

Exhibit “1”

Mallard Pond Declaration of Planned Community and All Amendments Thereto



60 2018 00036496

Allegheny County
Jerry Tyskiewicz
Department of Real Estate
Pittsburgh, PA 15219

Instrument Number: 2018-36496

BK-DE VL-17437 PG-29

Recorded On: November 26, 2018 As-Deed Agreement

Parties: HEURICH BLDRS INC

To HEURICH BLDRS INC

of Pages: 35
25

Comment: DECL

***** THIS IS NOT A BILL *****

Deed Agreement 166.75
0
0
Total: 166.75

Realty Transfer Stamp

Department of Real Estate Stamp

Affidavit Attached-No
NOT A DEED OF TRANSFER EXEMPT
Value 0.00

Certified On/By-> 11-26-2018 / Belinda Gibbs
NOT A DEED OF TRANSFER

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

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GOEHRING RUTTER & BOEHM
WATERFRONT CORPORATE PARK
2100 GEORGETOWN DR STE 300
SEWICKLEY PA 15143



Jerry Tyskiewicz
Jerry Tyskiewicz, Director
Rich Fitzgerald, County Executive

MALLARD POND
DECLARATION OF PLANNED COMMUNITY

HEURICH BUILDERS, INC., a Pennsylvania corporation, currently maintaining its principal place of business at 11676 Perry Highway, Suite 1103, Wexford, Pennsylvania 15090 ("Declarant"), hereby makes this Declaration of Planned Community (the "Declaration") with respect to certain real estate described herein.

PREAMBLE

WHEREAS, Declarant is the owner of approximately 82.40 acres of real property situate in the Township of Marshall, Allegheny County, Pennsylvania, contained within the Mallard Pond Plan of Lots No. 1 (the "Mallard Pond Plan"), which Plan is recorded at Plan Book Volume 296, Pages 152-156, in the Department of Real Estate of Allegheny County, Pennsylvania; and

WHEREAS, Declarant desires to develop such real property in phases; and

WHEREAS, pursuant to this Declaration, Declarant will create a Planned Community known as "Mallard Pond" with respect to those portions of the Mallard Pond Plan designated as Lot Nos. 101-123, inclusive, and Open Spaces B-E, inclusive, as well as the streets shown on the Mallard Pond Plan until such time as such streets are dedicated to and accepted by the Township of Marshall (individually and collectively the "Planned Community"); and

WHEREAS, subsequent phases are intended to be developed within the Additional Property (as hereinafter defined) which may be added to the Planned Community; and

WHEREAS, in connection with the development of the Planned Community, certain improvements will be made by Declarant with respect to the Planned Community, which improvements include entry signs, stormwater facilities, utilities, and various other improvements; and

WHEREAS, Declarant hereby declares that the Planned Community shall be held, improved, maintained, sold and conveyed subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of the Planned Community, which shall run as a covenant with the land as to all real property subject to this Declaration, which shall be binding on all parties having any right, title, or interest in the Planned Community or any part thereof, and their heirs, successors, and assigns, and which shall inure to the benefit of each Owner (as hereinafter defined) and Township of Marshall.

NOW THEREFORE, Declarant hereby declares the following covenants, conditions and restrictions affecting the Planned Community, with the intent to be legally bound hereby.

ARTICLE I
SUBMISSION

Declarant hereby makes the Planned Community subject to the following covenants, conditions, reservations and restrictions. It is the intent of the Declarant that the Planned Community subject to this Declaration shall constitute a "flexible planned community" as that term is defined in the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S. §§ 5101, et seq. (the "Act").

ARTICLE II
DEFINITIONS

2.1 "Additional Real Estate" shall mean all or any portion of those certain properties located adjacent to the Planned Community and identified in Section 11.1 of this Declaration that may be added to the Planned Community in accordance with the Act or provisions hereof.

2.2 "Approved Builder" shall mean any person or entity improving the Planned Community, only as set forth in Section 10.2 of this Declaration.

2.3 "Association" shall mean the Mallard Pond Homeowners Association, a nonprofit corporation, its successors and assigns, formed for the purposes of, but not limited to, ownership and operation of the Common Elements of the Planned Community.

2.4 "Common Elements" shall mean all real and personal property located within the Planned Community to be maintained by the Association for the common use and enjoyment of the Members of the Association including "Common Facilities" and "Controlled Facilities", including Open Space B, Open Space C, Open Space D, and Open Space E, and including all monuments and signs, if any, and stormwater detention and management facilities and the streets through the Plan until such time as they may be dedicated to and accepted by the Township.

2.5 "Common Expenses" shall mean as defined herein and in the Act.

2.6 "Common Facilities" shall mean as defined herein and in the Act.

2.7 "Controlled Facilities" shall mean as defined herein and in the Act.

2.8 "Declarant" shall mean Heurich Builders, Inc., a Pennsylvania corporation, its successors and assigns.

2.9 "Declaration" shall mean this Declaration of Planned Community for Mallard Pond, as the same may be amended from time to time.

2.10 "Lot" shall mean those Lots, as shown on the Plan, intended for individual separate ownership on which a single-family dwelling is to be constructed, including Lots which may be added to the Planned Community in accordance with the terms hereof.

2.11 "Member" shall have the meaning described in Section 6.1.

2.12 "Mortgage" shall mean a permanent or construction mortgage, including any collateral security documents executed in connection therewith, secured by a mortgage on the Planned Community or any part thereof.

2.13 "Mortgagee" shall mean a beneficiary or holder of a Mortgage.

2.14 "Owner" shall mean the Declarant or such other person(s) or entity(ies) who holds title to one or more Lots in the Planned Community. This term does not include a person(s) or entity(ies) having an interest in a Lot solely as security for performance of an obligation.

2.15 "Phase I" shall mean Lot Nos. 101-123, inclusive, and Open Spaces B-E, inclusive, as shown on the Plan, as well as the streets shown on the Plan.

2.16 "Plan" shall mean the Mallard Pond Plan of Lots No. 1 as recorded in the Department of Real Estate of Allegheny County, Pennsylvania at Plan Book Volume 296, pages 152-156, as the same may have been and may be amended from time to time.

2.17 "Planned Community" shall mean the planned community created pursuant to this Declaration of Planned Community, which includes Phase I, and any Additional Property added to the Planned Community in accordance with the Act or provisions hereof.

2.18 "Township" shall mean the Township of Marshall, County of Allegheny, Commonwealth of Pennsylvania.

ARTICLE III **EASEMENTS**

3.1 General

(a) All easements, restrictions, reservations and building lines affecting Lots as shown on the Plan are incorporated herein by reference hereto.

(b) The Planned Community is subject to the easements and licenses shown on or created by the Plan together with the improvements and appurtenances constructed within said easements.

(c) The Planned Community is subject to easements, licenses, and other matters of record, including but not limited to those matters attached on Exhibit "A".

3.2 Utility Easements. Declarant reserves an easement on, over and under the Planned Community and all Lots created therein, in favor of the Declarant, appropriate utility and service companies, and governmental agencies or authorities for such private or public utility and service lines and equipment as may be necessary or desirable to serve any portion of the Planned Community. The easements created in this Section shall include, without limitation, rights of Declarant, or the providing utility or service company, or governmental agency or authority, to install, lay, maintain, repair, relocate, and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Planned Community. Declarant grants any Approved Builder the right to use such easements as necessary for the construction of improvements on Lots in the Planned Community.

No storm sewers, sanitary sewers, electrical lines, water lines, cable or internet connections, or other utilities may be installed or relocated in the Plan, except as may be approved by Declarant. Should any entity furnishing a service covered by the general easements herein provided request a specific easement by a separate recordable document, the Declarant shall have the right to grant such easement over the Planned Community without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Plan.

The Declarant shall have the power to dedicate portions of the Common Elements to the Township, or to any other local, state or federal governmental entity and/or utility supplier at any time.

3.3 Easement for Access to Common Elements. Declarant reserves, on its behalf and on behalf of future members of the Planned Community, a non-exclusive perpetual right of access and easement on, over, and under those portions of the Common Elements for the purpose of pedestrian and vehicular ingress, egress, and regress to and from all or any part of the Planned Community, including the right to modify the location of the improvements, if any, to the Common Elements to facilitate such ingress, egress, and regress including without limitation the removal of obstructions to the exercise of such rights of ingress, egress, and regress and the grading or regrading of landscaped areas of the Common Elements.

3.4 Declarant's Easement to Correct Drainage. Declarant reserves an easement on, over and under the Common Elements and Lots for the purpose of maintaining and correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to

take any other action reasonably necessary to achieve this purpose, following which the Declarant shall restore the affected Common Elements and Lots to their original condition as closely as practicable. Declarant grants the foregoing easement to correct drainage to any Approved Builder with respect to Lots owned by such Approved Builder as required to maintain and correct drainage of surface water on Lots.

3.5 Declarant's Easement for Development of Planned Community. Declarant reserves an easement on, over and under the Common Elements for all purposes relating to the construction, development, leasing, and sale of improvements on the Planned Community. This easement shall include, without limitation, the right of vehicular and pedestrian ingress and egress, the right to park motor vehicles and to engage in construction and marketing activities of any nature whatsoever, including the movement and storage of building materials and equipment, the right to conduct sales, leasing and management activities, the maintenance of models and offices and the erection and maintenance of directional and promotional signs. All sales offices, management offices, models, and signs shall comply with applicable governmental requirements. Declarant grants any Approved Builder the right to use such easements as necessary for the construction of improvements on the Lots owned by such Approved Builder.

3.6 Easement for Encroachment and Relocation of Boundaries Between Lots. To the extent that any Common Element encroaches upon any Lot or Common Element, a valid easement for the encroachment exists and the Declarant is hereby released from liability for failure to strictly adhere to the Plan. The Declarant will be afforded the opportunity to file a correction to the Plan in order to properly reflect the Lots and Common Elements. Such amendment and correction may include the relocation of boundaries between adjoining Lots without the joinder of the Owners of such Lots or the joinder of the Association in the event that such relocation of boundaries affects the Common Elements. The Declarant is hereby authorized to prepare and record plats and plans as necessary to show such altered boundaries between adjoining Lots and their dimension and identifying numbers.

3.7 Easement for Reconstruction, Improvement, Repair or Maintenance of Common Elements. Easements to permit the doing of every necessary and proper act by the Declarant and/or the Association to properly maintain the Common Elements are hereby granted and established. These shall include, but not be limited to, entry upon, over and under the Lots or any part thereof, the right to use all necessary and usual equipment for the performance of such acts, the usual and common noise level associated with the use of such equipment, together with all the other common and usual activity associated with such activities. Declarant grants any Approved Builder the right to use such easements as necessary for the construction of improvements on Lots owned by such Approved Builder.

3.8 Easement for Use of Common Elements.

(a) Grant of Easement. Each Owner and each person lawfully residing in the Planned Community is hereby granted a non-exclusive perpetual right and easement of access to and enjoyment in common with others of the Common Elements.

(b) Extent of Easement. The rights and easements of access and enjoyment created hereby shall be subject to the right of the Association to adopt rules and regulations governing the use of the Common Elements.

3.09 Easement of Governmental, Health, Water, Sewer, Disposal, Sanitation and Emergency Services. A non-exclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and emergency services such as fire, ambulance and rescue services, for purposes of ingress and egress over the Common Elements. The Declarant further reserves an easement over the Common Elements as needed for the installation, maintenance and operation of any water and sewage disposal systems which may serve the Planned Community.

3.10 Environmental Easements. The Declarant reserves for its benefit and the benefit of the Association and their respective agents and employees an easement over, on and across any and all unimproved areas for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures promulgated and instituted by the Executive Board or by a governmental body.

3.11 Easement for Ingress to and Egress from Additional Real Estate. In the event any or all of the Additional Real Estate is not added to the Planned Community, such Additional Real Estate (whether owned by Declarant or Declarant's successors and assigns) shall have a perpetual easement in, across, over and through the roads of the Planned Community. If the Planned Community roads are used to access the Additional Real Estate, the owner or owners of such Additional Real Estate shall pay a proportional share of the costs of maintaining such roads until such time as the roads are dedicated to and accepted by the Township.

ARTICLE IV
USE OF COMMON ELEMENTS

4.1 Owner's Easement of Enjoyment. Every Owner has a right and easement of use and enjoyment upon the Common Elements, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) To the levy by the Association, of annual and special assessments, and to their timely payment by the Owner;

(b) To the suspension by the Association of the voting rights of affected Owner(s) during default in payment by same of any annual and/or special assessment(s);

(c) To the suspension by the Association during such default, from the use of the Common Element by such defaulting Owner;

(d) For the imposition by the Association during such default of a reasonable penalty (including but not limited to suspension of use, imposition of a monetary fine and the like) for violation of any rules and regulations, or posted notices for the Common Elements;

(e) Any action under (b), (c), and (d) above shall be in addition to any remedy provided by the within covenants, the Bylaws, or any laws, and such action shall have no effect upon the obligation for payment of any and all special and/or annual assessment charges;

(f) For the imposition by the Association of special charges or assessments which it deems reasonable and necessary for the use of any Common Elements because of its special nature and use to any particular Owner or Occupant;

(g) To limit in nature and scope the use and enjoyment of the Common Elements and to promulgate, from time to time, any rules and regulations regarding same;

(h) For such action of the Association in the transfer by dedication and otherwise, at such time or such times, and on such terms as it deems proper, of all or part of the Common Elements to such public or quasi-public body or agency as it chooses and deems to be generally beneficial to the Owner generally;

(i) The right of the Association to take such action(s) as is reasonably necessary to protect the Common Elements against any actual or threatened foreclosure proceedings; and

(j) To adopt, pass and enact such other Rules and Regulations as the Declarant and/or Board, as and when created, may adopt, from time to time.

4.2 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Elements to the members of his or her family, and to his or her guests, subject to such Rules and Regulations as the Declarant and/or Executive Board, as and when created, may, from time to time, adopt, and to such notices as it may cause to be posted; provided, however, that there shall be no subrogation of the duty of any Owner to pay assessments as may be made upon him or her and his or her Lot. Any permitted leasing or letting of a Lot shall also operate as an authorized delegation. Such tenant(s), however, shall be held to the same standard of conduct as an Owner. All tenancies and/or leases shall contain a clause, provision or condition that the tenant(s) shall be subject to

the within covenants and all Rules and Regulations as currently exist and, as from time to time, may be promulgated by the Declarant and/or the Association, as and when created.

ARTICLE V
MAINTENANCE AND RELATED EXPENSE RESPONSIBILITIES

5.1 Association's Responsibility.

(a) The Association created by this Declaration shall be responsible for the maintenance, repair and replacement of the Common Elements, including any and all entry signs and pillars/monuments, conservation areas, wetlands, preservation easement areas, monument easements, Open Spaces, walking trails, if any, drainage easements, and stormwater management facilities and easements for the same located within the Planned Community (until such time, if ever, such stormwater management facilities are dedicated to and accepted by the Township or a municipal authority responsible for the operation and maintenance of stormwater management facilities in the Township).

(b) In the event that the Declarant elects to permit the construction of a recreational area upon any of the Open Spaces, the Association shall be responsible for the maintenance, repair, and replacement of any such improvements.

(c) Until such time as the streets are dedicated to and accepted by the Township for public ownership and maintenance, snow removal, maintenance, repair, and replacement of streets will be provided by the Association and charged as a Common Expense to all Owners.

(d) The Association shall also be responsible for the payment of taxes and insurance on the Common Elements and for the Association's management and operational expenses.

(e) The Association's obligations to maintain, repair and replace stormwater facilities shall include maintaining, repairing, and replacing all items associated with stormwater facilities including but not limited to storm sewer basins/detention ponds located on Common Elements and on easements within the Planned Community or benefitting the Planned Community but located outside the Planned Community, if any. Upon approval of the permittee's notice of termination by the Department of Environmental Protection or by an authorized county conservation district, it shall be deemed that the Association or unit owner, as applicable, agree to and shall become responsible for compliance with the stormwater management facilities' permit terms and conditions, including long-term operation and maintenance of post-construction stormwater best management practices in accordance with applicable requirements. The Declarant shall remain responsible for compliance with other obligations with respect to stormwater management facilities to the extent as may be

required by the approved subdivision and land development plans or the Declaration until such time as the obligations of the Declarant may cease.

(f) The Association shall be responsible for maintenance, repair and replacement of all Cluster Mailbox Units and related lighting, if any, in the Planned Community.

5.2 Owner's Responsibility. Otherwise, the maintenance, repair, and replacement of all improvements located on a Lot shall be the responsibility of the Owner. This shall include the obligation of Owners with individual sidewalks or driveways on Lots to maintain, repair, and replace such sidewalks and driveways, including snow removal, and any repair or replacement necessitated by the removal of a sidewalk or driveway or portions thereof for purposes of repair and replacement of utility lines or facilities. Additionally, all storm sewers outside of the street right of way, functioning as roof drain collectors, shall be maintained by the Owner to whose Lot said collector is appurtenant.

ARTICLE VI MALLARD POND HOMEOWNERS ASSOCIATION

6.1 Membership. For the purpose of ownership and operation, maintenance, repair, replacement and management of the Common Elements and all common community services of every kind and nature required or desired within the Planned Community for the general use and benefit of all Owners, if any, each and every Owner, in accepting a deed or contract for any Lot in the Planned Community, agrees to and shall be subject to the terms and conditions and obligations and duties of this Declaration and of the Bylaws and Rules and Regulations of the Association. The Members of the Association shall be the Declarant and all Owners. With respect to the affairs of the Association, the Owner of each Lot shall have one vote except that no votes allocated to a Lot owned by the Association may be cast.

6.2 Succession. Upon the transfer of Declarant's control of the Association as provided in Section 13.2, the Association shall succeed to the position of the Declarant with respect to the provisions of these covenants, conditions, reservations and restrictions, and the term "Declarant" herein shall then mean the "Association".

6.3 Powers of the Association. The Association shall have the following powers:

- (a) To adopt and amend Bylaws and Rules and Regulations.
- (b) To adopt and amend budgets for revenues, expenditures and reserves and collect assessments for Common Expenses from the Members.
- (c) To hire and terminate managing agents and other employees, agents, and independent contractors.

(d) To institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Members on matters affecting the Association or the Planned Community.

(e) To make contracts or incur liabilities.

(f) To regulate the use, maintenance, repair, replacement, and modifications of the Common Elements.

(g) To cause additional improvements to be made to the Common Elements.

(h) To acquire, hold, encumber, and convey, in its own name, any right, title, or interest to real or personal property.

(i) To grant easements, leases, licenses, and concessions through or over the Common Elements; provided, however, that any exercise of such power which would materially impair the quiet enjoyment of a Member shall require the prior written approval of the affected Member.

(j) To impose and receive payments, fees, or charges for the use, rental and/or operation of the Common Elements.

(k) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of this Declaration and the Bylaws and the Rules and Regulations of the Association.

(l) To impose reasonable charges for the preparation and recording of amendments to this Declaration, and for resale certificates required by the Act.

(m) To provide for the indemnification of its officers and Executive Board and to maintain directors' and officers' liability insurance.

(n) To exercise any other powers conferred by the Act, this Declaration, or the Bylaws of the Association.

(o) To exercise all other powers that may be exercised in the Commonwealth of Pennsylvania by legal entities of the same type as the Association.

(p) To exercise any other powers necessary and proper for the governance and operation of the Association.

6.4 Executive Board. Not later than the termination of any period of Declarant control in accordance with Section 13.2, the Members shall elect an Executive Board of at least three (3) members. The Executive Board shall elect the officers of the

Association. The members of the Executive Board shall take office upon election. The Executive Board shall not have the power to determine the qualifications, powers, and duties or terms of office of the members of the Executive Board, but it may fill vacancies in its membership for the unexpired portion of any term. The Members, by a two-third (2/3) majority vote of all persons present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by the Declarant.

6.5 Bylaws. The Bylaws of the Association shall provide for all of the following:

(a) The number of members of the Executive Board and the titles of the officers of the Association.

(b) Election by the Executive Board of a President, Treasurer, Secretary, and other Officers of the Association the Bylaws specify.

(c) The qualifications, powers and duties, terms of office, and manner of elections, and removing members of the Executive Board and officers and filling vacancies.

(d) Which, if any, of its powers the Executive Board or officers may delegate to other persons or to a managing agent.

(e) Which of its officers may prepare, execute, certify, and record amendments to this Declaration on behalf of the Association.

(f) The method of amending the Bylaws.

Subject to the provisions of the Act and this Declaration, the Bylaws may provide for any other matters that the Association deems necessary and appropriate.

ARTICLE VII

BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

7.1 Budgets; Capital Expenditures. The Executive Board shall adopt a budget for revenues, expenditures and reserves at least annually for the Planned Community. The Executive Board shall deliver to all Members copies of each budget approved by the Executive Board and notice of any capital expenditure approved by the Executive Board promptly after such approval. The Members, by affirmative vote of sixty percent (60%) of all Members (including Units owned by Declarant), pursuant to procedures applicable to voting by members of the Association as set forth in the Bylaws of the Association, may reject any budget or capital expenditure approved by the Executive Board within thirty (30) days after approval.

7.2 Annual Assessments. All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be deemed to be adopted and assessed on an annual basis and shall be due and payable in such installments as the Executive Board shall establish. Each Lot created within the Planned Community shall be responsible for its pro-rata share of the Common Expenses, in addition to any Limited Common Expenses and Special Assessments and reserves as hereinafter defined as same may relate to a Lot, determined by dividing the number 100 by the number of Lots having individual separate ownership existing within the Planned Community from time to time (which share shall be adjusted with the creation of any Lots within the Additional Real Estate). The obligation to pay Common Elements that benefit fewer than all Lots shall be assessed exclusively against the Lots benefitted on an equal basis. Declarant shall be responsible for all costs of the Association until such time as the Executive Board establishes an assessment against Lots. For assessment purposes, a Lot is deemed to be created, and thus subject to the payment of assessments, only upon the issuance of an occupancy permit for that Lot or possession of such Lot, whichever first occurs. Declarant shall not be assessed on unsold Lots that have not yet been created, but shall only be responsible for any actual costs incurred by the Association with respect to such Lots to which Declarant holds title on an equal basis with Lots that are sold and occupied. For purposes of this calculation, the charge to Declarant shall not include a share of the Common Expenses attributable to property damage insurance costs, any recreational area costs, or any item or amenity from which such unoccupied Lot has not yet obtained a benefit.

7.3 Assessments for Limited Common Expenses and Special Assessments. The Board may adopt assessments for Limited Common Expenses relating to the repair, maintenance, and replacement of Limited Common Elements which shall be due and payable in one or more installments as determined by the Executive Board. The Executive Board may adopt Special Assessments which shall be due and payable in one or more installments as determined by the Board. Special Assessments may be subject to special allocation in accordance with the Act.

7.4 Lien for Assessments, Fines and Interest. Each Owner of any Lot by the acceptance of a deed therefore, whether or not it is expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association the Common Expense Assessments as charged and Limited Common Expense Assessments and Special Assessments as charged. The Association shall have a lien against each Lot for any Common Expense Assessments, Limited Common Expense Assessments and Special Assessments levied against the Lot or fines imposed against the Member from the time that the assessment or fine becomes due. Fees, charges, late charges, fines or interest charged under Sections 6.3(j), 6.3(k) and 6.3(l) and the reasonable costs of the Association, including legal fees, incurred in connection with collection of any sums due the Association by a Member and enforcement of the provisions of this Declaration or the Bylaws, Rules and Regulations of the Association against a Member are collectible as assessments under this Section.

7.5 Limitation on Expenditures. All expenses, charges and costs of the maintenance, repair or replacement of the Common Elements, and any other expenses, charges or costs which the Association may incur or expend pursuant hereto, shall be approved by the Executive Board, and a written memorandum thereof prepared and signed by the Treasurer of the Association. There shall be no structural alterations, capital additions, or capital improvements to the Common Elements (other than for purposes of repairing, replacing and restoring portions of the Common Elements) requiring an expenditure in excess of Ten Thousand Dollars (\$10,000) without the prior approval of sixty percent (60%) of the Members entitled to cast votes.

7.6 Reserve. Each annual budget for assessments of Common Expenses shall include an amount reasonably considered by the Executive Board to be sufficient as a reserve for replacements and contingencies. Extraordinary expenditures not originally included in the annual budget that may become necessary during the year may be charged first against such reserve, as the Executive Board shall determine. The Association shall have the right to segregate all or any portion of the reserve for any specific replacement or contingency upon such conditions as the Executive Board deems appropriate. The Association shall also have the right to apply any such reserve amounts to Common Expenses as the Board deems appropriate; provided, however, that such maintenance and replacement assessment relating to specific Lots may not be reallocated to Lots that are not the subject of such specific maintenance and replacement accounts.

7.7 Association Records. The Association shall keep a statement of revenues and expenses for the Association. The Association shall keep sufficiently detailed financial records to enable the Association to comply with §5407 of the Act. All financial and other records shall be made reasonably available for examination by any Member and authorized agents. Within 180 days after the close of its fiscal year, the Association shall prepare annual financial statements consisting of at least a balance sheet and a statement of revenues and expenses for the Association. The cost of preparing the financial statements shall be a Common Expense. Each Member shall be entitled to receive from the Association, within thirty (30) days after submitting a written request to the Association, a copy of the annual financial statements and, if such financial statements are audited, reviewed or compiled by an independent certified public accountant or independent public accountant, a copy of the independent accountant's report on the financial statements. The Association may charge a fee not to exceed the cost of producing copies of records other than the financial statement.

7.8 Further Assessments. If any annual budget proves inadequate for any reason, including nonpayment of any Member's assessments, or any nonrecurring Common Expense or any Common Expense not set forth in the annual budget as adopted, the Executive Board may at any time levy further assessments or special assessments according to each Member's membership in the Association. Such further assessments shall be payable over such period of time as the Executive Board may determine. The Executive Board shall serve notice of such further assessments on all Members by a statement in writing giving the amount and reasons therefor, and such further assessments shall become effective as determined by the Executive Board.

7.9 Surplus. Any amounts accumulated from assessments for Common Expenses and income from the operation of the Common Elements in excess of the amount required for actual Common Expenses and reserves for future Common Expenses shall be credited to each Member in proportion to the share of Common Expenses payable by each such Member and further based upon such Member's contribution to such excess. These credits shall be applied to the next assessments of Common Expenses due from each Member under the current fiscal year's budget, and thereafter, until exhausted.

7.10 Acceleration. If a Member is in default in the payment of the aforesaid charges or assessments for sixty (60) days, the Executive Board may, in addition to all other remedies set forth in this Declaration, accelerate all other assessments to become due for the fiscal year in which such default occurs.

7.11 Interest and Charges. All sums assessed by the Association against any Owner that remain unpaid shall bear interest thereon at the then maximum legal rate (but not more than fifteen (15%) percent per annum) from the thirtieth (30th) day following the due date for payment. Initially, the interest rate on unpaid assessments shall be eight (8%) percent per annum. Any delinquent Member shall also be obligated to reimburse (i) all expenses of the Association, including reasonable attorney's fees, incurred in the collection of the delinquent assessments by legal proceedings or otherwise; (ii) any amounts paid by the Association for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessments and shall be collectible as such, subject to Section 7.2 above.

7.12 Independent Covenant. The obligation to pay assessments is a separate and independent covenant on the part of each Member. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or the Executive Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements or from any other action it takes.

7.13 Implementation. The Association shall adopt in its Bylaws such additional or other procedures and requirements as it deems necessary and desirable to implement the provisions of this Article VII, and to otherwise provide for the efficient fiscal operation and management of the Common Area.

7.14 Violations and Assessments. If a Member violates any of the terms of this Declaration, the Declarant and/or the Association shall have the right to undertake correction of the violation and the costs incurred by Declarant and/or the Association in correcting such violation shall be immediately due and payable by the Member in the form of an assessment.

7.16 Subordination to the Lien of Mortgages. The lien of the assessment provided for herein shall be subordinate to any first lien mortgage placed upon a Lot regardless of the date such assessment shall be imposed or become due. The sale or transfer of the Lot pursuant to or in lieu of mortgage foreclosure shall extinguish the lien of such assessment as to payment that become due prior to such sale or transfer. No such sale or transfer shall relieve such Owner or Lot from the obligation or liability for any assessments thereafter coming due or from the lien of any subsequent assessments.

ARTICLE VIII INSURANCE

8.1 Coverages. The Association's duly authorized agent shall have the authority to, and shall obtain, blanket all-risk casualty insurance, if reasonably available, for all insurable improvements comprising the Common Elements. If blanket all-risk coverage is not reasonably available, then, at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Association shall also obtain comprehensive general liability insurance, including medical payments insurance, if reasonably available, covering the Common Elements and the Members for all damage or injury caused by the negligence of the Association, or any of the Members or their agents arising out of or in connection with the use, ownership or maintenance of the Common Elements. The general liability policy shall be in such amounts as the Board may from time to time determine.

The Association shall obtain all insurance and comply with all provisions mandated by Section 5312 of the Act, and the Association may purchase such other coverages, including but not limited to, errors and omissions coverage for officers, and such fidelity bonds as the Declarant and/or Executive Board, as and when created, may deem appropriate.

8.2 Premiums. Premiums for all insurance on the Common Elements shall be paid by the Association and shall be a Common Expense. Such policies may contain a reasonable deductible, and in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the Association.

8.3 Contracts. All insurance coverage obtained by the Association shall be written in the name of the Association as trustee for the respective benefited parties, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association; provided, however, that no Mortgagee

having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(b) All policies on the Common Elements shall be for the benefit of the Declarant, the Association, the Members, and Mortgagees, as their interest may appear, providing financing on the Common Elements.

(c) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by the Members, occupants, or their Mortgagees.

8.4 Worker's Compensation. In addition to the other insurance required by this Article, the Association shall obtain worker's compensation insurance, if and to the extent required by law.

ARTICLE IX USE RESTRICTIONS

9.1 General. The Property is intended to be used for the purposes set forth in this Article IX, and use of the Property is hereby restricted as set forth in this Article, whether or not such restrictions are expressed in any deed.

9.2 Residential Use. All Lots and dwellings shall be used only for single-family residential use.

9.3 Occupancy. No basement, garage or other structure other than the dwelling house for which the plans have been approved, shall be used as a residence, temporarily or permanently, nor shall any dwelling house in the process of construction, nor any basement or foundation, be used for residential purposes.

9.4 Easements. All easements, restrictions, reservations and covenants as shown on the recorded Plan are incorporated by reference and made a part hereof.

9.5 Maintenance/Compliance With Laws. Each and every Lot and any improvements erected thereon shall be maintained in a reasonable manner in accordance with the standard generally prevailing throughout the Plan. All laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction over any portion of the Plan shall be observed and complied with, by and at the expense of all Owners. Each Owner shall be responsible for the maintenance (including snow and ice removal) on any portion of any sidewalk upon their individual Lot.

9.6 Utilities. All Lots shall be subject to easements for public utilities as installed.

9.7 Structure Size. The finished living area, exclusive of porches, basements and garages, for any ranch or split-level type dwelling shall contain no less than 2,800 square feet; any one and one-half or two-story dwelling with integral garage shall contain

no less than 2,600 square feet; and any two-story dwelling with attached garage shall contain no less than 2,600 square feet. No basement level, finished or unfinished, shall be included in the square footage computation. All dwellings shall have a minimum of 3 car garages.

9.8 Landscape. All areas disturbed in connection with construction shall be landscaped and seeded, sodded or planted with ground cover that will blend with the area within six (6) months (or the next immediate growing season) after completion of construction. Each Lot shall also have a minimum number of trees and shrubs established by Declarant as part of its Landscape Plan for Phase 1, and for any other Phase made part of the Planned Community, and all such front yard plantings set forth in the Landscape Plan must be completed within one (1) year of occupancy. Declarant reserves the right to charge the Owner for the necessary seeding and landscaping if Owner does not complete the same as set forth herein.

9.9 Swimming Pools. There shall not be allowed any above-ground swimming pools. In-ground swimming pools are permitted only with the written approval of the Declarant or the Executive Board as and when created. Such allowable in-ground swimming pools shall be erected and installed in accordance with applicable laws, ordinances, and regulations of the Township and/or Allegheny County.

9.10 Outbuildings. Subject to Section 10.2 and Section 10.12, no structure other than a single-family dwelling shall be erected, constructed or permitted, or maintained on any of the Lots except an architecturally designed bath house if used in connection with a swimming pool or an architecturally designed picnic shelter. All detached structures must be approved by Declarant, be located in the rear yard and be permitted by the municipal government. No sheds of any kind shall be permitted on any of the Lots.

9.11 Commercial and Other Vehicles. No commercial vehicles, construction or like equipment, or mobile trailers, stationary trailers, boats, boat trailers, mobile homes, house trailers, recreational vehicles, campers, motorcycles, or other like motorized vehicles shall be stored or parked on any Lot or on the Common Elements except while parked in a garage completely enclosed, nor parked on any residential street in the Planned Community except while engaged in transporting to or from a residence in the Planned Community. Campers, recreational vehicles and boats may be parked in the driveway for a period not exceeding seventy-two (72) hours in any one (1) calendar month period for the purpose of cleaning, loading or unloading. Parking of any type of vehicle shall not be permitted on any street, drive or entranceway located on the Planned Community. Notwithstanding the above, Declarant or its agents may use or park any commercial vehicle upon any part of the Planned Community while the Declarant is developing the Planned Community.

9.12 Subdivision. No Lot in said Plan shall be further subdivided except by Declarant. The Declarant's right to further subdivide any Lot is subject, however, to approval by the Township.

9.13 Commercial Activities. Except as set forth herein, no industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Planned Community; provided, however, that nothing contained in this subsection shall be construed to prevent or prohibit Owner from maintaining his personal professional library, keeping his personal business or professional records or accounts, handling his personal business or professional telephone calls or conferring with business or professional associates, clients or customers, on his Lot.

9.14 Pets. No animals, livestock, fowl, or poultry of any kind shall be raised, bred, or kept on any Lot or in the Common Element, except household pets in reasonable numbers for the pleasure and use of the occupants, subject to Rules and Regulations adopted by the Declarant, which Rules or Regulations may exclude any kind of pet by type or category; provided that permitted household pets are not kept, bred or maintained for any commercial purpose. All household pets must be kept leashed and under control when outside the dwelling.

9.15 Signs. No sign of any character shall be erected, placed, permitted, maintained, or displayed upon any Lot except one "For Rent" or "For Sale" sign, referring only to the Lot on which displayed, not to exceed six (6) square feet in size. Notwithstanding the above, the Declarant shall have the right to have any signs, in unlimited size, nature, and number to advertise the Planned Community and the development and sale thereof, subject, however, to applicable ordinances of the Township. Notwithstanding the above, Declarant shall have the right to permit one sign advertising an Approved Builder and one sign advertising Approved Builder's Broker to be placed upon each Lot.

9.16 Nuisances. No clotheslines or drying yards shall be permitted unless concealed by hedges, lattice work, or screening acceptable to the Declarant. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. No Lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding Lots. In the event that any Owner shall fail or refuse to keep his Lot free from weeds, underbrush, or refuse piles or other unsightly growths or objects, the Declarant may enter upon such lands and remove the same at the expense of the Owner, which such entry shall not be deemed a trespass, and in the event of such a removal a lien shall arise and be created in favor of the Declarant and against such Lot for the full amount chargeable to such Lot, and such amount shall be due and payable within thirty (30) days after demand is made therefor.

9.17 Off Road Vehicles. No dirt bikes, all terrain vehicles, or any other off road motorized recreation vehicles shall be operated on the Planned Community, including all Lots, the public streets and the Common Elements.

9.18 Timely Construction. When the construction of any Building is once begun, work thereon must be prosecuted diligently and must be completed within 360 days, and no debris incidental to the construction work on one Lot may be placed on any other Lot in such premises.

9.19 Fences. No fences may be constructed on any Lot except in strict accordance with the following restrictions:

(a) The design, style, height and color of all fencing must be approved by Declarant, in its sole discretion. Without limiting Declarant's discretion, Declarant may reject any fencing which is not harmonious with the general character of the neighborhood. Chain link fences are specifically prohibited.

(b) Fencing as specified herein may be constructed only in accordance with Township specifications and must be located only to the rear of a line running from side Lot line to side Lot line which is coterminous to the rear face line of the dwelling constructed on the Lot, except as provided in the subparagraph (c) below.

(c) Fencing as specified herein may be constructed in side yards only upon approval of Declarant in Declarant's sole discretion. Without limiting Declarant's discretion, all side yard fencing should be screened with landscaping which includes evergreen plantings which will screen at least 50% of the fencing within two years after planting.

(d) Under no circumstances will any fences be permitted in the front yard. The front yard shall consist of the full width of the Lot measured in depth from the street to a line parallel with the part of the front face of the dwelling most distant from the street.

(e) Notwithstanding the above, Declarant shall have the right to construct or install fencing on Common Elements or along or around any stormwater management facilities in the Planned Community. Declarant shall have discretion to select the design, style, height and color of all such fencing.

9.20 Obstructions of Easements. No Owner shall do any work or any other act which would impair any easement or hereditament without the consent of the Declarant or Association, whichever may be affected thereby.

9.21 Recreational Structures. No recreational structures, playground sets, swing sets, and the like shall be erected or placed in any area other than the rear yard of any Lot and must be placed so as not to cross any rear or side setback building lines.

9.22 Garbage and Refuse Disposal. Trash and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time-to-time, in rules and regulations by the Association and the Township. There shall be no discharge of toxic non-biodegradable substances in storm sewers or open drainage ways on the Planned Community and no toxic waste or hazardous substances shall be placed or stored upon the Common Elements or Detention Facilities.

9.23 Oil and Mining. No oil drilling, oil development operations, oil refining quarrying, or mining operations of any kind are permitted upon the surface of any Lot or the surface of any part of the Planned Community. No derrick or other structure designed for boring for oil or natural gas shall be maintained, erected, or permitted upon the surface of any Lot or the surface of any part of the Planned Community.

9.24 Additional Environmental Matters. There shall be no filling, diversion, destruction, alteration, change, or modification of any "wetlands" which are within the Planned Community, without the express written approvals of any municipal or governmental agency having jurisdiction over same.

9.25 Garage Use. All garages must be used only for storage of items intended to be used for personal use. No commercial vehicles or trailers, or any other property intended for or used in any commercial activity, may be stored in any garage.

9.26 Laws. All laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed by the Owner. Any violations will be considered a violation of this Declaration. However, Declarant or the Association shall have no obligation to take action to enforce such laws, ordinances or regulations.

9.27 Rules and Regulations. Reasonable rules and regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Planned Community, may be promulgated from time to time by the Executive Board, subject to the right of the Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Owners by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

9.28 On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Lots. However, up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawnmowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment.

9.29 Leasing of Dwellings on Lots. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a dwelling constructed on a Lot by any person, other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwellings on Lots may be leased only in their entirety; no rooms or other portion which is less than

the whole dwelling on the Lot may be leased. No transient tenants may be accommodated in a dwelling on a Lot. All leases shall be in writing and shall be for an initial term of not less than six (6) months, except with the prior written consent of the Executive Board. Notice of any lease, together with such additional information as may be required by the Executive Board, shall be given to the Executive Board by the Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws and the Rules and Regulations. The Executive Board may make reasonable rules regulating the leasing and sub-leasing of Lots.

ARTICLE X **ARCHITECTURAL CONTROL/CONSTRUCTION APPROVAL**

10.1 Declarant's Right to Control Improvements. Declarant reserves the right to control and approve the construction of buildings, structures, and other improvements placed on each Lot and to make same subject to the Covenants, Conditions and Restrictions as herein provided.

10.2 Construction Approval. All buildings for any Lot must be constructed by a building contractor approved and/or designated by Declarant ("Approved Builder"). In addition two (2) sets of all construction and/or building plans with the specifications and drawings therefore depicting and denoting thereon the nature, shape, dimensions, material and location of the proposed improvements and a survey and/or plot plan showing the proposed locations of same (collectively referred to as "Construction Plans") shall be submitted to and approved by Declarant or Declarant's assignee, which may include but is not necessarily limited to an Architectural Control Committee, as the case may be, prior to the commencement of any construction on a Lot. In the event that Declarant or Declarant's assignee, as the case may be, shall not approve or fails to approve such submitted Construction Plan within thirty (30) days from the date of the submission of the Construction Plans to Declarant or Declarant's assignee, as the case may be, then and in such event the Construction Plans shall be deemed denied.

10.3 Time for Completion of Construction. All dwelling or buildings shall be substantially completed within 360 days from the commencement of the first visible construction for same.

10.4 Area Requirements and Restrictions, Material Restrictions and Construction Restraints and Controls. Declarant reserves the right to require that certain buildings must be or contain a minimum of square footage of living space, as calculated by Declarant or Declarant's assignee, as the case may be, excluding any porches, basement area, whether finished or unfinished, and garage. In addition thereto, such building area restrictions or limitation in any Lot purchase agreement or Construction Contract shall not limit the application of such restrictions as contained herein.

10.5 Walkways and Driveways. All walkways and driveways shall be constructed only with hard surfacing materials such as asphalt, concrete or brick, or other material approved by Declarant or its assignee, as the case may be, pursuant to the

submission and approval of the Construction Plans, provided in Section 10.2 above. All approved walkways and driveways shall be constructed and installed within six (6) months of the issuance of any occupancy permit for the applicable building or from the date of last visible construction, whichever is earlier. Precast concrete slabs or stepping stones shall not be allowed or permitted to be used for any walkway or driveway.

10.6 Lawn Areas. The lawn and trees (as per specified, as per plan) of any Lot shall be seeded and landscaped within six (6) months following the completion of construction of any building or from the date of the issuance of any occupancy permit, whichever event shall be earlier. The rear yard of any Lot shall be seeded or sodded, from the rear of any building on said Lot to a minimum distance of at least fifty (50) feet therefrom or to the rear lot line, whichever is less. Declarant reserves the right to charge the owner for the necessary seeding and landscaping if owner does not complete as set forth herein.

10.7 Utility Lines. All utility lines, except for temporary construction lines, shall be installed and constructed underground. No above ground utility or service lines shall be permitted, except for temporary construction service lines.

10.8 Sedimentation and Erosion Control. During the construction of any residential dwelling or garage on any Lot, the Owner, at the Owner's sole cost and expense, shall place, construct, and maintain an on-lot sediment control (i.e. silt fences and/or seeding and planting of vegetation) as shall be required by Declarant or the Township or any other agency or authority having jurisdiction over same, to prevent weeds and sediment from exiting the affected Lot and/or entering any stream, creek, or subsurface water source. Declarant reserves the right to charge the Owner for the necessary on-lot sediment control if Owner does not place, construct, and maintain the on-lot sediment control as set forth herein.

10.9 Declarant Approval for Additional Structures, Changes, and Alterations. Declarant, so long as Declarant owns any Lot in the Plan, reserves the right to approve the construction and installation of any additional structures, substantial changes and alterations to previously approved constructed buildings. Such procedure for approval of Construction Plans shall be the same as provided in Section 10.2 above and shall be subject to the foregoing material and construction restrictions. No building addition, fence wall, or other structure shall be commenced, erected, or maintained on any Lot, nor shall any exterior addition to, or change or alteration be made to any structure, including any dwelling, until such Construction Plans shall have been approved by Declarant or its assignee, as the case may be.

10.10 Recorded Plan. All easements, restrictions, reservations, and covenants as shown, depicted and mentioned in and on the recorded Plan are incorporated by reference and made a part hereof. All easements and rights of way as actually constructed and installed are incorporated by reference and made a part hereof.

10.11 Other Restrictions.

(a) **No Occupancy.** No occupancy, whether temporarily or permanently, of an uncompleted dwelling shall be permitted. No occupancy of a basement, garage, or other structure, either temporarily or permanently, shall be permitted.

(b) **Construction.** All debris resulting from excavation, construction, or grading must be removed by the contractor, builder, or owner. No debris, rubbish, or scrap material may be placed or dumped on any Lot.

(c) **Water and Sewer.** All homes within the Plan shall be part of the public sewerage and water systems and shall be tapped into said systems. No building shall be occupied until said water and sewage systems are installed or operational. All Owners shall be responsible for the payment of any and all initial tap-in or other hook-up fees and costs.

(d) **Construction Equipment.** Inactive construction equipment or construction vehicles may not be stored in the open where they can be seen from any occupied residence in any phase of the Plan once fifty percent (50%) of the residences in such phase have been occupied. Construction Equipment that is in daily use or that either has been or will be in daily use within ten (10) days shall not be considered "inactive".

(e) **Exterior Building Materials.** All dwellings constructed on any Lot shall be finished with suitable exterior building material which shall extend to within six (6) inches of the finish grade with no exposed block foundation. All proposed building materials for the exterior portion of the dwelling must consist of masonry, Hardie Plank, stucco, or other material approved in writing by Declarant or its designated agent prior to commencement of construction.

(f) **Antennas.** Except as required by law or the FCC regulations, no exterior television antennas, satellite dishes, or antenna towers are permitted, except discreetly installed satellite dishes of less than 24" in diameter, hidden entirely from the front street.

(g) **Driveways.** All driveways and turning aprons must be paved with a hard surfacing material such as asphalt, concrete, or brick within six (6) months from date of occupancy. Pre-cast concrete stepping stones are not permitted as walks and driveways to all Lots shall only be from internal streets situated within the Planned Community and provided for herein. No driveway access to any Lot shall be permitted from any external streets or roadways that are not wholly contained within the Planned Community.

(h) **Street Lamp.** Each Owner must install and maintain in working order a dusk to dawn exterior post lamp that is hard wired (no switch) and of design as

designated by Declarant. Declarant may specify a gas burning post light to be installed in lieu of an electrical light.

(i) **Street Repair.** Each Owner agrees to take reasonable caution to protect the asphalt street paving and the curbs. If any damage is done to these improvements and Declarant is required to replace or repair said damage, the cost will be assessed to the Owner whose Lot abuts said curbs or the paving that has been damaged. In the event it is impossible to determine who is responsible for such damage, the matter shall be settled by arbitration of the parties who might have caused said damage.

(j) **Mailboxes.** Only mailboxes approved by the U.S. Postal Service shall be permitted. The location and design of mailboxes, including cluster mailboxes, shall be approved by the Declarant.

10.12 **Detached Garages.** Detached garages are expressly permitted, provided that detached garages shall be consistent with the architectural design and exterior building materials used for construction of the main dwelling structure. The location, size, design and orientation shall be subject to the approval of Declarant, in its sole discretion. The provisions of Section 10.2 shall apply.

ARTICLE XI **ANNEXATION OF ADDITIONAL REAL ESTATE**

11.1 **Additional Real Estate.** The Additional Real Estate shall consist of all or any portion of those certain properties located near or adjacent to the Planned Community known as (a) Open Space A, (b) Tract II, and (c) Tract III as designated on the Plan, as well as any other property shown on the Plan, that may be added to the Planned Community in accordance with the Act or provisions hereof. With respect to the Additional Real Estate, the Declarant makes the following representations in accordance with the Act:

(a) The Declarant reserves the option to create Lots, Limited Common Elements, Common Elements, and all of the foregoing within the Additional Real Estate.

(b) The option reserved in subparagraph (a) above will expire ten (10) years after the recording of the Declaration or as may be extended by law. There are no other circumstances that will terminate this option before the expiration of the time limit.

(c) The only limitations on the option reserved under subparagraph (a) are the limitations created by or imposed by the Act; otherwise, there are no limitations.

(d) The interest in the Association appurtenant to each Lot, the relative voting strength in the Association appurtenant to each Lot, and the share of Common Expense assessments appurtenant to each Lot in the Additional Real Estate is based upon a formula of "A" equals 100 divided by "B," with "A" equal to the interest in the Association, relative voting strength and share of Common Expense assessments

appurtenant to each Lot and "B" equal to the number of total Lots created both originally and in the Additional Real Estate.

(e) Any portion of the Additional Real Estate may be added and there are no assurances with respect to order or portions that may be added.

(f) The maximum number of Lots that may be added within the Additional Real Estate is 36.

(g) All of the Lots in the Additional Real Estate when created will be restricted exclusively to residential use.

(h) The maximum density of Lots in the Additional Real Estate is 1.65 dwellings per acre.

(i) There are no assurances made with respect to the compatibility of the Lots created in the Additional Real Estate or with respect to the architectural style, quality of construction, principal materials employed in construction or size of Lots that may be created in the Additional Real Estate.

(j) In the event Lots are created in the Additional Real Estate and added to the Planned Community, the same restrictions affecting the use, occupancy and alienation of the Lots that apply to the Lots originally created will apply to those Lots created within the Additional Real Estate.

(k) There are no assurances made with respect to the general description of the other improvements and Limited Common Elements that may be made or created within the Additional Real Estate.

(l) There are no limitations as to the locations of any buildings or other improvements that may be made within the Additional Real Estate.

(m) There are no assurances that any of the Limited Common Elements created within the Additional Real Estate will be of the same general types and sizes as those contained within other parts of the Planned Community.

(n) There are no assurances that the proportion of the Limited Common Elements appurtenant to the Lots created within the Additional Real Estate will be approximately equal to the proportion existing in other parts of the Planned Community.

ARTICLE XII **GENERAL PROVISIONS**

12.1 Enforcement. The Association, or any Owner, shall have the right to enforce this Declaration. Enforcement of these covenants and restrictions, and the

administrative rules and regulations adopted pursuant thereto, shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition, or restriction imposed by this Declaration, either to restrain violations, recover damages, or collect any liens or charges imposed pursuant to this Declaration, and against the land to enforce any lien created by these covenants. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association may also impose fines or other sanctions, collection of which shall be as provided in Article VI and Article VII and Article IX hereof. The expense of enforcement by the Association (including reasonable attorney's fees) shall be chargeable to the Owner violating these covenants and restrictions, and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder. Before an individual Owner may act to enforce any provisions of this Declaration, written notice must be given to the Executive Board and the Association given a reasonable opportunity to take appropriate action.

12.2 Amendments. Prior to the transfer of Declarant control to the Association pursuant to Section 13.2 of this Declaration, Declarant may amend this Declaration, without the consent of the Association or any Owners, so long as the amendment, in the reasonable discretion of the Declarant, has no material adverse effect upon the development of the Planned Community. No amendment required by any state or local government authority or agency, or if done for the purpose of correcting technical errors or for clarifications only, will be deemed material. After the transfer of Declarant control, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of at least sixty-seven percent (67%) of the Members, unless unanimous consent of the Members is required by the Act. Any amendment to be effective must be recorded in the public records of Allegheny County, Pennsylvania. The recital in any such amendment that has been executed or acknowledged by the specific percentage of Owners shall be conclusive and binding on all persons. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege, which written consent shall be included in any recorded amendment to be effective. No amendment may impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees. Notwithstanding anything to the contrary set forth above, Declarant may amend the Declaration to add Additional Real Estate in accordance with Article XI above without the consent of the Association or any Members.

12.3 Limitation of Liability. The Declarant, its successors and assigns, administrators, executors, members, officers, and employees shall not be liable for structural defects pursuant to Section 5411 of the Act within the Planned Community for any Lot, Common Element, Limited Common Element, or any other feature constructed, modified, altered, or improved by or on behalf of any Approved Builder. The Declarant, its successors and assigns, administrators, executors, members, officers and employees [(a) through (d) below shall be effective only from and after the Declarant's transfer of control of the Association in accordance with Section 12]:

(a) Shall not be liable for the failure of any service obtained or the failure to so obtain any service needed or for any injury or damage to persons or property, however and wheresoever caused, except for any injury or damage caused by the willful misconduct or gross negligence of the Declarant, its members, officers or employees;

(b) Shall not be liable as a result of the performance of the Declarant for any mistake of judgment, negligence or otherwise except for the Declarant's willful misconduct or gross negligence;

(c) Shall have no personal liability to any person for any loss or damage caused by theft of or damage to personal property in or on the Common Elements or other places within the Planned Community and shall have no liability arising out of the use, misuse, or condition of the Common Elements, except for the Declarant's willful misconduct;

(d) The Declarant and its principals and officers shall be indemnified by the Association against all expenses and liabilities, including attorney's fees incurred by or imposed in connection with any proceedings, except for liability arising out of the willful misconduct or gross negligence of the Declarant;

(e) The Declarant may obtain such insurance as it deems appropriate, where available and in such amounts and on such terms as the Declarant deems advisable, to satisfy the liability requirements of this Declaration;

(f) The Declarant shall not be liable for any common facilities or controlled facilities that are developed by an Approved Builder.

12.4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

12.5 Perpetuities. If any of these covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only twenty-one (21) years after the death or the last survivor of the now living descendants of Ronald Heurich, subject to prior amendments or terminations as set forth hereinafter.

12.6 Use of the Words "Mallard Pond". No person shall use the words "Mallard Pond" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Members may use the terms "Mallard Pond" in printed or promotional matter where such term is used solely to specify particular property or Lots located within the Plan.

12.7 Incorporation of Recitals. The recitals set forth in the Preamble section of this document are hereby incorporated herein as if fully set forth and repeated herein.

12.8 Conflicts with Township Ordinances. In the event that any of the provisions, terms, conditions or covenants contained in this Declaration conflict with any provisions of the Ordinances of the Township or of applicable Township approvals and Developer's Agreements (individually and collectively the "Township Requirements"), the applicable provisions, terms and conditions of the Township Requirements shall prevail for all matters involved in any conflicts.

12.9 Conflicts with the Uniform Planned Community Act. In the event that any of the provisions, terms, conditions or covenants contained in this Declaration conflict with any provisions of the Uniform Planned Community Act, the applicable provisions, terms, conditions and provisions of the Uniform Planned Community Act shall prevail.

12.10 Captions. Captions are for convenience and reference only and are in no way to be construed as defining, limiting or modifying the scope or intent of the various provisions of this Declaration.

12.11 Gender. As used in this Declaration, the word person shall mean and include where appropriate, an individual, corporation, partnership or other entity; the plural shall be substituted for singular and the singular for the plural where appropriate and words of any gender shall mean to include any other gender.

12.12. Matters of Dispute. Matters of dispute or disagreement between Association members or with respect to interpretation or application of the provisions of this Declaration or the Bylaws shall be determined by the Executive Board, which determination shall be binding on all Association Members.

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

12.14 Amendment Resulting From Requirement of Government Agencies. If, in order to obtain the approval of the Federal Housing Administration and/or the Department of Housing and Urban Development and/or the Veterans Administration and/or the Federal National Mortgage Association of the terms and conditions of this Declaration of Covenants, Conditions and Restrictions, Declarant is required to amend any terms of this Declaration, Declarant may do so without any further consent or approval of any Owners or Members. Written notice shall be given to all Members of any such proposed changes and the reason for such change.

ARTICLE XIII
DECLARANT'S RIGHTS

13.1 Any or all of the special rights and obligations of the Declarant may be transferred by the Declarant to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is a written instrument signed by the Declarant and duly recorded in the public records of Allegheny County, Commonwealth of Pennsylvania.

13.2 Control.

(a) Subject to Section (b) of this Section, for a period of seven (7) years from the date of the recording of this Declaration and for such longer period as may be extended by law, the Declarant shall have sole power and authority to appoint and remove the officers and members of the Executive Board of the Association, unless the Declarant earlier voluntarily surrenders the right to appoint and remove the officers and members of the Executive Board. However, this period of Declarant's control will terminate no later than the earlier of: (i) Sixty (60) days after the conveyance of seventy-five percent (75%) of the Lots to Owners other than a Declarant; (ii) two (2) years after a Declarant has ceased to offer Lots for sale in the ordinary course of business; or (iii) two (2) years after any development right to add new Lots in additional phases of development was last exercised.


(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots (including Lots created in the Additional Real Estate) to Members, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by the Members. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots to Members, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by the Members.

13.3 Conveyance of Common Elements to Association. Upon transfer of Declarant's control of the Association in accordance with Section 13.2 of this Declaration, the Declarant shall grant and convey to the Association title to the Common Elements by special warranty deed for no consideration. All costs of deed preparation and recording shall be borne by the Declarant. Notwithstanding the foregoing, Declarant shall not convey the Common Elements to the Association until all improvements to the Common Elements as may be required by Township pursuant to any development approvals have been completed by Declarant. This obligation to convey title to the Common Elements shall be binding upon any successor in interest to the rights of the Declarant hereunder.

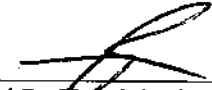
IN WITNESS WHEREOF, the said Heurich Builders, Inc., a Pennsylvania corporation, has caused its name to be signed to these presents by its officers on the day and year first above written.

ATTEST:

**HEURICH
BUILDERS, INC.,
a Pennsylvania corporation**

 By:

(SEAL)

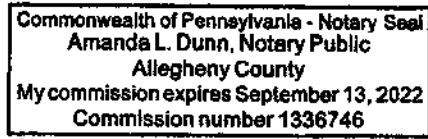


Ronald R. Heurich, Jr., President

COMMONWEALTH OF PENNSYLVANIA :
 : ss
COUNTY OF ALLEGHENY :

On this 19 day of November, 2018, before me, the undersigned authority, personally appeared Ronald R. Heurich, Jr., who acknowledged himself to be the President of **HEURICH BUILDERS, INC.**, a Pennsylvania corporation, and acknowledged the foregoing Declaration to be the act and deed of the Corporation and desired the same to be recorded as such.

WITNESS my hand and official seal the day and year aforesaid.



Amanda L. Dunn
Notary Public

CERTIFICATE OF RESIDENCE

I do hereby certify that Declarant's address is 11676 Perry Highway, Suite 1103,
Wexford, PA 15090.

Heurich Builders, Inc.
Michelle L. Lewis, Sec

EXHIBIT "A"

1. Rights or claims by parties in possession or under the terms of any unrecorded lease or agreement(s) of sale.
2. Easements, or claims of easements, not shown by the Public Records.
3. Any variation in location of lines or dimensions or other matters which an accurate survey would disclose.
4. All matters shown on the Mallard Pond Plan of Lots No. 1 as recorded in the Department of Real Estate of Allegheny County, Pennsylvania at Plan Book Volume 296, pages 152-156.
5. Driveway as set forth in Deed Book Volume 11179, Page 61.
6. Rights granted to Pennsylvania Power Company as set forth in Deed Book Volume 3118, Page 678.
7. Rights and privileges as set forth in Deed Book Volume 3238, page 726.
8. Subject to all matters shown on the Plan as recorded in the Department of Real Estate Office of Allegheny County, Pennsylvania in Plan Book Volume 162, Page 20.
9. Subject to rights of other littoral/riparian owners abutting Honey Run, a body of water which flows through or along the subject premises.
10. Subject to rights of other littoral/riparian owners abutting Big Sewickley Creek and unknown body of water, a body of water which flows through or along the subject premises.
11. Coal and mining rights and all rights related thereto.
12. Oil, gas or other mineral interest and all rights incident thereto now or previously conveyed, transferred, leased, excepted or reserved.
13. The following oil and gas leases:
 - a. James Neely to William Booth and A. Owings, dated September 20, 1883, recorded in Oil and Gas Book 4, page 69.
 - b. James W. Neely to C.P. Caughey, dated May 10, 1990, recorded in Oil and Gas Book Volume 17, page 17. Various assignments by lessee appear of record.

14. The following rights of way:
 - a. Right of Way between Melvin L. Pinkerton, et al. and Pennsylvania Power Company dated March 8, 1950, and recorded in the Recorder's Office of Allegheny County, Pennsylvania on October 26, 1950 in Deed Book Volume 3118, page 678.
 - b. Right of Way between T.M. Stonerod and Hazel Stonerod, his wife and The Manufactures Light and Heat Company, dated December 31, 1958, and recorded February 5, 1959 in the Recorder's Office of Allegheny County, Pennsylvania in Deed Book Volume 3763, page 1987.
15. a. All roads, public or private, affecting premises, particularly:
 - (a) Spang Road
 - b. Private Road mentioned in Deed from Daniel Neely, et al. to Elizabeth McKown, dated April 5, 1879, recorded in Deed Book Volume 515, page 241.
 - c. Private Road granted by agreement between Leland McKown, et ux and John Heil, et al., dated April 12, 1881, recorded in Deed Book Volume 422, page 203.
16. Unrecorded oil and gas lease from W.J. Hillman to Ralph J. Steeb and E.L. Boehm, dated April 4, 1924, as assigned to Hillman Oil and Gas Association, all as recited in Deed from Charles D. Hillman, et al. to Thomas M. Stonerod, et ux., dated July 18, 1950, and recorded in Deed Book Volume 3094, page 641.

MALLARD POND
DECLARATION OF PLANNED COMMUNITY

Heurich Builders, Inc.

Mail To:

Donald J. Palmer, Esq.
Goehring, Rutter & Boehm
Waterfront Corporate Park
2100 Georgetown Drive, Suite 300
Sewickley, PA 15143

(724) 935-4777



Allegheny County
 Jerry Tyskiewicz
 Department of Real Estate
 Pittsburgh, PA 15219

Instrument Number: 2019-30239

BK-DE VL-17787 PG-158

Recorded On: October 01, 2019

As-Deed Agreement

Parties: HEURICH BLDRS INC

To HEURICH BLDRS INC

of Pages: 5

Comment: 1ST AMEND DECL

***** THIS IS NOT A BILL *****

Deed Agreement 166.75
 0
 0
 Total: 166.75

Realty Transfer Stamp

Department of Real Estate Stamp

Affidavit Attached-No
NOT A DEED OF TRANSFER
 EXEMPT
 Value 0.00

Certified On/By-> 10-01-2019 / Guy Hardy
 NOTE-
 NOT A DEED OF TRANSFER

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

File Information:

Record and Return To:

Document Number: 2019-30239
 Receipt Number: 3647936
 Recorded Date/Time: October 01, 2019 02:40:14P
 Book-Vol/Pg: BK-DE VL-17787 PG-158
 User / Station: J Clark - Cash Super 06

GOEHRING RUTTER & BOEHM
 WATERFRONT CORPORATE PARK
 2100 GEORGETOWN DR STE 300
 SEWICKLEY PA 15143



Jerry Tyskiewicz
 Jerry Tyskiewicz, Director
 Rich Fitzgerald, County Executive

**FIRST AMENDMENT TO DECLARATION OF PLANNED COMMUNITY
for
MALLARD POND**

This First Amendment to Declaration of Planned Community is made this 21 day of September, 2019, by Heurich Builders, Inc., a Pennsylvania corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, pursuant to a certain Declaration of Planned Community for Mallard Pond dated November 19, 2018, recorded in the Department of Real Estate in and for Allegheny County, Pennsylvania, at Deed Book Volume 17437, Page 29 (the Declaration) Heurich Builders, Inc., a Pennsylvania corporation ("Declarant") submitted to the provisions of the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S § 5101 et seq. (the "Act"), certain real property located in the Township of Marshall, Allegheny County, Pennsylvania as described in the Declaration and created a Planned Community known as Mallard Pond (the "Planned Community"); and

WHEREAS, pursuant to Article XI of the Declaration, Declarant reserved an option to convert into Units (Lots), Common Elements, Limited Common Elements, or any combination thereof, all or any portions of the Additional Real Estate as described in the Declaration; and

WHEREAS, pursuant to Article XII of the Declaration, Declarant reserved the right to amend the Declaration; and

WHEREAS, Declarant now desires to convert into Units (Lots) that portion of the Additional Real Estate and other property known as Lot Nos. 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215 and 216 (individually and collectively) as shown on the Mallard Pond Plan of Lots No. 2 as recorded in the Department of Real Estate in and for Allegheny County, Pennsylvania at Plan Book Volume 302, page 73 (the "Phase 2 Plan") and to convert into Common Elements all streets as shown on the Phase 2 Plan until such time as such streets are accepted for dedication by Marshall Township; and

WHEREAS, Declarant desires to make certain amendments to the Declaration.

NOW THEREFORE, intending to be legally bound hereby, Declarant hereby amends the Declaration as set forth below:

1. All capitalized terms used herein which are not defined herein shall have the meanings specified in Article II of the Declaration.

2. The Declaration is hereby amended to provide that Units (Lots) and Common Elements as shown on the Phase 2 Plan and known as Lot Nos. 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215 and 216 (individually and collectively), shall be converted within the Additional Real Estate and added as Units (Lots) to the Planned

Community. Lot Nos. 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215 and 216 (individually and collectively), shall be held, improved, maintained, sold and conveyed subject to the terms and conditions of the Declaration, as amended. The Declaration is hereby further amended to provide that the streets pertaining to the Phase 2 Lots, substantially as shown on the Phase 2 Plan, as amended from time to time, shall be converted within the Additional Real Estate and added as Common Elements to the Planned Community until such time as such streets are accepted for dedication by Marshall Township.

3. The Declaration is hereby amended to substitute and/or add the following definitions to Article II of the Declaration:

2.16 "Plan" shall collectively mean and refer to the Phase 1 Plan and the Phase 2 Plan, as the same may have been and may be amended from time to time.

2.17 "Planned Community" shall mean Lot Nos. 101-123, inclusive, and Open Spaces B-E, inclusive, as shown on the Phase 1 Plan and Lot Nos. 201-216, inclusive, as shown on the Phase 2 Plan, as well as the streets as shown on the Phase 1 Plan and the Phase 2 Plan, until such time as such streets are accepted for dedication by the Township of Marshall (individually and collectively the "Planned Community").

2.19 "Phase 1 Plan" shall mean and refer to the Mallard Pond Plan of Lots No. 1 as recorded in the Department of Real Estate of Allegheny County, Pennsylvania, at Plan Book Volume 296, pages 152-156, as the same may have been or may be amended from time to time.

2.20 "Phase 2 Plan" shall mean and refer to the Mallard Pond Plan of Lots No. 2 as recorded in the Department of Real Estate of Allegheny County, Pennsylvania at Plan Book Volume 302, Page 73, as the same may have been or may be amended from time to time.

4. Except as specifically amended hereby, the Declaration remains in full force and effect in accordance with its terms.

IN WITNESS WHEREOF the Declarant has caused its name to be signed to these presents by its officers on the day and year first above written.

ATTEST:

**HEURICH BUILDERS, INC., a
Pennsylvania corporation**

BY:  BY:



RONALD r. Heurich, Jr., President

Recorded _____

_____ Number

**FIRST AMENDMENT TO
DECLARATION OF PLANNED COMMUNITY
FOR MALLARD POND**

Vol. _____

Page _____

By

HEURICH BUILDERS, INC.
a Pennsylvania corporation

Fees, \$ _____

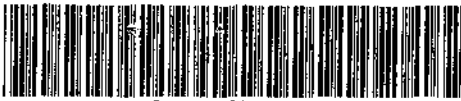
Mail To:
Goehring Rutter & Boehm
Waterfront Corporate Park
2100 Georgetown Drive
Suite 300
Sewickley, PA 15143

Commonwealth of Pennsylvania)
) SS:
County of Butler)

Recorded on this _____ day of _____ A.D. _____, in the Recorder of
Deeds Office of the said County, in Deed Book Vol. _____, page _____.

Given under my hand and the seal of the said office the day and year aforesaid.

Recorder



**Allegheny County
Jerry Tyskiewicz
Department of Real Estate
Pittsburgh, PA 15219**

Instrument Number: 2021-6136

BK-DE VL-18346 PG-326

Recorded On: February 25, 2021 As-Deed Agreement

Parties: HEURICH BLDRS INC

To HEURICH BLDRS INC

of Pages: 8

Comment:

***** THIS IS NOT A BILL *****

Deed Agreement 181.75
0
0
Total: 181.75

Realty Transfer Stamp

Department of Real Estate Stamp

Affidavit Attached-No	
NOT A DEED OF TRANSFER	EXEMPT
Value	0.00

Certified On/By-> 02-25-2021 / Scott Stickman
NOT A DEED OF TRANSFER

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

File Information:

Record and Return To:

Document Number: 2021-6136
Receipt Number: 3891821
Recorded Date/Time: February 25, 2021 03:08:46P
Book-Vol/Pg: BK-DE VL-18346 PG-326
User / Station: J Clark - CASH 06

GOEHRING RUTTER & BOEHM
WATERFRONT CORPORATE PARK
2100 GEORGETOWN DR STE 300
SEWICKLEY PA 15143



Jerry Tyskiewicz
Jerry Tyskiewicz, Director
Rich Fitzgerald, County Executive

**SECOND AMENDMENT TO DECLARATION OF PLANNED COMMUNITY
for
MALLARD POND**

This Second Amendment to Declaration of Planned Community is made this 23rd day of February, 2021, by Heurich Builders, Inc., a Pennsylvania corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, pursuant to a certain Declaration of Planned Community for Mallard Pond dated November 19, 2018, recorded in the Department of Real Estate in and for Allegheny County, Pennsylvania, at Deed Book Volume 17437, Page 29 (the Declaration), Heurich Builders, Inc., a Pennsylvania corporation ("Declarant") submitted to the provisions of the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S § 5101 et seq. (the "Act"), certain real property located in the Township of Marshall, Allegheny County, Pennsylvania as described in the Declaration and created a Planned Community known as Mallard Pond (the "Planned Community"); and

WHEREAS, pursuant to Article XI of the Declaration, Declarant reserved an option to convert into Units (Lots), Common Elements, Limited Common Elements, or any combination thereof, all or any portions of the Additional Real Estate as described in the Declaration; and

WHEREAS, pursuant to Article XII of the Declaration, Declarant reserved the right to amend the Declaration; and

WHEREAS, pursuant to Article III of the Declaration, Declarant reserved an easement on, over, and under certain lots in the Planned Community for, *inter alia*, the purpose of maintaining and correcting drainage of surface waters; and

WHEREAS, pursuant to a certain First Amendment to Declaration of Planned Community for Mallard Pond dated September 27, 2019, recorded in the Department of Real Estate in and for Allegheny County, Pennsylvania at Deed Book Volume 17787, page 158 (the "First Amendment"), Declarant converted into Units and added to the Planned Community that portion of the Additional Real Estate known as Lot Nos. 201-216, inclusive, as shown on the Mallard Pond Plan of Lots No. 2 as recorded in the Department of Real Estate in and for Allegheny County, Pennsylvania at Plan Book Volume 302, page 73 and converted as Common Elements all streets as shown on such Plan until such time as said streets are accepted for dedication by Marshall Township; and

WHEREAS, Declarant now desires to convert into Units (Lots) that portion of the Additional Real Estate known as Lot Nos. 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, and 319 (individually and collectively) as shown on the Mallard Pond Plan of Lots No. 3 as recorded in the Department of Real Estate in and for Allegheny County, Pennsylvania at Plan Book Volume 308, page 17 (the "Phase 3 Plan") and to convert into Common Elements Open Space A as shown on the Phase 1 Plan and all streets as

shown on the Phase 3 Plan until such time as such streets are accepted for dedication by Marshall Township; and

WHEREAS, Declarant desires to make certain amendments to the Declaration.

NOW THEREFORE, intending to be legally bound hereby, Declarant hereby amends the Declaration as set forth below:

1. All capitalized terms used herein which are not defined herein shall have the meanings specified in Article II of the Declaration.

2. The Declaration is hereby amended to provide that Units (Lots) and Common Elements as shown on the Phase 3 Plan and known as Lot Nos. 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, and 319 (individually and collectively), shall be converted within the Additional Real Estate and added as Units (Lots) to the Planned Community. Lot Nos. 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, and 319 (individually and collectively), shall be held, improved, maintained, sold and conveyed subject to the terms and conditions of the Declaration, as amended. The Declaration is hereby further amended to provide that Open Space A on the Phase 1 Plan shall be converted within the Additional Real Estate and added as a "Common Element" to the Planned Community and that the streets pertaining to the Phase 3 Lots, substantially as shown on the Phase 3 Plan, as amended from time to time, shall be converted within the Additional Real Estate and added as Common Elements to the Planned Community until such time as such streets are accepted for dedication by Marshall Township.

3. The Declaration is hereby amended to substitute and/or add the following definitions to Article II of the Declaration:

2.4 "Common Elements" shall mean all real and personal property located within the Planned Community to be maintained by the Association for the common use and enjoyment of the Members of the Association including "Common Facilities" and "Controlled Facilities", including Open Space A, Open Space B, Open Space C, Open Space D, and Open Space E, and including all monuments and signs, if any, and stormwater detention and management facilities and the streets through the Plan until such time as they may be dedicated to and accepted by the Township.

2.16 "Plan" shall collectively mean and refer to the Phase 1 Plan, the Phase 2 Plan, and the Phase 3 Plan, as the same may have been and may be amended from time to time.

2.17 "Planned Community" shall mean Lot Nos. 101-123, inclusive, and Open Spaces B-E, inclusive, as shown on the Phase 1 Plan, Lot Nos. 201-216, inclusive, as shown on the Phase 2 Plan, and Lot Nos. 301-319, inclusive, as shown on the Phase 3 Plan, as well as the streets as shown on the Phase 1 Plan, the Phase 2 Plan, and the Phase 3 Plan, until such time as such streets are accepted for dedication by the Township of Marshall (individually and collectively the "Planned Community").

2.21 "Phase 3 Plan" shall mean and refer to the Mallard Pond Plan of Lots No. 3 as recorded in the Department of Real Estate of Allegheny County, Pennsylvania, at Plan Book Volume 308, page 17, as the same may have been or may be amended from time to time.

4. The Declaration is hereby amended to add the following provision to Article III of the Declaration:

3.12 20' Private Drainage Easement – Lots 302 and 303. Lot Nos. 302 and 303 as shown on the Phase 3 Plan shall be subject to a 20' wide private drainage easement on, over, and across such Lots for the purpose of maintaining and correcting drainage of surface water in order to maintain reasonable standards of health, safety, and appearance, and for the purpose of installation, ongoing inspection, maintenance, repair and replacement of the Stormwater Management System serving the Planned Community, together with the right to discharge stormwater on, over, under and across said Lots and to access Lot Nos. 302 and 303 for all purposes. The easement shall be located as described on Exhibit "A" hereto and as shown on Exhibit "B" hereto. The Homeowner Association shall be responsible for maintenance, repair and replacement of drainage easement.

5. Except as specifically amended hereby, the Declaration remains in full force and effect in accordance with its terms.

IN WITNESS WHEREOF the Declarant has caused its name to be signed to these presents by its officers on the day and year first above written.

ATTEST:

**HEURICH BUILDERS, INC., a
Pennsylvania corporation**

BY:  BY:

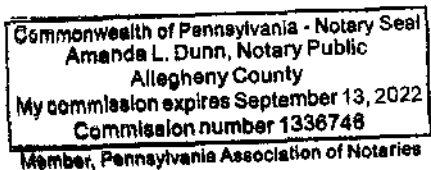


RONALD R. HEURICH, JR., President

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

AND NOW, to-wit, this 23rd day of February, 2021, before me, the undersigned officer, a notary public, personally appeared Ronald R. Heurich, Jr., who, acknowledged himself to be the President of Heurich Builders Inc., a Pennsylvania corporation, and that he, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Amanda L. Dunn
Notary Public

My Commission Expires: September 13, 2022

CERTIFICATE OF RESIDENCE

I, Ronald R. Heurich, Jr., do hereby certify that the precise mailing address of Declarant is 11676 Perry Highway, Suite 1103, Wexford, Pennsylvania 15090.

Witness my hand this 23rd day of February, 2021.

[Signature]

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

DRAINAGE EASEMENT LOT'S 302-303

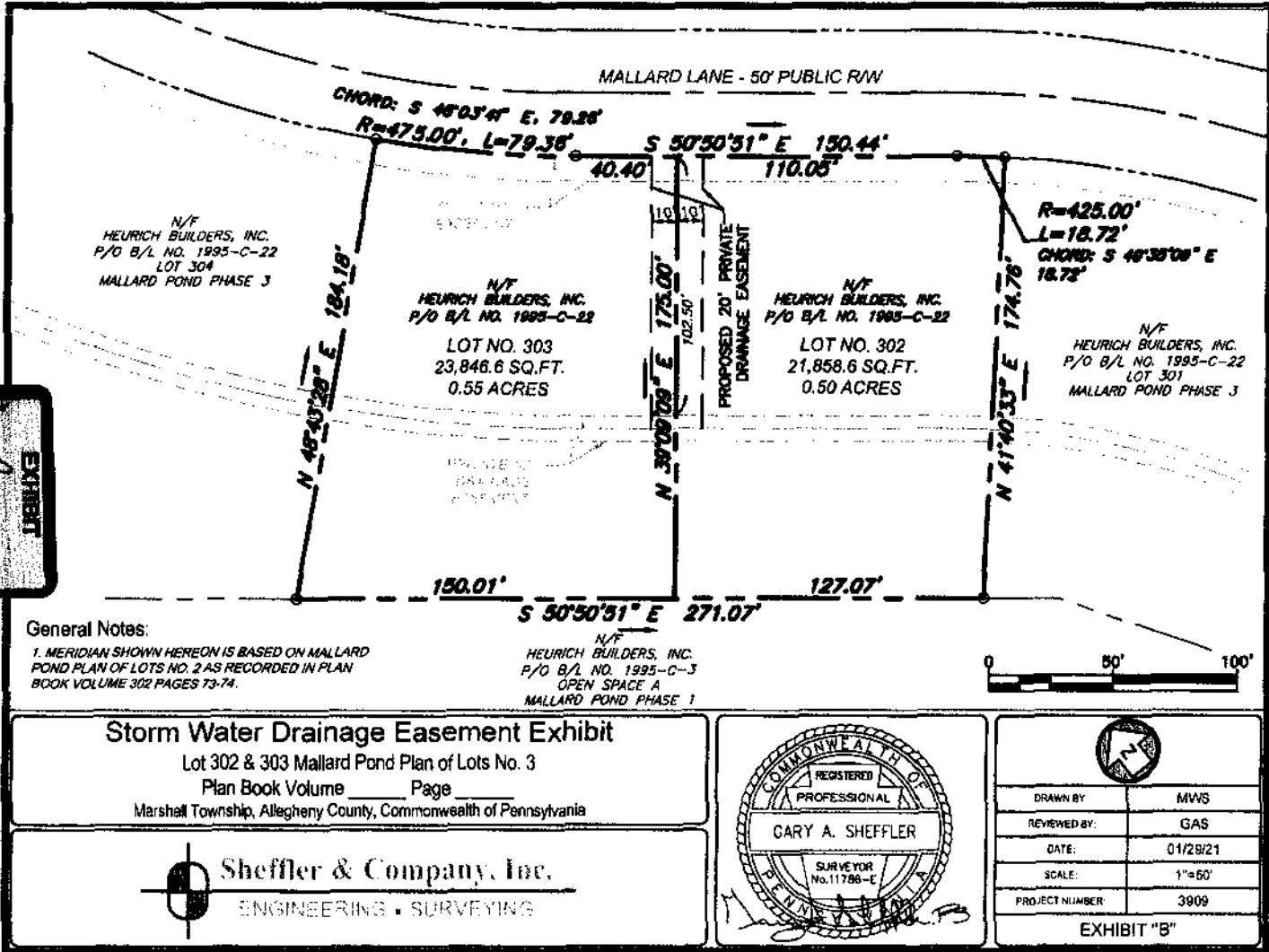
MALLARD POND PLAN OF LOT'S NO.3

All that certain private drainage easement crossing through Lot No. 302 and Lot No. 303 in the Mallard Pond Plan of Lot's No. 3 to be recorded, situate in Marshall Township, Allegheny County, Commonwealth of Pennsylvania being more particularly bounded and described as follows to wit:

Beginning at a point on the southerly right of way line of Mallard Lane at the dividing line of Lot No. 302 and Lot No. 303 in said plan and continuing along said dividing line S 39° 09' 09" W 102.50' to a point, said private drainage easement having 10.00' on each side of the line herein described.

The above description was prepared from a plan of survey attached hereto as Exhibit "B".

Recorded

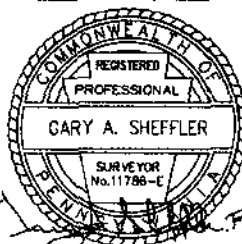


Storm Water Drainage Easement Exhibit

Lot 302 & 303 Mallard Pond Plan of Lots No. 3
Plan Book Volume _____ Page _____
Marshall Township, Allegheny County, Commonwealth of Pennsylvania



Sheffler & Company, Inc.
ENGINEERING • SURVEYING



DRAWN BY: MWS	
REVIEWED BY: GAS	
DATE: 01/28/21	
SCALE: 1"=50'	
PROJECT NUMBER: 3909	
EXHIBIT "B"	

Number

**SECOND AMENDMENT TO
DECLARATION OF PLANNED COMMUNITY
FOR MALLARD POND**

Vol. _____

Page _____

By

HEURICH BUILDERS, INC.
a Pennsylvania corporation

Fees, \$ _____

Mail To:
Goehring Rutter & Boehm
Waterfront Corporate Park
2100 Georgetown Drive
Suite 300
Sewickley, PA 15143

Commonwealth of Pennsylvania)
)
County of Allegheny) SS:

Recorded on this _____ day of _____ A.D. _____, in the Department
of Real Estate of the said County, in Deed Book Vol. _____, page _____.

Given under my hand and the seal of the said office the day and year aforesaid.

Recorder