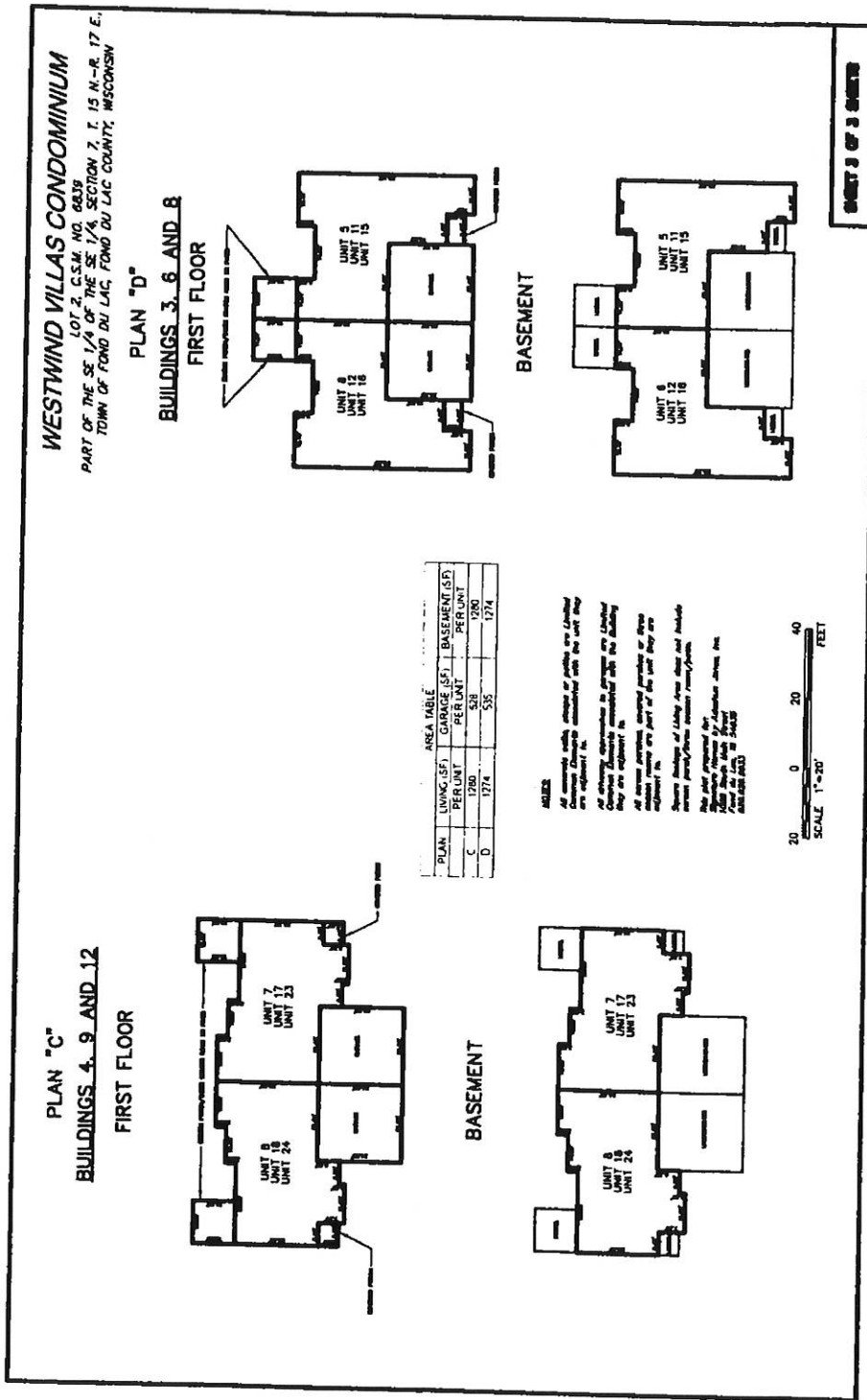
Condominium Plat - Page 2 of 3



32

EXHIBIT "B"

Condominium Plat - Page 3 of 3



**EXHIBIT "C"**

**Description of the Easement for Private Drive  
and Sewer and Water**

DESCRIPTION OF A SEWER, WATER, AND INGRESS/EGRESS EASEMENT  
PART OF LOT 2, CERTIFIED SURVEY MAP NO. 6839  
IN THE SE 1/4 OF THE SE 1/4,  
SECTION 7, T. 15 N. - R. 17 E.,  
TOWN OF FOND DU LAC, FOND DU LAC COUNTY, WISCONSIN

Part of Lot 2, Certified Survey Map No. 6839, recorded in Volume 48, Page 36, Certified Survey Maps, Fond du Lac County Register of Deeds Office being part of the Southeast 1/4 of the Southeast 1/4 of Section 7, T. 15 N. - R. 17 E., Town of Fond du Lac, Fond du Lac County, Wisconsin, and more particularly described as follows:

Beginning at the Southeast corner of Lot 72, Prairie Estates; thence North 89°-07'-51" East, 129.82 feet; thence on a curve to the left having a radius of 120.00 feet, 27.52 feet along curve to a point which is North 55°-46'-40" East, 27.46 feet from last described point; thence North 25°-03'-12" East, 98.21 feet; thence on a curve to the left having a radius of 120.00 feet, 42.22 feet along curve to a point which is North 09°-10'-54" West, 42.00 feet from last described point; thence on a curve to the right having a radius of 820.00 feet, 262.15 feet along curve to a point which is North 10°-06'-09" West, 261.04 feet from last described point; thence North 00°-56'-38" West, 157.22 feet to a point on the South right of way line of Cobblestone Drive; thence North 89°-03'-22" East along said South right of way, 40.00 feet; thence South 00°-56'-38" East, 157.22 feet; thence on a curve to the left having a radius of 780.00 feet, 249.36 feet along curve to a point which is South 10°-06'-09" East, 248.30 feet from last described point; thence along a curve to the right having a radius of 160.00 feet, 300.26 feet along curve to a point which is South 34°-30'-01" West, 258.10 feet from last described point; thence South 89°-07'-51" West, 28.74 feet; thence South 72°-26'-29" West, 29.19 feet; thence South 89°-07'-51" West, 21.48 feet to a point on the West line of said Lot 2; thence North 00°-52'-09" West along said West line, 61.24 feet to the point of beginning.