

AMENDED  
DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS  
OF  
THE MEWS AT DARLINGTON VALLEY,  
A PLANNED COMMUNITY

FORTRESS Pennsylvania LLC  
2 EF RAYMOND DRIVE  
HAVERTOWN, PA 19083

July 31, 2000

EXHIBIT "B"

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## LIST OF EXHIBITS

- |             |   |
|-------------|---|
| Exhibit "A" | Legal Description of the Property   |
| Exhibit "B" | 43 Townhouse Units  |
| Exhibit "C" | Recorded easements and licenses   |
| Exhibit "D" | Plat with required labels on improvements to comply with the provisions of the Act that require this disclosure |

**AMENDED**

**DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS  
OF THE MEWS AT DARLINGTON VALLEY, A PLANNED COMMUNITY**

THIS AMENDED DECLARATION, made this 31<sup>st</sup> day of July, 2000, by Fortress Pennsylvania LLC (hereinafter called "Declarant").

**BACKGROUND**

This Amended Declaration is intended to supersede and take the place of the Declaration recorded on May 25, 2000 in the Recorder of Deeds Office of Delaware County, Pennsylvania, in Volume 2017, page 278.

The Declarant is the owner of real property described in Exhibit "A" of this Declaration (being the Legal Description of the Property) and located in Middletown Township, Delaware County, Pennsylvania (the "Property"), which parcel when developed will be known as "The Mews at Darlington Valley". Contained within the Property described in Exhibit "A" are parcels of ground on which Declarant intends to construct 43 townhouse units, which parcels are described in Exhibit "B" of this Declaration. The Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in The Mews at Darlington Valley and the Property contributing to the safety and welfare of residents and for the maintenance of the land and improvements thereon and, to this end, desires to subject the real Property described in Exhibit "A" to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said Property, each owner and each owner's heirs, successors and assigns thereof. To

provide means for meeting the purposes and intents herein set forth and the intents and requirements of the Township, the Declarant intends to set into existence The Mews at Darlington Valley Homeowners' Association. This Declaration is intended to set forth the rights and obligations of the Declarant, the purchasers of any portion of the Property from the Declarant, and the mortgagees of any purchasers.

The Declarant declares that the real property described in Exhibits "A" and "B" of the Declaration is and shall be held subject to the terms and conditions of this Declaration. The Declarant hereby delegates and assigns to The Mews at Darlington Valley Homeowners' Association the powers of owning, maintaining, and administering the community properties and facilities, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, safety and welfare of the residents.

## **ARTICLE I**

### **DEFINITIONS**

All capitalized terms used in this Declaration shall have the meaning given to them in the Article I, Definitions and incorporated herein by reference. Any such term used in this Declaration and not otherwise defined shall have the meaning as provided by the Act.

**"ACT"** shall mean the Pennsylvania Uniform Planned Community Act, 68 P.S. §§5 101 et seq.

**"APPROVAL"** shall mean and refer to the issuance by any public agency of written approval, or any written waiver of approval rights or a letter of "no objection".

**"ARCHITECTURAL REVIEW COMMITTEE"** shall mean the committee of the Board that may be created pursuant to Article XIII.

**"ASSESSABLE UNIT"** shall mean and refer to any lot with townhouse structure within the properties conveyed by the Declarant, which is subject to assessments.

**"ASSESSMENTS"** shall mean those assessments, payable by the Owners upon notification by the Association as provided herein. Each Assessment shall be separate and payable by the Owner of the Lot against which the Assessment is levied.

**"ASSOCIATION"** shall mean and refer to The Mews at Darlington Valley Homeowners' Association, a Pennsylvania non-profit corporation, being an association of all Owners and the Declarant while it owns a Lot subject to this Declaration and the Association's successors and assigns.

**"BOARD"** shall mean and refer to the Board of Directors of the Association who shall manage and administer the business affairs and operation of the Association on behalf of the Members, as it may from time to time be constituted.

**"BY-LAWS"** shall mean the By-Laws of the Association that have been or will be adopted by the Board for the management of the affairs of the Association, as amended from time to time.

**"BOOK OF RESOLUTIONS"** shall mean and refer to the document containing rules and regulations and policies of the Association, as same may be from time to time amended.

**"CAPITAL FUND"** shall mean the fund created by the Association pursuant to Article X hereof.

**"COMMITTEE"** shall mean the Architectural Review Committee of the Board that may be created pursuant to this Declaration.

**"COMMON ASSESSMENTS"** shall mean those general and special assessments as determined and levied by the Association from time to time for the payment of the debts and obligations of the Association.

**"COMMON ELEMENTS"** shall mean the real estate and attached improvements to be made described in Section 3 of Article V and include the Common Facilities and the Controlled Facilities (if any), and those other facilities that the Association may hereafter own, acquire, construct or control and designate as Common Facilities or Controlled Facilities.

**"COMMON EXPENSES"** shall mean the expenses and financial liabilities of the Association, and future expenses that may be reasonably anticipated, together with any allocations for reserves and capital items, for which the Owners may be liable pursuant to this Declaration or the By-Laws.

**"COMMON FACILITIES"** shall mean the real estate and attached improvements to be made, and which will be owned by the Association, as described in further detail in Articles V and VI of this Declaration.

**"COMMON MAINTENANCE OBLIGATIONS"** shall mean the obligations of the Association to maintain and repair the Common Elements, and to perform those other duties that may be required hereunder or may be necessary or desirable for the maintenance and improvement of the Community.

**"COMMON RECEIPTS"** shall mean the funds collected from Owners as Assessments and receipts designated as common by the provisions of this Declaration and the By-Laws.

**"COMMON SURPLUS"** shall mean the excess of all Common Receipts over all Common Expenses.

**"COMMUNITY"** shall mean the residential real estate development known as The Mews at Darlington Valley, a planned community, to be developed by Declarant on the Property.

**"CONTROLLED FACILITIES"** shall mean the real estate and attached improvements for which the Association may be obligated to maintain, improve, repair, replace, regulate, manage, insure or otherwise control, as described in further detail in Article V of this Declaration. If no Controlled Facilities are listed in that section, then there are no Controlled Facilities in the Planned Community.

**"DECLARANT"** shall mean and refer to Fortress Pennsylvania LLC, its successors and assigns; provided, however, that no successor or assignee of the Declarant shall have any rights or obligations of the Declarant hereunder unless such rights and obligations are specifically set forth in the instrument of succession or assignment or which pass by operation of law.

**"DECLARANT CONTROL"** means the time period described in Article VIII in which Declarant has reserved various rights as permitted by the Act.

**"DECLARATION"** shall mean this Amended Declaration and the covenants, conditions, easements and restrictions and all other provisions herein set forth in this entire document, as same may from time to time be amended.

**"DRAINAGE SYSTEMS"** shall mean any pipes, swales, channels, conduit or any other natural or artificial means and all parts and components thereof, which have been or will be constructed and laid within the Stormwater Management Facilities for the purpose of conveying storm water runoff from the roads and other impervious surfaces to detention basins and certain other Stormwater Management Facilities.

**"DWELLING"** means a residence built upon a Lot.

**"EXCLUSIVE USE AREA"** shall be those portions of the plot of land owned by the Association for which an owner is given an exclusive easement, some of which may be shown on the Plan of the property. Any doorsteps, porches, balconies, stairs, decks or patios, walkways and parking pads designed to serve a single Unit, located outside but attached to the Unit constitutes a space allocated exclusively to that Unit.

**"GOVERNING DOCUMENTS"** shall mean and refer collectively and severally to this Declaration, the Association By-Laws, all as initially drawn by the Declarant and filed and recorded, and all as may be amended from time to time.

**"LIMITED COMMON ELEMENTS"** means the Limited Common Facilities (if any) and the Limited Controlled Facilities (if any) that are part of the Community.

**"LIMITED COMMON FACILITIES"** (if any) means a portion of the Common Facilities, as further described in Article V hereof, that is allocated for the exclusive use of one or more but fewer than all of the Units.

**"LIMITED CONTROLLED FACILITIES"** (if any) means a portion of the Controlled Facilities, as further described in Article V hereof, that is allocated for the exclusive use of one or more but fewer than all of the Units.

**"LOT"** shall mean each of the 43 numbered parcels of land shown on the Plan, as may be modified by "as-built" plans, and all structures that are or will be erected thereon.

**"MANAGER"** shall mean the person or firm, if any, appointed by the Association as its agent to perform certain management obligations of the Association.

**"MEMBER"** shall mean and refer to a person or entity who is a record holder of a fee or undivided fee interest in a Unit subject to the Declaration, including contract sellers, but excluding those persons or entities who hold an interest merely as security for the performance of an obligation.

**"MORTGAGE"** shall mean any mortgage on a Unit or other part of the Property.

**"MORTGAGOR"** shall mean a Unit Owner who has granted a first mortgage on his Unit.

**"MORTGAGEE"** shall mean a lender who holds a first mortgage on a Unit.

**"NOTICE"** shall mean and refer to: (1) written notice delivered personally or mailed to the last known address of the intended recipient; or (2) notice through a community publication which is delivered to all Units.

**"OPEN SPACE"** shall mean all the land not within the title lines of the Units.

**"OPERATING ACCOUNT"** shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article X hereof.

**"OWNER"** shall mean and refer to the then record owner, whether one (1) or more persons or entities, of the fee simple title to any Unit, but excluding any person having an interest, however described, merely as security for the performance of an

obligation, unless and until such person has acquired title pursuant to foreclosure or other legal proceedings or a deed in lieu of foreclosure.

**"PLAN"** shall mean the Phase III and IV Record Plan dated July 30, 1999 (last revised May 15, 2000), prepared by Brandywine Valley Engineers, a Division of Vollmer Associates LLP, Consulting Engineers and Land Surveyors, for Darlington Valley P.R.D., which was approved by Middletown Township on March 13, 2000 and recorded in the Recorder's Office of Delaware County, Pennsylvania, on May 25, 2000 in Plan Book No. 21, page 14, and as may be modified by "as-built" plans. The contents of the Plan are incorporated herein by this reference.

**"PROPERTY"** shall mean the real estate described on Exhibit "A" being submitted pursuant to this Declaration.

**"RESERVE FUND"** shall mean the fund created by the Association pursuant to Article X hereof.

**"SIDEWALKS"** shall mean walks or walkways as shown on the Plan.

**"SPECIAL ASSESSMENT"** shall mean a charge levied against all Unit Owners to pay for Common Expenses not covered by the Common Assessment.

**"SPECIAL DECLARANT RIGHTS"** shall mean the rights that Declarant has reserved to itself under Article III, as permitted by the Act.

**"STORMWATER MANAGEMENT FACILITIES"** shall mean, as the context requires, any and all stormwater management structures, stormwater diversion and/or discharge structures, drainage systems and any other structures, devices, berms, swales, basins and other improvements, installed or to be installed or constructed in accordance with the Plan for the purpose of collection, transmission, containment,

diversion and/or discharge of stormwater, including also any inlets, outlets, endwalls, pipes or piping, and any and all other structures or facilities to be constructed or installed on any part of the Property or on any easements appurtenant thereto or on any Lot or Lots for the purpose of managing and/or controlling stormwater runoff, as the same may be modified, reconstructed, enlarged, altered or replaced from time to time. Stormwater Management Facilities shall also include any and all stormwater management structures, stormwater diversion and/or discharge structures, and any other structures, devices, berms, swales, basins and other improvements, installed or to be installed on constructed for the purpose of collection, transmission, containment, diversion and/or discharge of stormwater, including any inlets, outlets, endwalls, pipes or piping, and any and all other structures or facilities to be constructed or installed on or within the easements.

**"TOWNSHIP"** shall mean Middletown Township.

**"UNIT"** shall mean and refer to each of the Lots, the vertical boundaries of which shall be the boundaries of such Lots as depicted on the Plan, as may be modified by "as-built" plans, together with the Dwelling built on the Lot and the other legal rights and obligations associated with ownership of that Lot. Each Unit is given a Unit number as depicted on the Plan.

**"UNIT ASSESSMENT"** shall mean a charge against a particular Unit Owner and the Lot directly attributable to the Unit Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, plus interest and expenses of collection thereon as provided for in this Declaration.

## ARTICLE II

### SUBMISSION OF PROPERTY TO

### DECLARATION

Declarant, for itself, its successors and assigns, pursuant to the provisions of the Act, hereby declares, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, that the Property is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, obligations, conditions, easements, restrictions, duties and other provisions created, declared and contained in this Declaration.

## ARTICLE III

### PROVISIONS OF DECLARATION REQUIRED BY THE ACT

Section 1. Standard Provisions. The following provisions are required by the Act to be disclosed in the Declaration:

(a) Name: The name of the planned community subject to this Declaration is The Mews at Darlington Valley, a planned community.

(b) County Location: The Community is wholly situated within Delaware County.

(c) Legal Description of Real Estate: The real estate included in the Community is the Property more fully described on Exhibit "A" attached hereto.

(d) Delineation of Boundaries and Identification Number of Each Unit:  
The boundaries of each Unit in the Community are identical to the boundaries of each Lot as depicted on the Plan. The number of each Unit is shown on the Plan.

(e) Maximum Units Created Through Subdivision or Conversion: The Community is located on approximately 8.14 acres of land located in Middletown Township, Delaware County, Pennsylvania, as more fully described in the Plan. The Community will contain up to 43 Units, on each of which will be constructed an attached single family residence. Each Unit will include the Lot plus the residence, and will be owned by the purchaser of the Unit. The Units will be conveyed to the purchaser by fee simple deed, which deed will convey both the Lot and the residence thereon. Each purchaser will have access to his or her Unit via roads being constructed by or on behalf of the Declarant. Units will be served by utilities at the boundary of each Lot, to be connected to each dwelling erected.

Under the Plan, a maximum of 43 units may be built, based upon the grouping of four or five units in each attached structure.

(f) Description of Controlled Facilities: The Controlled Facilities (if any) are those facilities described in Article V, Section 3 of this Declaration. That Section and Article VI also contains a description of the obligations of the Association for the maintenance, improvement, repair, replacement, regulation, management, insurance or control of the Controlled Facilities.

(g) Description of Limited Common and Controlled Facilities and Expenses: A description of the Limited Common Facilities (if any) and Limited Controlled Facilities (if any), together with a description of any limited common expenses, if any, and how they are assessed, is given in Articles V and X of this Declaration.

(h) Description of Common Facilities and Controlled Facilities To Be Subsequently Allocated: There are no Common Facilities or Controlled Facilities within the boundaries of any Convertible Real Estate which may be allocated subsequently as Limited Common Facilities or Limited Controlled Facilities.

(i) Allocation of Votes and Common Expenses for Each Unit: The allocation to each Unit of votes in the Association is described in Article IV, Section 2(c). The percentage of the Association's Common Expenses allocated to each Unit is given in Article X.

(j) Restrictions on Use, Occupancy and Alienation and Easement Rights: The restrictions on use, occupancy and alienation of Units are as set forth in Article VII below. Easement and license rights granted to Unit Owners with respect to use and enjoyment of the common elements are as set forth in Articles V and VIII, with respect to all Owners, and in Article XIV with respect to Declarant (who is also an Owner of Units).

(k) Recording Data for Recorded Easements and Licenses: The recording data for recorded easements and licenses appurtenant to or included in the Community submitted to this Declaration, or to which this Community is subject, is listed on Exhibit "C" attached hereto.

(l) Units to be Owned in Time Share Estates: None of the Units may be owned in time-share estates.

(m) Reservation of Special Declarant Rights Master Association: The Declarant is not retaining the Special Declarant Right to cause Section 5222 of the Act (relating to Master Associations) to become applicable to the Community.

(n) Reservation of Special Declarant Rights-Merge or Consolidate:

The Declarant is not retaining the Special Declarant Right to merge or consolidate the Community pursuant to Section 5223 of the Act.

(o) Reservation of Rights-Third Party Easements:

The Declarant reserves the right to subject portions of the Community to easements or licenses in favor of real estate not included in the Community and in favor of persons not Owners of Units in the Community (collectively "Third Party Rights") as set forth in the Article XIV of this Declaration.

(p) Reservation of Right to Designate Additional Common Facilities:

The Declarant is not retaining the right to designate as a Common Facility any portion of the Community or any improvement or facility now existing or contemplated for the Community.

Section 2. Provisions Required for Flexible Planned Communities. This Planned Community has no "Convertible Real Estate", "Withdrawable Real Estate" or "Additional Real Estate" as those terms are defined in the Act, and so is not a Flexible Planned Community.

#### ARTICLE IV

#### THE MEWS AT DARLINGTON VALLEY HOMEOWNERS' ASSOCIATION

Section 1. The Association. The Association is a non-profit corporation organized and existing under the laws of Pennsylvania charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as such may be amended from time to time.

Section 2. Membership.

(a) Definition. Every owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way, except as provided by the Governing Documents.

(b) Members' Rights and Duties. Each member shall have the rights, duties and obligations set forth in the Governing Documents.

(c) Voting Rights. There shall be one (1) vote per Unit.

Section 3. Board of Directors.

(a) Composition. The Board of Directors shall be composed of three (3) members who shall be selected in accordance with the provisions of the By-Laws.

(b) Extent of Power. The Board of Directors shall have all powers necessary for the conduct of the affairs of the Association and other related areas which are enabled by law or by the Governing Documents.

(c) Powers and Duties. The Board shall have the power and obligation to perform the following duties:

(1) Real and Personal Property. To acquire, own, hold, improve, maintain, manage, lease, pledge, convey, transfer or dedicate real or personal property for the benefit of the members in connection with the affairs of the Association, except that the acquisition, mortgaging, or disposal of Limited Common Area and/or its improvements (if any) shall be subject to the provisions of this Declaration.

(2) Rule Making. To establish rules and regulations for the use of property as provided in the Declaration and By-Laws and to review, modify, and approve architectural standards prepared by the Architectural Review Committee.

(3) Assessments. To fix, levy, and collect assessments as provided herein.

(4) Easements. To grant and convey easements as may become necessary as provided in this Declaration.

(5) Employment of Agents. To employ, enter into contracts with, delegate authority to and supervise such persons or entities as may be necessary or appropriate for the management and performance of the business, obligations and duties of the Association.

(6) Enforcement of Governing Documents. To perform acts as may be reasonably necessary or appropriate, including but not limited to, bringing suit, causing a lien to be foreclosed or suspending Membership rights, to enforce or effectuate any of the provisions of the Governing Documents.

(d) Limited Liability of the Board. The Board, and its members in their capacity as members, officers and employees, officers of the Association and members of committees of the Board:

(1) Shall not be liable for the failure of any service to be obtained by the Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust, sand or any other material which may leak or flow from the outside or from any part of the building of which the

Unit is a part, or from any of its pipes, drain conduits, appliances, or equipment, or from any other place, unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association, the Board, officer or committee member;

(2) Shall not be liable to the Unit Owners as a result of the performance of the Board members', officers' or committee members' duties for any mistake of judgment, negligence or otherwise, except for the Board members' own willful misconduct, gross negligence or criminal acts;

(3) Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Board or the Association in the performance of the Board members', officers' or committee members' duties;

(4) Shall not be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Unit Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements, except for the Board members', officers' or committee members' own willful misconduct, gross negligence or criminal acts;

(5) Shall have no personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Board members', officers' or committee members' own willful misconduct, gross negligence or criminal acts in the performance of their duties; and

(6) Shall have no personal liability arising out of the use, misuse or condition of the building, or which might in any other way be assessed against or imputed to the Board members, officers or committee members as a result of or by virtue of their performance of their duties, except for the Board members', officers' or committee members' own willful misconduct, gross negligence or criminal acts.

(e) Indemnification. Each member of the Board, officer and committee member, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a Board member, officer or committee member, or any settlement of any such proceeding, whether or not he is a Board member, officer or committee member at the time such expenses are incurred, except in such cases wherein such Board member, officer or committee member is adjudged guilty of willful misconduct, gross negligence or criminal conduct in the performance of his duties. In the event of a settlement, this indemnification shall apply only if and when the Board (with the affected member abstaining if he is then a Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Board member, officer or committee member had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Section shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such

Board member, officer or committee member may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

(f) Defense of Claims. Complaints brought against the Association, the Board or the officers, committee members, employees or agents thereof in their respective capacities as such, or the Community as a whole, shall be directed to the Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the holders of any mortgages on Units and such complaints shall be defended by the Association. The Unit Owners and the holders of mortgages on Units shall have no right to participate in such defense other than through the Association.

(g) Directors and Officers Insurance. The Board shall obtain insurance to satisfy the indemnification obligation of the Association and all Unit Owners set forth in this Section, if and to the extent reasonably available.

## ARTICLE V

### DESCRIPTION OF COMMUNITY, UNITS AND COMMON ELEMENTS

Section 1. The Community. The Community shall consist of the Dwellings constructed on the Lots within the Property (i.e., the Units), the Common Elements, and any Controlled Facilities, together with the easements, rights and appurtenances belonging thereto. The Declarant intends to construct up to 43 Units as attached single family residences in the development of the Community pursuant to the Plan, such Units being more particularly identified on the Plan. To service the Community, Declarant intends to construct the Common Elements and Controlled Elements (if any) as further described below.

The Act requires that each plat or plan must show the intended location and dimensions of any contemplated public improvements to be constructed anywhere within the Planned Community, and labeled with "MUST BE BUILT" or "NEED NOT BE BUILT".

Section 2. Unit Boundaries. Each Unit shall consist of the subdivided residential Lot as designated on the Plan with a Dwelling for which an occupancy permit has been, or is anticipated to be, issued by the Township. The boundaries of each Unit, including the Unit's identifying number, is shown on the Plan.

Section 3. Common Elements.

(a) Common Facilities in General. Common Facilities shall generally include all real estate not included within the title lines of any Units and any improvements on such real estate, including, but not limited to roadways (to the extent not dedicated to the Township), sanitary sewer lines (to the extent not dedicated to the Township or any applicable Municipal Authority), to the Stormwater Management Systems, parking areas, sidewalks, stop signs and street signs, landscaping and Open Space.

(b) Specific Common Facilities. Without limiting the generality of the foregoing description of Common Elements, the following shall be Common Facilities of the Community:

(1) Water Lines and Facilities. Water lines, sewer lines and appurtenant facilities servicing the Community shall be Common Elements unless and until dedicated to a utility company or authority.

(2) Signage. The signage as shown on the Plans and the landscaping as necessary to maintain the area as an attractive entrance to the Community shall be Common Facilities.

(3) Open Space. All areas as shown on the Plan not within the title lines of the Units shall be Common Facilities.

(4) Stormwater Management Facilities. Except as may be otherwise provided herein, the Stormwater Management Facilities shall be Common Facilities.

(c) Conveyance of Common Elements. All Common Elements consisting of land not required by the Plan to be improved, graded or disturbed in anyway from their natural state will become Common Elements upon the recording of this Declaration. All other Common Elements will become Common Elements upon substantial completion of any required improvement, grading or disturbance as required by the Plan and the Township. The Declarant will convey the Common Elements to the Association upon substantial completion of any improvements to all of the Common Facilities, or at an earlier or later time, but not later than the date of the last conveyance by Declarant of a Unit included in the Community. This obligation to convey will be binding upon the Declarant and any successor in interest of the Declarant in the portion of the Community consisting of such Common Facilities, whether or not the successor succeeds to any special declarant rights of Declarant. The Common Elements will be owned by the Declarant, prior to such conveyance. Declarant shall convey the Common Elements to the Association by delivery of a fee simple deed of special warranty to the Association, which will be recorded in the Office of the Recording of Deeds for

Delaware County, Pennsylvania. No consideration shall be payable by the Association, other than the Association's acceptance of such deeds or deeds. All liens shall be released as of the date of such conveyance.

(d) Controlled Facilities. There will be no Controlled Facilities in the Community.

(e) Limited Common Facilities. There will be no Limited Common Facilities in the Community.

(f) Limited Controlled Facilities. There will be no Limited Controlled Facilities in the Community.

## ARTICLE VI

### COMMON FACILITIES AND LIMITED COMMON FACILITIES

Section 1. Obligations of the Association. The Association, subject to the rights of the Members as set forth in this Declaration, shall be responsible for the management and control of the Common Facilities and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Association shall be responsible for maintaining sidewalks (except as provided in Section 1 of Article III with respect to sidewalks in front of Owner's Unit which shall be Owner's responsibility) open space, access roads and parking areas and all other improvements and/or utilities not dedicated to Middletown Township or a public utility or municipal authority and not an Exclusive Use Area (except as provided in the following paragraph).

In addition to the foregoing, the Association shall be responsible for the following: (1) on the Lots and Exclusive Use Areas, lawn mowing, trimming and edging

of lawn areas, turf applications, edging and mulching shrubbery beds in the spring, and trimming of shrubbery annually; (2) on a scheduled basis, repainting the paintable surfaces of the Units; (3) replacing roof shingles on the Units at the end of their normal life; and (4) trash removal.

## ARTICLE VII

### USE OF PROPERTY

#### Section 1. Protective Covenants.

(a) Nuisances. No nuisance shall be permitted to exist or operate upon any property if it jeopardizes property values or if it disturbs the well being of any members. Nothing in this provision, however, shall in any manner limit the powers granted by law, as they exist or as they may be subsequently amended, modified or enacted, in the Township with respect to control and abatement of nuisance.

(b) Restriction of Further Subdivision. No Lot upon which a Unit has been constructed and no Exclusive Use Area for which a Unit is given an exclusive easement shall be further subdivided or separated into smaller Lots or by any owner and no portion less than all of any such Lot nor any easement or other interest therein, shall be conveyed or transferred by an owner, provided this shall not prohibit deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments.

(c) Conditions for Architectural Control. No improvements, alterations, repairs, changes of paint color, excavations, changes in grade or any other work which in any manner alters the exterior and/or the exterior as seen from any Unit, Exclusive Use Area, or the improvements thereon, from its natural or improved state, existing as of the date such property was first made subject to this Declaration, shall be made or

done without the prior written approval of the Board of Directors. No building, wall, residence, or other structure shall be commenced, erected, improved, altered, repaired or painted without the prior written approval of the Board of Directors and subject to compliance with the laws and regulations of Middletown Township.

(d) Leasing. No Unit shall be rented for transient or hotel purposes or in any event for an initial period of less than twelve (12) months. No portion of any Unit shall be leased for any period. An owner may lease an entire Unit but no owner shall lease a Unit other than on a written form of lease requiring the Lessee to comply with the Governing Documents, and providing that failure to comply constitutes a default under the lease. Each Owner of a Unit, following the execution of any lease, thereof, shall promptly forward a conformed copy of the executed lease to the Board of Directors. The foregoing provisions of this subparagraph, except the restriction against use for hotel or transient purposes, shall not apply to the Declarant or to a Mortgagee in possession of a Unit as result of a foreclosure or other judicial use.

(e) Rules. From time to time, the Board of Directors shall adopt general rules, including but not limited to, rules to regulate potential problems relating to the use of property and the well being of members, such as keeping of animals, storage and use of all vehicles, storage and use of machinery, use of outdoor drying lines, antennae, signs, trash and trash containers, maintenance and removal of vegetation on the properties. General rules may only be adopted or amended by a majority vote of the Board of Directors. All such general rules and any subsequent amendments thereto shall be placed in the Book of Resolutions and shall be binding on all members, except where expressly provided otherwise in such rule.

(f) Exceptions. The Board of Directors may issue temporary permits to except any prohibitions expressed or implied by this Section, provided the Board shows good cause and acts in accordance with adopted guidelines and procedures. So long as the Declarant is engaged in developing or improving any portion of the Property, it shall be exempted from rules affecting movement, disposition and storage of building materials and equipment, erection and maintenance of directional and promotional signs and conduct of sales activities, including maintenance of model living Units. Such exemption shall be subject to such rules as may be established by the Declarant to maintain reasonable standards of safety, cleanliness and general appearance of the Properties.

(g) Residential Use. All property designated for residential use shall be used, improved and devoted exclusively to residential use. Nothing herein shall be deemed to prevent an Owner from leasing a Unit to a single family, subject to the provisions of the adopted rules and Declaration.

(h) Vehicles. Use of all vehicles upon the Common Area shall be subject to the Declaration, the Ordinances of Middletown Township and any rules promulgated by the Board of Directors of the Association. Use of all vehicles upon the Exclusive Use Area shall be subject to this Declaration, the Ordinances of Middletown Township, and any rules promulgated by this Association.

(1) All motor vehicles shall be currently licensed and maintained in proper operating condition so as not to be a hazard or nuisance by noise, exhaust, emissions or appearance.

(2) All motor vehicles, including but not limited to, trail bikes and motorcycles shall be driven only upon paved streets and parking drives.

(3) No trailer, mobile home, boat, utility trailer, motor home, house trailer, truck, or commercial vehicle shall be parked on either an Exclusive Use Area or the Common Elements. Notwithstanding the foregoing, vehicles for personal use up to three quarters (3/4) ton capacity shall be permitted.

(4) All bikes and children's recreational vehicles shall be parked between the title lines of its owner's property.

(i) Pets. Subject to limitations, as may from time to time be set by the Association, domestic pets may be kept or maintained within a Unit, provided such pets are not kept or maintained for commercial purposes, and no more than two pets may be maintained within any one Unit. All pets must be kept under the control of their owner when they are outside of the Unit and must not become a nuisance to other residents. Dogs and cats must be leashed.

(j) Clothes Drying Apparatus. No clotheslines or other exterior clothes drying apparatus shall be permitted within an Exclusive Use Area.

(k) Antennae. Exterior television or other antennae are prohibited, except as approved in writing by the Association or otherwise allowed by law.

(l) Trash Receptacles. No lot or other portion of the Property shall be used or maintained as a dumping ground for rubbish. Storage, collection and disposal of trash shall be in compliance with the rules set by the Association and the Ordinances of Middletown Township.

(m) Trash Burning. Trash, leaves and other similar material shall not be burned without the written consent of the Association.

(n) Ornaments. No statues, sculptures, bird baths, replicas, awnings, or other objects may be affixed to or placed on any Exclusive Use Area or Unit without the prior written consent of the Association.

(o) Parking Rights. Ownership of a Unit shall entitle the Owner thereof to the exclusive use of two (2) parking spaces on a pad located in front of a Unit. An approved vehicle shall include any conventional passenger vehicle or a truck for personal use up to three-quarters (3/4) ton capacity and which bears no advertising signs or markings unless such signs or markings conform to the design standards of the Association. Parking spaces may not be leased.

(p) Signs. No sign of any kind shall be displayed on a Unit without the prior written consent of the Association, except customary name and address signs.

(q) Mailboxes. Individual mailboxes shall not be permitted. All mailboxes shall be approved and installed in accordance with U.S. Postal Service regulations and regulations established by the Board.

(r) Vegetation. No live trees or shrubs located within the Exclusive Use Area or Common Facilities may be planted, cut or removed without the prior written consent of the Architectural Review Committee.

(s) Garage. The garage of the Unit owned by a Member may not be altered for any other use without prior written consent of the Association, subject to the laws and Ordinances of Middletown Township. The leasing of the garage is prohibited. Notwithstanding this provision, Declarant may, at any time, amend its plans to develop

the Property to provide for one or two door garages for a Unit, provided that such plans comply with the laws, rules and regulations of Middletown Township and all governmental authorities having jurisdiction thereon.

(t) Window Coverings. The use and the covering of the interior surfaces of windows by draperies, shades, blinds, shutters, or other items visible from the exterior of the building shall be subject to the rules and regulations of the Association. Any variation of this requirement cannot be implemented without the prior written consent of the Architectural Review Committee.

(u) Damage or Destruction of Units. In the event of reconstruction or restoration necessitated by damage to or destruction of any Unit, such Unit must be reconstructed in accordance with the original drawings and specifications except for any changes that are required to necessitate conformity with the current Building Code of the Township. Any changes are subject to the prior written approval of the Architectural Review Committee.

(v) Maintenance of Property. Except as provided in Section 1 of Article VI, each owner shall maintain their Exclusive Use Area, the exterior of their Unit and all improvements thereon, and keep the aforesaid in good order and free from debris. Each Owner shall also be responsible for repair and replacement of landscaping within the Lot and Exclusive Use Area and shall also be responsible for snow and ice removal from any of the sidewalks, parking pads and other areas within the Lot and the Exclusive Use Area. Each Owner shall also be responsible for snow and ice removal and maintenance of the sidewalk in front of the Owner's Unit even though the sidewalk is in the Open Space. In addition, the color of a Unit must be maintained in accordance

with the requirements of Middletown Township (if any) and all other rules and regulations of both Middletown Township and the Architectural Review Committee. In the event that an owner fails to maintain their Exclusive Use Area, the exterior of their Unit and/or the improvements situated thereon as provided herein, the Association, after Notice to the owner and approval by a majority vote of the Board of Directors, shall have the right to enter upon said Exclusive Use Area and correct, repair or restore the Exclusive Use Area, the exterior of the Unit and all improvements erected thereon. All costs related to such correction, repair or restoration, shall become a Restoration Assessment upon such Exclusive Use Area and Unit and as such shall be regarded as any other assessment with respect to lien rights or the Association and remedies provided for non-payment.

Section 2. Compliance with Law. Nothing in this Declaration or the By-laws shall relieve the Declarant or any Unit Owner from compliance with all applicable Township laws, codes and ordinances.

## ARTICLE VIII

### CONSTRUCTION OF COMMUNITY AND DECLARANT

#### CONTROL

Section 1. Declarant to Construct Community. Declarant has agreed to construct the improvements to the Community, including the Dwellings and all Common Elements, in accordance with the Plan that has been approved by the Township. In the exercise of its rights and obligations under the Plan, Declarant has reserved the rights contained in this Article and in this Declaration.

Section 2. Completion of Common Facilities. Declarant intends to complete construction of the Common Elements within five (5) years from the date of recording of this Declaration. The Declarant is required to complete the same not later than the later of this date or the last conveyance by Declarant of a Unit included in the Community. Until such completion, the Declarant shall be solely responsible for real estate taxes assessed against or allocable to such incomplete Common Elements. The Declarant guarantees completion of the Common Elements. In connection with the approval of the Plan by the Township, Declarant is providing to the Township, for the benefit of the Township, a letter of credit or financial security agreement secured by an escrow account or a bond, in an amount equal to 110% of the costs of completion, as such cost has been approved by Township, to assure for the benefit of the Township the completion of the Common Elements.

Section 3. Period of Declarant Control.

(a) The period of Declarant Control shall begin with the filing of this Declaration and shall end as provided in subsection (d) below.

(b) Until the sixtieth (60th) day after the conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Board.

(c) Not later than sixty days after the conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, at least one member of the Board, but not less than twenty-five percent (25%) of the Board, shall be elected by Unit Owners other than Declarant, as provided in the By-Laws.

(d) The period of Declarant Control shall terminate not later than the earlier of (i) sixty (60) days after seventy-five percent (75%) of the total Units which may be created have been conveyed to Unit Owners other than the Declarant; or (ii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business. At that time, all members of the Board shall resign, and the Unit Owners shall elect a new Board.

(e) Declarant may not unilaterally remove any members of the Board elected by the Unit Owners.

Section 4. Reservation of Special Declarant Rights. Declarant hereby reserves to itself as Special Declarant Rights, the right to:

(1) complete improvements indicated on the plats and plans filed with this Declaration under section 5209 of the Act (relating to limited common elements);

(2) maintain offices, signs and models under section 5217 of the Act (relating to declarant offices, models and signs);

(3) use easements through the Common Facilities, Exclusive Use Area or Controlled Facilities for the purpose of making improvement within the Community or within any convertible or additional real estate under section 5218 of the Act (relating to easement to facilitate completion, conversion and expansion); and

(4) appoint or remove any officer of the Association or a Master Association or a member of the Board during any period of Declarant Control under section 5303 of the Act (relating to executive board members and officers).

Section 5. Master Association. The Declarant is not retaining the special declarant right to cause section 5222 of the Act (relating to master associations) to become applicable to the Community.

Section 6. Merger and Consolidation of Planned Community. The Declarant is not retaining special declarant right accorded by §5205(14) of the Act to merge or consolidate the Community with another planned Community.

Section 7. Right to Designate Common Facilities in Future. Declarant is not reserving the special declarant right under Section 5205(16) of the Act to designate as a common facility any portion of the planned community or any improvement of facility now existing or contemplated for the Planned Community, other than what is shown on the Plan or described herein.

Section 8. Reservation of Rights for Models and Offices. Declarant reserves the right, on behalf of itself and its sales agents, customers and representatives, to the nonexclusive use of the Common Elements, without charge, for sales, display, access, ingress, egress and exhibit purposes, for offices and for models. Declarant may also maintain such offices and models in Units which have been constructed but not sold by the Declarant or in trailers placed by Declarant on the Common Elements. Declarant shall have the right to remove part or all of any such offices, models or other improvements at any time up until sixty days after the sale of the last Unit owned by Declarant in the Community. During the time that Declarant continues to use any such Units as either models or offices, no general or special assessments shall be imposed upon such Units or the Declarant's use of same.

Section 9. Non-Interference with Declarant. Declarant or its representatives, successors or assigns will undertake the work of constructing Units and completing the Common Elements. The completion of that work and the sale, rental and other disposal of Units is essential to the establishment and welfare of the Property as a residential community. As used in this Article and its subparagraphs, the words "its representatives, successors and assigns" specifically do not include purchasers of Units. In order that Declarant's work may be completed and the Community established as a fully occupied residential community as rapidly as possible, no Unit Owner shall do anything to interfere with, and nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its representatives, successors or assigns, or its contractors or subcontractors, from doing on any Lot owned by them whatever they determine to be necessary or advisable in connection with the completion of said work, including, without limitation, the alteration of its construction plans and designs as Declarant deems advisable in course of development;

(b) Prevent Declarant, its representatives, successors or assigns from erecting, constructing and maintaining on any Lot, or portion thereof, owned or controlled by Declarant, or its successors or assigns or its contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business or completing said work and establishing the Community as a residential community and disposing of the same in Units by sale, lease or otherwise;

(c) Prevent Declarant, its representatives, successors or assigns, or its contractors or subcontractors, from conducting on any Lot, or any portion thereof,

owned or controlled by Declarant, or its representatives, successors or assigns, their business of developing, subdividing, grading and constructing Units and other improvements in the Community as a residential community and of disposing of Units thereon by sale, lease or otherwise;

(d) Prevent Declarant, its representatives, successors or assigns, or their contractors or subcontractors, from maintaining such sign on any Lot, or controlled by any of them as may be necessary, including, without limitation, safety and lot identification signs in connection with the sale, lease or other marketing of Units in the Property; or

(e) Prevent Declarant, at any time prior to acquisition of title to a Unit by a Unit Owner, from granting any additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and marketing of the Community.

## ARTICLE IX

### RESALE

Section 1. Reference to Declaration. The deed or instrument transferring title to any Unit shall contain a provision incorporating by reference the Covenants, Easements and Restrictions set forth in this Declaration.

Section 2. Notification. The Contract Seller of a Unit shall notify the Board of Directors in writing as to his or her intent to sell the Unit so a Resale Certificate may be prepared.

Section 3. Estoppel Certificate. Within ten (10) days of the receipt of such written notification, the Board shall prepare a Resale Certificate which shall set forth

any assessments and charges due upon such Unit at time of conveyance and certify as to whether or not there are violations of the Governing Documents remaining on the Unit as of the date of preparation of such certificate. The certificate shall be mailed to the place designated by Seller. Outstanding assessments, if any, and a reasonable delinquency assessment to cover the cost of providing a Resale Certificate shall be transmitted directly to the Association by the closing attorney or title clerk.

## ARTICLE X

### COVENANT FOR ASSESSMENTS

Section 1. Purpose of Common and Special Assessments. The Common Assessments and Special Assessments levied by the Association shall be used exclusively to promote the common safety, benefit, and welfare of the Unit Owners, for the improvement and maintenance for the Common Elements, and the performance of the Common Maintenance Obligations. The Board shall establish one (1) or more separate Operating Accounts into which shall be deposited assessments paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. Disbursements from the Operating Account shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. Disbursements from the Operating Account shall be made by the Board for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all the Unit Owners.

Section 2. Creation of the Lien and Personal Obligation of Assessments.

Each owner of any Unit by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, as well as the Declarant who is still retaining ownership of completed Units (that is, Units for which a Certificate of Occupancy has been issued by the Township), is deemed to covenant and agree to pay to the Association such Annual, Special and Restoration Assessments as are established herein and paid in the manner hereinafter provided.

Notwithstanding the exemption provision for Declarant found in Section 13 of Article X, Declarant shall also be obligated to pay Assessments on Units in a building containing a group of Units where one of the Units within the building has been sold and settlement is concluded. The foregoing obligation of Declarant as to each Unit within the building shall end when a Unit is sold and settlement is concluded.

All such assessments, together with interest and reasonable costs of collection (including reasonable attorney's fees and costs) shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor of any unpaid assessments and/or charges without regard to the right of the grantee to recover from the grantor the amounts paid by the grantee for such assessments and/or charges. No owners of Assessable Units may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Facilities or Exclusive Use Area or abandonment of his Assessable Unit.

Section 3. Method of Assessment. All assessments shall be levied by the Association against Assessable Units and collected and disbursed by the Association.

The Board of Directors shall fix the amount of the assessments as provided hereinafter and set the date or dates that such assessments shall become due.

Section 4. Right of Assessment and Owner's Share of Common Expenses. Common Assessments provided for in this Article shall be assessed against all Unit Owners equally. The share of each Unit Owner shall be determined by taking the total amount of the Common Expenses and multiplying by a fraction, the numerator of which is the number one and the denominator of which is the total number of Units. Until such time as the denominator is ninety percent (90%) of the Units projected for the Community Property subject to this Declaration, it shall be assumed that the denominator is ninety percent (90%) of the Units projected for the land covered by this Declaration, and Declarant shall pay any shortfall between the actual expenses of the Association and the Common Assessment collected from Unit Owners other than the Declarant. All Common Assessment shall be collected on a monthly basis, or at such other times as the Board may provide.

Section 5. Basis of Common Assessment. The Board shall periodically (and in no event less than annually) determine the estimated Common Expenses for the ensuing period (of not more than one year) including any reserves it deems advisable, and the Common Elements and other Common Maintenance Expenses which are the responsibility of the Association and which are anticipated to require replacement, repair or major repair on a periodic basis. Each such assessment shall be payable in the time and manner as the Board may from time to time determine with respect to each.

Section 6. Date of Commencement of Common Assessment. The annual Common Assessment provided for herein for a specific Unit, shall commence with settlement on the sale of the Unit from Declarant to a Unit Owner. The Board shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal year, including deposits in and withdrawals from the Operating Account, and shall cause to be distributed a copy of each such statement to each Member, and to each first Mortgagee who has filed a written request for copies of the same with the Board. At least thirty (30) days prior to the beginning of each fiscal year, the Board shall prepare and distribute to the Membership of the Association, a written, itemized estimate (budget) of the expenses to be incurred by the Association during such year in performing its functions under this Declaration.

Section 7. Capital Expenses and Reserves. The Board shall establish a Capital Fund which shall be funded by the purchase and resale assessments (as applicable). The Board shall also establish an adequate Reserve Fund for major repair and replacement of those Common Elements which are anticipated to require replacement, repair or major repair on a periodic basis. The Reserve Fund shall be funded by the purchase and resale assessments (as applicable), the monthly payment established by the Board from time to time as a part of Common Expenses, and any Special Assessments levied and assessed from time to time by the Board. Each such assessment shall be payable in the time and manner as the Board may from time to time determine with respect to each. The Capital Fund and Reserve Fund shall be

maintained in accounts separate and apart from the Operating Account. **The Capital Fund may be eliminated by the Board following the period of Declarant Control.**

Section 8. Capital Contribution Upon Purchase and Resale. Every Unit Owner, at the time of such Unit Owner's purchase of the Unit, shall pay to the Association the sum of \$300.00 as a capital contribution. Upon the resale of the Unit and purchase by a subsequent Unit Owner, the purchasing Unit Owner shall pay the Association a capital contribution, if any, as then established by the Association, and as otherwise permitted under Section 5302(a)(12) of the Act. Each such fee shall be payable in the time and manner as determined from time to time by the Board.

Section 9. Assessment shall consist of:

(a) General Assessments:

The General Assessment shall be used exclusively to promote the safety and welfare of the Members and, in particular, to improve, maintain, and operate the Common Facilities, including reasonable funding of reserves for future repair and replacement. By a vote of a majority of the Directors, the Board shall fix the Annual General Assessment in an amount sufficient to meet the obligations imposed by this Declaration. In the event the Board fails to fix an assessment for any fiscal year, then each assessment established for the prior year shall automatically be continued until such time as the Board acts.

(b) Special Assessment:

The Association may levy a Special Assessment against an Assessable Unit. Said assessment is applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or

replacement of a capital improvement upon the Limited Common Facilities and Common Facilities, including fixtures and personal property related thereto. The Association shall collect any Special Assessment which has been levied.

(c) Restoration Assessment:

The Association may levy a restoration assessment upon any Unit whose owner fails to maintain such Unit. Restoration assessments shall be limited to the amount necessary to meet the costs of restoration and the cost of collection thereof.

(d) Delinquency Assessment:

The Association may levy a special assessment to be known as a Delinquency Assessment against any owner who demonstrates a chronic or deliberate disregard for any of the Rules, Regulations, Restrictions or Covenants affecting The Mews at Darlington Valley, including, but not limited to, the payment of regular assessments and the matters set forth in this document. Such Delinquency Assessments shall be levied only by two-third (2/3) vote of the Directors of the Association.

Section 10. Effect of Non-Payment of Assessments and Remedies of the Association. Any assessment installment not paid within fifteen (15) days after the due date shall be delinquent and bear interest from the due date at the rate of nine percent (9%) per annum. Thereupon the Association shall provide written Notice of such delinquency and may (i) declare the entire balance of such Annual or Special Assessment due and payable in full; (ii) charge a late fee in an amount to be set by the Board and entered into the Book of Resolutions; (iii) give Registered Notice to the owner that in the event payment of the accrued charges is not paid within thirty (30)

days from the date of such notice, then the Association may secure all legal remedies available in accordance with local law; however, any fees, charges, late charges, fines, interests and liens which may be levied by the Association for delinquent assessments shall be subordinate to the lien of the first mortgage; (iv) upon Registered Notice to the owner, suspend the right of such owner to vote until the assessment and accrued charges are paid in full. If the Association takes legal action against a Unit Owner because of a Unit Owners' failure to pay the Annual Assessment, the Association shall have the right to accelerate the Annual Assessment and, as part of the requested relief, obtain a judgment for an additional twelve (12) months of the Annual Assessment.

Section 11. Right of Assessment and Owner's Share of Common Expenses.

Common Assessments provided for in this Article shall be assessed against all Unit Owners equally. The share of each Unit Owner shall be determined by taking the total amount of the Common Expenses and multiplying by a fraction, the numerator of which is the number one and the denominator of which is the total number of Units. Until such time as the denominator is ninety percent (90%) of the Units projected for the Community Property subject to this Declaration, it shall be assumed that the denominator is ninety percent (90%) of the Units projected for the land covered by this Declaration, and Declarant shall pay any shortfall between the actual expenses of the Association and the Common Assessment collected from Unit Owners other than the Declarant. All Common Assessment shall be collected on a monthly basis, or at such other times as the Board may provide.

Section 12. Fees and Expenses. All expenses of the Board in connection with any actions or proceedings, including court costs and attorney's fees and other fees

and expenses and all damages, liquidated or otherwise, asserted by the Association in collecting Common Assessments, Special Assessments or Unit Assessments shall be added to and deemed a part of the Unit's share of the Common Expenses and the Association shall have a lien for all of the same, upon the defaulting Unit. Any and all rights and remedies shall be exercised any time and from time to time, cumulatively or otherwise.

Section 13. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: All properties to the extent of any easement or other interest therein dedicated and accepted by a public authority and devoted to public use; all Common Elements; all properties exempted from taxation by the State or County government upon the terms and to the extent of such legal exemption; all Declarant-owned property, except as provided in the first paragraph of Section 2, Article X.

## ARTICLE XI

### INSURANCE

Section 1. Coverage. Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, property insurance on the Common Elements insuring against fire and extended coverage perils and all other perils customarily covered by standard extended coverage endorsements in such amount as the Association may determine, but in no event less than One Hundred (100% percent of the current replacement cost of the insured property, exclusive of land, foundations

and other items normally excluded from property policies. The Association may also insure any other property, whether real or personal, owned by the Association, against the loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance.

Section 2. Disposition of Proceeds. The insurance coverage with respect to the Common Elements shall be written in the name of, and the proceeds thereof shall be payable to, the Association. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Common Assessment made by the Association. In the event of damage to or destruction of any part of the Common Elements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the cost of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Unit Owners to cover the additional costs of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Unit Owners.

Section 3. Liability Insurance to be Maintained by Association. Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain comprehensive general liability insurance coverage covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. The limits of such policies and other policy

terms shall be as determined by the Board, but in no event less than \$1,000,000 per occurrence, \$2,000,000 aggregate. Liability insurance shall include medical payments insurance.

Section 4. Additional Endorsements. All policies obtained pursuant to the provisions of Article XI shall:

- (i) provide that the Association or its authorized representatives shall be the sole adjuster of any losses;
- (ii) contain waivers of all rights of subrogation;
- (iii) provide that the coverage afforded to any insureds shall not be affected by the acts or omissions of any one or more other insured; and
- (iv) provide that such policy shall not be canceled or modified without thirty (30) days' prior written notice to all whose interests are covered thereby. Each policy shall designate that insurance proceeds for the loss shall be payable to the Association and not to any mortgagee, and shall otherwise comply with the provisions of Section 5312 of the Act.

Section 5. Other Insurance. The Association shall maintain workers' compensation insurance and employer's liability as required by law for any employees of the Association. The Association shall maintain directors and officers liability insurance, to the extent reasonably available.

Section 6. Fidelity Bonds. The Association may maintain blanket fidelity bonds for anyone who either handles or is responsible for funds held by or administered by the Association, whether or not said individual has received compensation for their

services. The blanket fidelity bond may be provided by the Manager as the Board may determine.

The bonds shall name the Association as the obligee and the premium shall be paid as a Common Expense by the Association. The Association may name any management agent that handles funds for the Association as an additional insured under its blanket fidelity bond. The fidelity bonds obtained shall cover the maximum funds that will be in custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage shall at least equal the sum of three (3) months' Assessment on all Units in the Community, plus the Association's Capital Reserve Fund. Said fidelity bond shall include a provision requiring thirty (30) days written notice to the Association and, if the Board so directs, to each holder of a mortgage on an individual Unit in the Community before the bond can be canceled or substantially modified for any reason.

Section 7. Waiver and Release. Subject to the provisions of this Article, each Unit Owner and the Board hereby waives and releases any and all claims which he or it may have against any other Unit Owner, the Association, the Board and Unit Owners thereof, the Declarant and its respective employees and agents, for damage to the Common Elements, the Units or to any personal property located in the Units or Common Elements, caused by fire or other casualty or any act or omission of any such party, to the extent that such damage is covered by property or casualty insurance. Such release and waiver shall be valid only if such release or waiver does not affect the right of the insured under the applicable insurance policy to recover thereunder. In no

event shall insurance obtained and maintained by the Association and by individual Unit Owners be the subject of any action for contribution..

Section 8. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration each owner covenants and agrees with all other owners and with the Association that in the event such Association does not carry blanket all-risk casualty insurance on the Lots and structures constructed thereon, as provided for in Section 3 of this Article, each individual owner shall carry such insurance. Each individual owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual Unit Owner shall proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed, the individual Unit Owner shall reconstruct the Unit in accordance with the original drawings and specifications, except to the extent that changes have been made in local building codes.

Section 9. Insurance Premiums. Each Unit Owner shall pay annually to the Association as part of their assessment such Unit Owner's pro-rata share of the insurance premiums covering that insurance protection required in this Article. Such pro-rata share shall be set forth in an annual notice to each Unit Owner and shall be payable within thirty (30) days from receipt of said notice. Failure of any Unit Owner to pay the pro-rata portion of such annual insurance premium shall be governed by the delinquency provisions regarding assessment collection as outlined in this Declaration.

Section 10. Named Insureds. Association and an insurance trustee acceptable to the Association shall be Named Insureds in all such policies; and losses, if any, shall

be adjusted with the Association but shall be payable to the insurance trustee who shall distribute the same to those whose interests are covered thereby as their respective interests may appear. "The Persons Insured" provision of the Liability Section of the policy shall include as an insured each individual Unit Owner, but only with respect to his/her liability arising out of the ownership, maintenance or repair of that portion of the premises which are not reserved for his/her exclusive use or occupancy. The Association, and if required, an insurance trustee acceptable to the Association, shall be named insured in all such policies.

## ARTICLE XII

### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Unit and which is placed on the dividing line between the Exclusive Use Areas of adjoining Units shall constitute a party wall and to the extent not inconsistent with the provisions of this paragraph, the general rules of law regarding party walls and liability for damage to the party wall due to negligence or willful acts or omissions shall apply thereto.

Section 2. Rights of Owners. The owners of contiguous Exclusive Use Areas who have a party wall shall both equally have the right to use such wall, provided that such use by one owner does not interfere with the use and enjoyment of same by the other owner.

Notwithstanding any provision herein, there shall be no impairment of the structural integrity of any party wall without the prior written consent of all owners of any

interest therein, whether ownership or interest is by easement or in fee, as well as the necessary approval from Middletown Township.

Section 3. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's heirs, successors or assigns in title.

Section 4. Disputes. In the event a dispute arises concerning a party wall, such dispute shall be submitted to the Board of Directors for resolution pursuant to the formal hearing process, as set forth in the Book of Resolutions.

Section 5. Easement. The owner of each Unit is hereby granted an exclusive easement on and over the Exclusive Use Area attached to the Owner's Unit and each and every Exclusive Use Area and Common Elements which is adjacent to such Exclusive Use Area for all building and roof overhangs, projections, fireplace walls, and other portions of the owner's building which extends or projects into, onto or over such adjacent Exclusive Use Area and/or Common Elements.

### ARTICLE XIII

#### ARCHITECTURAL REVIEW COMMITTEE

Section 1. Composition. The Architectural Review Committee shall be composed of three (3) or more members. Members shall be nominated by the Board and serve a one (1) year term.

Section 2. Powers and Duties. The Architectural Review Committee shall function in two (2) broad areas: to advise the Board of Directors as to regulation for external design, appearance, and location of the improved Exclusive Use Area and improvements thereon in such a manner as to preserve property values and maintain a

harmonious relationship among structures, natural vegetation and topography, and to monitor and enforce compliance with the provisions of the Governing Documents. In furtherance thereof, the Architectural Review Committee shall:

(1) Review applications of owners and of the Association for improvements or additions of the Exclusive Use Area and Units, according to procedures adopted by the Board.

(2) All such applications shall be made in writing and submitted to the Architectural Review Committee by Certified Mail, Return Receipt Requested. The Architectural Review Committee shall review applications and make recommendations to the Board of Directors. An approval of any request will not become effective until approved by a majority of the Board of Directors.

(3) In accordance with the By-Laws and Book of Resolutions, monitor Exclusive Use Area for compliance with architectural standards and approved plans for alteration.

(4) Propose architectural standards for adoption by the Board.

(5) Propose procedures for the exercise of its duties for adoption by the Board.

Section 3. Failure to Act. In the event the Board of Directors fails to approve, modify, or disapprove in writing, a correctly filed application within ninety (90) days, approval will be deemed denied.

Section 4. Prohibition of Review Fees. The Committee may not require that a fee be paid to the Association for the review work of the Committee.

Section 5. Compensation of Members. The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 6. Compliance with Township Ordinances. Notwithstanding anything to the contrary contained herein, any construction shall be subject to all rules, regulations and ordinances of the Township.

Section 7. Non-Liability of Committee Members. Neither the Committee nor any member thereof, nor its duly authorized Committee representative shall be liable to the Association, or to any Unit Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Committee or any such member or representative. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit of detriment which would result to the immediate time with or without cause.

#### ARTICLE XIV

#### EASEMENTS

Section 1. Utility Easements. There is hereby created an easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to, water, sewers, gas, telephone, electricity, television, or communication lines and systems. By virtue of this easement it shall be expressly permissible for the Declarant or the providing utility or service company to install and

maintain facilities and equipment on said Property, to excavate where needed and to affix and maintain wires, circuits and conduits on, in, and under the roofs and exterior walls of Units provided that such company restores disturbed areas to the condition in which there were found.

Notwithstanding anything to the contrary contained in this paragraph: (1) no sewers, electrical lines, water lines or other utility service lines or facilities for such utilities may be installed or relocated on said Property except as approved by the Declarant prior to the conveyance of the first Lot to an Owner, or by the Association or required by Middletown Township or Middletown Township Delaware County Sewer Authority or Philadelphia Suburban Water Company thereafter, and (2) it shall not be construed to apply to the relocation, installation, or removal of utility lines within a Unit which serve only that Unit. This easement shall in no way affect any other recorded easements on said Property.

Section 2. Declarant's Easement to Correct Drainage. For a period of two (2) years from the date of conveyance of each Lot, the Declarant reserves an easement and right on, over and under the ground within that Lot including its Exclusive Use Area, to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut out bushes, or shrubbery, make any gradings of the soil or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give timely notice of intent to take such action to all affected owners, unless in the opinion of the Declarant, an emergency exists which precludes such notice.

Section 3. Construction Easements and Right. Notwithstanding any provision of this Declaration or of any Supplementary Declaration, so long as the Declarant is engaged in Developing or improving any portion of the Property, Declarant and its agents shall have an easement of ingress, egress and use over any lands not conveyed to an owner for occupancy for (i) movement and storage of building materials and equipment; (ii) erection and maintenance of directional and promotional signs; and (iii) performance of sales activities, including maintenance of model Units. Said easement shall be subject to such rules as may be established by the Declarant to maintain reasonable standards of safety, cleanliness and general appearance of the property.

Section 4. Easement to Inspect and Correct Violations. There is hereby created an easement in favor of the Association for ingress and egress on any Exclusive Easement Area during reasonable hours to: (a) inspect such property for alleged violations of the Governing Documents, architectural standards and/or approved plans for alterations and improvements, provided the Unit Owner for which such an Exclusive Use Area is given five (5) days written notice of the purpose and time of such inspection, and (b) perform any corrections of any designated violations, as is required.

Section 5. Easement to Maintain Exclusive Use Area and Sidewalks. There is hereby created an easement in favor of the Association for ingress and egress on any Exclusive Use Area to maintain the landscaping in any Exclusive Use Area. Such right includes, but is not limited to, the right to remove shrubbery and bushes and to make any necessary gradings upon the land to assure proper drainage. The Association shall

have the right to perform lawn care, including the cutting or mowing of lawns and the right of snow removal.

Section 6. Easement for Governmental Personnel. A right of entry on any Exclusive Use Area is hereby granted to law enforcement officers, fire and rescue and local animal control personnel as needed to carry out their duties, including enforcement of emergency vehicle access zones.

Section 7. Building Easements. The easements and rights reserved herein expressly include the right to cut any trees, bushes, or shrubbery, make any gradings of the soil, excavations, or to take any other similar action as may be reasonably necessary in Declarant's opinion to construct any building or other improvement and to maintain reasonable standards of health, safety and appearance, provided any such action is in accordance with the final subdivision plan as approved by Middletown Township, or subsequent amendments thereto which have been duly approved by the governing body of the Middletown Township.

Nothing contained in this reservation of easement shall be considered to create obligation of the Declarant to provide or maintain any utility or service.

Section 8. Driveway Easements. As to each driveway shown on the Plan serving more than one (1) Assessable Unit, there is hereby created a permanent, irrevocable easement of ingress and egress for vehicular and pedestrian traffic over, on and upon the bed of said driveway as shown on the Plan for the use and benefit of the owners, occupiers and tenants (and guests and invitees thereof) of all the Assessable Units served by said driveway in common only with each other.

Section 9. General Easements. Declarant hereby grants, creates and declares the following non-exclusive, common, free and uninterrupted uses, rights, liberties, easements and privileges in, upon, through, over, under and across the Common Area for the benefit of Declarant's successors and assigns, the Association, its successors and assigns, all present and future owners, tenants, and occupants of the Assessable Units and their guests, invitees, servants and employees and all mortgagees holding mortgages affecting any portion or portions of the property, their successors and assigns:

(i) access to and ingress and egress to any from all portions of the Common Facilities;

(ii) right and enjoyment in and to the Common Facilities;

(iii) use and enjoyment of all footways, paths, sidewalks, access drives and parking areas located wheresoever on the Property and entrances and exits to streets and roads which are now or hereinafter may be located within the Common Elements, excepting Exclusive Use Areas, all of which are presently shown on the Plan; and

(iv) the use of any and all recreational and community facilities whether now existing or to be constructed or erected on the Common Elements. Except as provided herein no person shall have the right to use or enjoy any easement created herein; and none of the rights, privileges, or easements created herein may be used by the public at large.

Section 10. Recording Data for Easements. The recording data for recorded easements and licenses appurtenant to or included in the Community, or to which any portion of the Community may become subject to, is contained in Exhibit C hereto.

Section 11. Third Party Easements and Licenses to Affect the Community. Declarant herein reserves the rights accorded by §5205(15) of the Act to subject any portion of the Property to easements and/or licenses in favor of any real estate not included in the Community; or in favor of any person who is not a Unit Owner or occupant of a Unit in the Community. Any such easements and/or licenses which hereinafter may be granted shall be described in a separate grant duly recorded in the Office of the Recorder of Deeds of Delaware County, Pennsylvania. Declarant shall further amend this Declaration by providing a description of the easements and/or licenses so granted, and a description of the effect on the Association and Unit Owners of the grant of easements and/or licenses, including without limitation, any impact on the budget of the Association and affect on the Common Facilities of the Community.

Section 12. Scope of Easements. The easements and rights created in this Article shall apply to the entire Property, run with the land, are perpetual, and shall continue in full force and effect unless and until modified or terminated pursuant to the provisions of this Declaration.

## ARTICLE XV

### EMINENT DOMAIN

In the event of any partial or complete condemnation of any part of the Common Elements, or any Unit, or any part or parts thereof, the rights and obligations each of the involved parties shall be as provided in Section 5107 of the Act.

## ARTICLE XVI

### TERMINATION OF COMMUNITY

Section 1. Vote Necessary. The Community may be terminated only by the vote of eighty percent (80%) of all Unit Owners and with the prior written consent of the Township.

Section 2. Procedures. Upon a vote to terminate the Community, the winding up of the affairs of the Community shall be conducted as provided in Section 5220 of the Act.

## ARTICLE XVII

### BREACH OF DECLARATION AND REMEDIES

Section 1. Breach of Obligations under Governing Documents. Upon the breach by any Unit Owner or any person in possession of such Unit, of the obligations under this Declaration, the Bylaws, any rules and regulations adopted by the Association, or any covenants, conditions or restrictions in any deed for that Unit, the Association and/or any Unit Owner may exercise any one or more of the remedies contained in any of those documents, and any other remedies as permitted by law.

Section 2. Legal Proceedings and Judgments. Upon any breach as provided in Section 1 above, and during the continuation of same, any such breach may be enjoined, abated or remedied by appropriate legal proceedings, either at law or in equity, by any Unit Owner, by the Association or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include the amount of any delinquent payment, interest thereon, costs of collection, including attorney's fees, court costs and penalty charges.

Section 3. Nuisance and Abatement. The result of any breach as provided in Article XVII, Section 1, in whole or in part, is hereby declared to be and shall constitute a nuisance. Every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Unit Owner, by the Association or its successors-in-interest.

Section 4. Remedies Cumulative. The remedies herein provided in this Article shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

Section 5. No Waiver. The failure of the Association to enforce any of the covenants contained in this Declaration or in the By-Laws shall not constitute a waiver of the right to enforce the same thereafter.

Section 6. Effect on Mortgages. A breach as provided in Article XVII, Section 1 above shall not affect or impair the lien or charge or any bona fide Mortgage or deed of trust made in good faith and for value on any Lot or the Unit thereon, provided, however, that any subsequent Unit Owner of such property shall be bound by said covenants, whether such Unit Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

Section 7. Substitute Performance. The Association may, after fifteen (15) days prior written notice, without being liable to any Unit Owner, enter upon any Unit, for the purpose of enforcing by peaceful means the provisions of this Declaration or the other governing documents, or for the purpose of maintaining or repairing any such Unit if for any reason whatsoever the Unit Owner thereof fails to maintain or repair any such Unit as required by this Declaration. The cost of any such maintenance and repairs

incurred by the Association shall be an obligation of the Unit Owner, shall be a lien on the Unit, and may be collected as permitted herein for assessments and other charges.

## ARTICLE XVIII

### GENERAL PROVISIONS

Section 1. Binding Effect. The provisions of this Declaration shall, pursuant to their terms, inure to the benefit of, and bind, the Property, Declarant, Association, owners, members, all other persons, entities or property benefited or bound by the specific terms thereof and the respective heirs, administrators, executors, successors, and assigns of each of the above.

Section 2. Assigns and Successors of Declarant. The rights and obligations of Declarant contained herein, inure to and bind it in its capacity as Declarant of the Property. Therefore, these rights and obligations, shall not, unless specifically set forth herein (as, for example, the obligations and lien of Class A assessments) inure to the benefit of, or bind, successors in title to the Property, or any portion thereof, unless the document of conveyance thereof, or another duly recorded document executed by Declarant, wholly or partially assigns the obligations and/or benefits of Declarant in this Declaration to said successor in title.

Section 3. Right to Amend Declaration. Except as limited or as otherwise permitted by Section 5219 of the Act, this Declaration may be amended by the vote of the Unit Owners holding sixty-seven percent (67%) of the allocated votes in the Association; provided, the prior written consent of the Township shall be required for any amendment which effects the rights of the Township, which changes or terminates

the terms or conditions of any Township or governmental approval or permit, or affects the Common Elements.

Section 4. Declarant's Joinder for Specific Amendments. Except to the extent expressly permitted or required by other provisions of the Act, without the unanimous consent of all Unit Owners affected, no amendment may create or increase any Special Declarant Rights, alter the terms or provisions governing the completion or conveyance or lease of Common Facilities or increase the number of Units or change the boundaries of any Unit, the Common Expense liability or voting strength in the Association allocated to a Unit, or the uses to which any Unit is restricted. In addition, no Declaration provisions pursuant to which any Special Declarant Rights have been reserved to the Declarant shall be amended without the express written joinder of the Declarant in such amendment.

Section 5. Curative Amendments. If any amendment is necessary in the judgment of the Board to cure any ambiguity or to correct or supplement any provision of this Declaration or the Plats and Plans which is defective or inconsistent with any other provision hereof or thereof or with the Act, or to change, correct or supplement anything appearing or failing to appear in the Plats and Plans which is incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to the then current requirements of FNMA, FHLMC, VA, FHA, GNMA, or other similar government agency with respect to community projects, the Board may, at any time and from time to time, effect such amendment without the approval of the Unit Owners, upon receipt by the Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of the Act, together with a like

opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Plats and Plans. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgments by one or more officers of the Board.

Section 6. Enforcement. The Association, any Owner, occupant, or First Mortgagee, as their interests may appear, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. Failure to enforce any covenants or restrictions herein contained, shall in no event be deemed a waiver of the right to do so. Further, Middletown Township shall have all rights of enforcement as otherwise set forth, hereinabove, and further any and all rights which may now exist or may hereinafter be established by law, including, but not limited to, all rights provided to a municipality relating to maintenance of common open space as contained in Section 705.f of the Pennsylvania Municipalities Planning Code, Act 170 of 1988.

Section 7. Certain Rights of the Declarant. For such time as the Declarant shall own Units, its rights and interests shall not be prejudiced by any of the following actions unless it shall in writing join in such actions. There shall be no amendments to the Governing Documents which:

- (a) discriminate or tend to discriminate against its rights as owner;
- (b) change Article I Definitions in a manner which alters its rights or statutes;

(c) alter its rights with regard to annexation of additional properties;

(d) alter the character and rights of Membership or the rights of the Declarant as set forth in the Declaration;

(e) alter previously recorded or written agreements with public or quasi-public agencies as regards easements and rights of way except as specifically required herein;

(f) deny the right to convey Common Elements to the Association so long as such Common Elements lie within the land area represented in the Development Plan;

(g) alter the basis for assessments;

(h) alter the provisions of the Protective Covenants as set forth in Article IV;

(i) alter the Declarant's rights as they appear under this Article.

Section 8. Limitations. As long as the Declarant has an interest in developing the Property as defined in Article I hereof, the Association may not use its financial resources to defray any costs of opposing the development activities so long as they remain consistent with the general intent of the Development Plan. Nothing in this Section shall be construed to limit the rights of the members to act as individuals or in affiliation with other members or groups.

Section 9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions hereof, and they shall remain in full force and effect.

Section 10. Conflict. In the event of conflict among the Governing Documents, this Declaration shall control, then Supplementary Declarations, then the Articles of Incorporation of the Association (if applicable), then the By-Laws, then the Book of Resolutions; except that in all cases where the Governing Documents may be found to be in conflict with statute, the statute shall control.

Section 11. Interpretation. Unless the context otherwise requires the use herein, the singular shall include the plural and visa versa; the use of one gender shall include all genders; and, the use of the term "including" shall mean "including without limitation". The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing any substantive provision thereof.

Section 12. Township Indemnification. The Declarant shall indemnify, defend and hold harmless the Township from all claims brought by any individual or entity alleging liability on the part of the Township for personal injury or property damage due to the design, construction, operation or maintenance of the Common Elements and/or the Stormwater Management Facilities to be constructed on the Property. Upon transfer of the Common Elements and the Stormwater Management Facilities to the Association, the Association shall be substituted as the indemnitor. The Association shall carry insurance in a minimum amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, for purposes of this indemnification and to pay damages as a result of any claims hereunder. The Association shall provide an insurance certificate to the Township on an annual basis evidencing that the required insurance is in full force and effect.

Section 13. Fiscal Year. The fiscal year of the Association shall be on a calendar year basis.

IN WITNESS WHEREOF, the Declarant, Fortress Pennsylvania LLC, a Delaware Limited Liability Company, has caused these presents to be duly executed this 31 day of July, 2000.

**FORTRESS PENNSYLVANIA LLC**

By:

Raymond Jacobucci SUP

COMMONWEALTH OF PENNSYLVANIA:

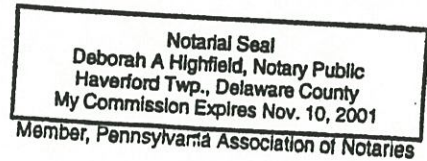
: SS

COUNTY OF DELAWARE

On this 31<sup>st</sup> day of July, 2000, before me, the undersigned officer, personally appeared <sup>Raymond Iacobucci</sup> who acknowledged himself to be the Senior Vice President of Fortress Pennsylvania LLC, a Delaware Limited Liability Company, and that he as such Senior Vice President being Authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the Limited Liability Company by himself as Senior Vice President.

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

Deborah A. Highfield  
Notary Public





**BRANDYWINE VALLEY ENGINEERS**

A DIVISION OF VOLLMER ASSOCIATES III

188 Pennell Road • Aston, PA 19014-3017 • Phone 610.494.5625 • Fax 610.494.1187

Longwood Corporate Center South • 421B McFadden Road • Kermel Square, PA 19348 • Phone 610.494.5625 • Fax 610.444.1698

May 1, 2000  
File No. 9960157

**Phase III**

ALL THAT CERTAIN parcel of land situate in the Township of Middletown, County of Delaware, State of Pennsylvania as shown on a phase III and IV record plan for Darlington Valley PRD prepared by Brandywine Valley Engineers, a division of Vollmer Associates, LLP., Civil Engineers and Land Surveyors dated July 30, 1999 and last revised April 11, 2000 the bounds of which being described as follows:

BEGINNING AT AN POINT in the centerline of Richard Land (50 feet wide) which point being located along same the following three (3) courses and distances from the point of intersection of said centerline with the centerline of Stephen Drive (50 feet wide): 1.) North 15 degrees 28 minutes 54 seconds West, 57.79 feet to a point of curve; 2.) along the arc of a circle curving to the left in a northwestwardly direction having a radius of 250.00 feet, an arc distance of 87.27 feet to a point of tangency; 3.) North 35 degrees 28 minutes 54 seconds West, 48.37 feet to the point of Beginning; THENCE from said Beginning Point and leaving said centerline of Richard Lane and along lines of Darlington Valley Open Space the following five (5) courses and distances: 1.) South 74 degrees 31 minutes 06 seconds West, 218.68 feet to a point; 2.) North 35 degrees 28 minutes 54 seconds West, 185.25 feet to a point; 3.) North 13 degrees 36 minutes 35 seconds East, 169.31 feet to a point; 4.) North 10 degrees 26 minutes 35 seconds East, 131.23 feet to a point; 5.) North 86 degrees 46 minutes 06 seconds East, 96.20 feet to a point in the aforementioned centerline of Richard Lane; THENCE along same the following three (3) courses and distances: 1.) South 03 degrees 13 minutes 54 seconds East, 100.00 feet to a point of curve; 2.) along the arc of a circle curving to the left in a southwardly direction having a radius of 290.00 feet, an arc distance of 166.23 feet to a point of tangency; 3.) South 35 degrees 28 minutes 54 seconds East, 171.55 feet to the first mentioned point and place of Beginning.

The above described being the gross area of Phase III on said plan and containing 1.732 acres more or less. Said area also being subject to certain 20 feet wide storm and sanitary sewer easements that traverse through same.

Y:\9960157\docs\vegals\phasc3.doc

EXHIBIT "A"



**BRANDYWINE VALLEY ENGINEERS**

A DIVISION OF VOLLMER ASSOCIATES LLP

188 Pennell Road • Aston, PA 19014-3012 • Phone 610.494.2636 • Fax 610.494.1187

Longwood Corporate Center South • 421B McPhalen Road • Kennett Square, PA 19343 • Phone 610.444.6322 • Fax 610.444.1698

May 1, 2000  
File No. 9960157

**Phase IV**

**ALL THAT CERTAIN** parcel of land situate in the Township of Middletown, County of Delaware, State of Pennsylvania as shown on a phase III and IV record plan for Darlington Valley PRD prepared by Brandywine Valley Engineers, a division of Vollmer Associates, LLP., Civil Engineers and Land Surveyors dated July 30, 1999 and last revised April 11, 2000 the bounds of which being described as follows:

**BEGINNING AT A POINT** in the centerline of Richard Lane (50 feet wide) which point being measured along same on the arc of a circle curving to the left in a southeastwardly direction having a radius of 250.00 feet, an arc distance of 160.86 feet from the southeasterly line of lands now or late Edward and Irene Smith extended at the terminus of existing Richard Lane; **THENCE** from said Beginning Point and still along said centerline of Richard Lane the following two (2) courses and distances: 1.) along the arc of a circle curving to the left in a southeastwardly direction having a radius of 250.00 feet, an arc distance of 122.75 feet to a point of tangency; 2.) North 85 degrees 11 minutes 20 seconds East, 256.69 feet to a point; **THENCE** leaving said centerline of Richard Lane and along lines of Darlington Valley Open Space the following two (2) courses and distances: 1.) South 23 degrees 42 minutes 30 seconds West, 411.99 feet to a point; 2.) South 60 degrees 11 minutes 20 seconds West, 168.78 feet to a point in the line of Community Open Space; **THENCE** extending along said line of Community Open Space the following fourteen (14) courses and distances: 1.) North 71 degrees 27 minutes 10 seconds West, 24.26 feet to a point of curve; 2.) along the arc of a circle curving to the left in a westwardly direction having a radius of 150.00 feet, an arc distance of 116.50 feet to a point of tangency; 3.) South 64 degrees 02 minutes 50 seconds West, 135.17 feet to a point; 4.) South 52 degrees 59 minutes 50 seconds West, 26.23 feet to a point; 5.) South 57 degrees 29 minutes 50 seconds West, 39.19 feet to a point; 6.) North 38 degrees 57 minutes 48 seconds West, 86.54 feet to a point; 7.) North 34 degrees 09 minutes 46 seconds West, 90.84 feet to a point; 8.) North 30 degrees 40 minutes 59 seconds West, 89.62 feet to a point; 9.) North 24 degrees 48 minutes 05 seconds West, 89.51 feet to a point; 10.) North 21 degrees 13 minutes 12 seconds West, 94.80 feet to a point; 11.) North 20 degrees 31 minutes 37 seconds West, 60.18 feet to a point; 12.) North 60 degrees 11 minutes 20 seconds East, 68.74 feet to a point; 13.) along the arc of a circle curving to the left in a southeastwardly direction having a radius of 150.00 feet, an arc distance of 235.62 feet to a point of tangency; 14.) North 60 degrees 11 minutes 20 seconds East, 262.80 feet to the first mentioned point and place of Beginning.

The above described being the gross area of Phase IV on said plan and containing 6.410 acres more or less... Said area also being subject to certain 20 feet wide storm and sanitary sewer easements and a certain 25 feet wide access easement that traverse through same.

43 TOWNHOUSE UNITS

A-1  
A-2  
A-3  
A-4  
A-5

F-1  
F-2  
F-3  
F-4  
F-5

B-1  
B-2  
B-3  
B-4  
B-5

G-1  
G-2  
G-3  
G-4  
G-5

C-1  
C-2  
C-3  
C-4  
C-5

J-1  
J-2  
J-3  
J-4

D-1  
D-2  
D-3  
D-4  
D-5

K-1  
K-2  
K-3  
K-4

E-1  
E-2  
E-3  
E-4  
E-5

EXHIBIT "B"

1. Rights and Privileges in Deed Book 1153, page 3.
2. Rights granted to public utility companies as in Deed Book F-13, page 193, 1311, page 181 and 2274, page 111.
3. Easement creating right-of-way in Volume 415, page 65.
4. Middletown Township, Delaware County, Pennsylvania Resolution 93-53, in Volume 1126, page 2258.
5. Development Agreement in Volume 1126, page 2276.
6. Sanitary Sewer Agreement in Volume 2017, page 0359.
7. Sewer Easement Agreement in Volume 1127, page 34.
8. Temporary Easement Agreement in Volume 1127, page 49.
9. Storm Water Easement Agreement in Volume 1127, page 64.
10. Declaration of Restrictions, Covenants and Easements of Darlington Valley in Volume 1133, page 784 and 1248, page 713, as amended by Amendment to Declaration, dated May 10, 2000, in Volume 2017, page 0238 and as amended by Amendment to Declaration, dated May 10, 2000, in Volume 2017, page 265.
11. Notes, conditions, easements and building set-back lines as shown on Plan of Amended Phase I Record Plan of Darlington Valley P.R.D. in Plan Volume 19, page 52.
12. Notes, conditions, easements and building set-back lines as shown on Plan of Darlington Valley, P.R.D. (Phase III and IV Record Plan), by Brandywine Valley Engineers, dated 7/30/1999, last revised 5/15/00, and recorded in Plan Book No. 21, page 14.

EXHIBIT "C"

STATE OF PENNSYLVANIA  
 COUNTY OF DELAWARE  
 ON THIS 17th DAY OF MAY 2002  
 I, DAVID DELLA PORTA, who being duly sworn according to law, acknowledge myself to be President of Darlington Valley Homeowners Association, Inc. and that as such officer, and authorized to do so, I do hereby certify that the plan hereon is the true and correct plan and represents the same to be in fact and according to law.  
 My Commission Expires Apr. 8, 2004

**ZONING**  
 ZONED RI-A  
 MIN. TRACT AREA = 70 ACRES  
 MAX. BUILDING HEIGHT = 35 FT.  
 MIN. OPEN SPACE = 50% OF TRACT  
 MIN. SINGLE FAMILY DETACHED DWELLINGS = 40% OF TOTAL UNITS  
 MIN. SINGLE FAMILY ATTACHED DWELLINGS = 10% OF TOTAL UNITS  
 MIN. BUFFER AREA TO ADJACENT ZONING = 100 FT.

**PHASE III (SINGLE FAMILY ATTACHED)**  
 MAX. BLDG. HEIGHT = 35 FT.  
 MIN. LOT AREA = 10,000 SQ. FT.  
 MIN. LOT WIDTH (STREET LINE) = 50 FT.  
 MIN. LOT WIDTH (BACK LINE) = 80 FT.  
 MAX. IMPERVIOUS COVERAGE = 50% OF LOT  
 MAX. BUILDING COVERAGE = 50% OF LOT  
 MIN. FRONT YARD = 40 FT.  
 MIN. REAR YARD = 30 FT. (25 FT. ADDR.)  
 MIN. SIDE YARD = 10 FT. (25 FT. ADDR.)

**PHASE IV (SINGLE FAMILY ATTACHED)**  
 MAX. BLDG. HEIGHT = 35 FT.  
 MAX. UNITS PER BUILDING = 8  
 MIN. SETBACK FROM STREET = 40 FT.  
 MIN. SETBACK FROM OTHER PROPERTY LINES = 150 FT. TO OTHER PROPERTY LINES  
 MIN. SETBACK FROM PARKING AREAS = 25 FT.  
 MIN. SETBACK FROM DRIVEWAYS = 100 FT.  
 MIN. SPACING BETWEEN BUILDINGS = 100 FT.  
 MIN. PARKING SPACES REQUIRED = 3 PER UNIT  
 MIN. FLOOR AREA = 1,200 SQ. FT.

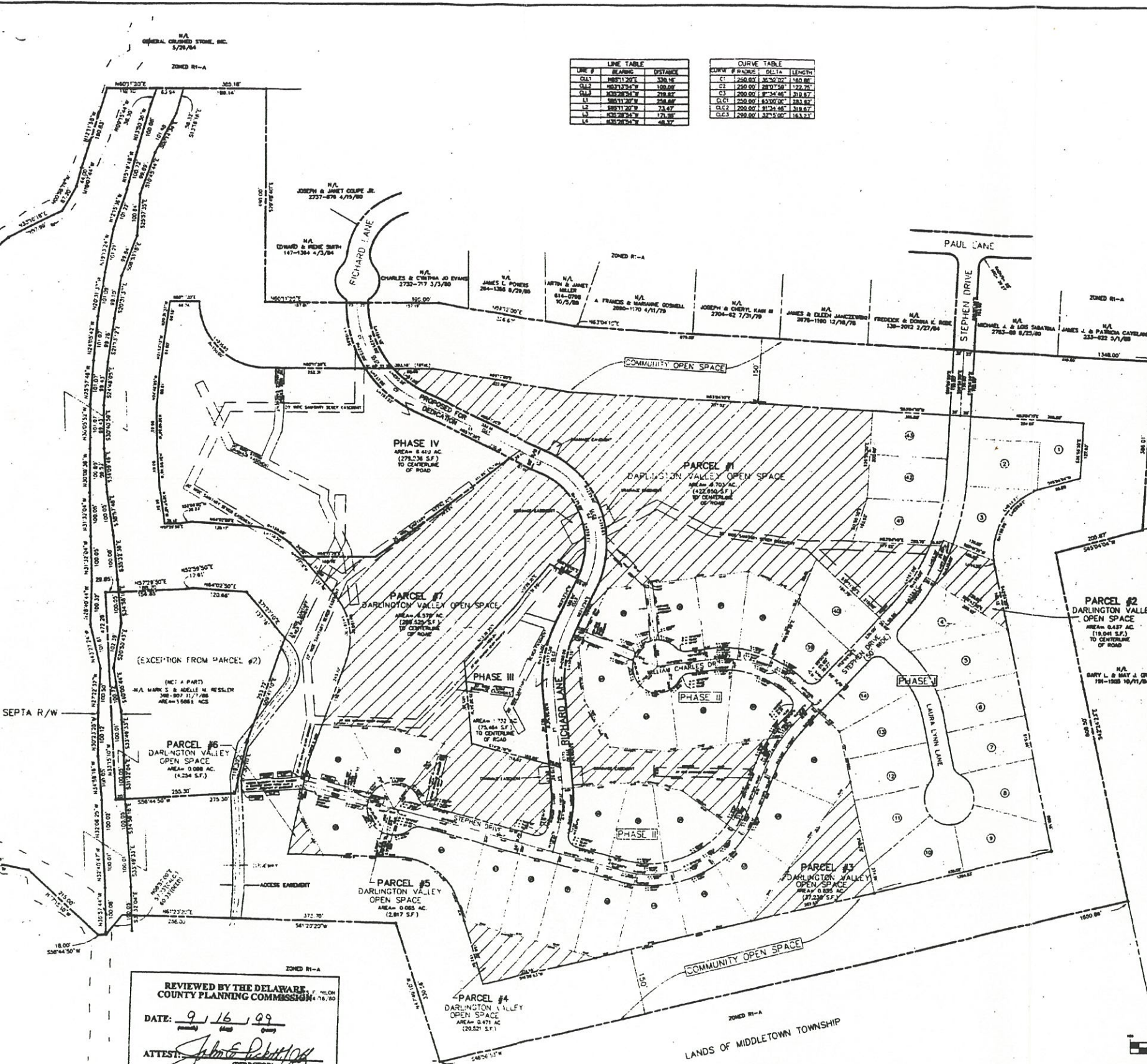
**NOTES**  
 THIS PLAN INCORPORATES THE FOLLOWING AGREEMENTS BY REFERENCE AND THE DEVELOPMENT SHOWN HEREON (PHASES I & II) IS UNDER AND SUBJECT TO ALL OF THE TERMS AND CONDITIONS OF THOSE AGREEMENTS WITH THE SAME FORCE AND EFFECT AS IF ALL OF THE TERMS AND CONDITIONS OF THOSE AGREEMENTS WERE SET FORTH HEREON AT LENGTH:

1. A DEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWNSHIP OF MIDDLETOWN AND FORENSIC PENNSYLVANIA, L.L.C., DATED THE 15th DAY OF MAY 2000, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.
2. AN IMPROVEMENT SECURITY AGREEMENT BY AND BETWEEN THE TOWNSHIP OF MIDDLETOWN AND FORENSIC PENNSYLVANIA, L.L.C., DATED THE 10th DAY OF MAY 2000, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.
3. A BUILDER'S EXTENSION AGREEMENT BETWEEN THE PHILADELPHIA SUBURBAN WATER COMPANY AND DARLINGTON VALLEY ASSOCIATES, L.P., DATED THE 15th DAY OF MAY 2000, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.
4. A SANITARY SEWER AGREEMENT BY AND BETWEEN MIDDLETOWN TOWNSHIP, DELAWARE COUNTY, SEWER AUTHORITY AND FORENSIC PENNSYLVANIA, L.L.C., DATED THE 10th DAY OF MAY 2000, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.
5. A DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS OF DARLINGTON VALLEY DATED THE 15th DAY OF MAY 2000, AS THE SAME MAY BE AMENDED FROM TIME TO TIME, AND THE BY-LAWS AND RULES AND REGULATIONS OF THE DARLINGTON VALLEY HOMEOWNERS ASSOCIATION, INC., AS EACH OF THE SAME MAY BE AMENDED FROM TIME TO TIME.
6. A DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS OF THE WENS AT DARLINGTON VALLEY DATED THE 15th DAY OF MAY 2000, AS THE SAME MAY BE AMENDED FROM TIME TO TIME, AND THE BY-LAWS AND RULES AND REGULATIONS OF THE WENS AT DARLINGTON VALLEY HOMEOWNERS ASSOCIATION AS EACH OF THE SAME MAY BE AMENDED FROM TIME TO TIME.

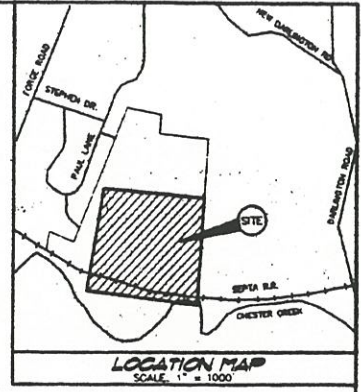
THIS PLAN IS ALSO UNDER AND SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN MIDDLETOWN TOWNSHIP RESOLUTION NO. 83-53, 83-82, 85-27, 85-57, 86-04, 89-04, 89-13, 89-28, 89-104, 2000-23, & 2000-25. THE CONDITIONS EXPRESSLY REFERRED TO IN THE TOWNSHIP'S MINUTES AND THOSE CONDITIONS, SPECIFICATIONS, REQUIREMENTS ETC. SET FORTH IN THE COMPLETE SET OF PLANS APPROVED BY THE TOWNSHIP. ALL OF THE ABOVE ARE BEING KEPT ON FILE IN MIDDLETOWN TOWNSHIP OFFICES LOCATED AT 27 NORTH PENNELL ROAD, P.O. BOX 157, LIMA, PA. 17037-0157.

THE CONVEYANCE OF EACH LOT (AND EACH OPEN SPACE PARCEL) SHOWN HEREON IS UNDER AND SUBJECT TO THE RIGHT AND/OR RESERVATION OF THE DEVELOPER, AS DEFINED IN THE DEVELOPMENT AGREEMENT REFERENCED ON THIS PLAN, WITHOUT THE APPROVAL OF ANY GRANTEE OF ANY LOT OR OPEN SPACE PARCEL, ANY MORTGAGE OR ANY OTHER PERSON OR ENTITY, TO CONVEY AND CONVEY THE ROADS AND STREETS SHOWN HEREON TO THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY, PENNSYLVANIA.

THE TOWNSHIP'S APPROVAL OF THIS PLAN DOES NOT AND SHALL NOT BE DEEMED TO CONSTITUTE A CERTIFICATION, WARRANTY, REPRESENTATION, APPROVAL, OR ANY OTHER ASSURANCE OR AGREEMENT WITH RESPECT TO THE LOCATION OF THE BOUNDARIES OF THE PROPERTY SHOWN ON THE PLAN, THE ACCURACY OF ANY SURVEY OF THE PROPERTY, THE LOCATION OF ANY EASEMENTS SHOWN ON THE PLAN OR THE OWNERSHIP OF ANY PROPERTY SHOWN ON THE PLAN. THE TOWNSHIP SHALL NOT BE RESPONSIBLE FOR ANY DISCREPANCIES OR DISPUTES WITH REGARD TO THE BOUNDARY OF THE PROPERTY, THE ACCURACY OF ANY SURVEY OF THE PROPERTY, THE LOCATION OF ANY EASEMENTS SHOWN ON THE PLAN OR THE OWNERSHIP OF ANY PROPERTY SHOWN ON THE PLAN.



| LINE TABLE |                     | CURVE TABLE |                   |
|------------|---------------------|-------------|-------------------|
| LINE #     | BEARING DISTANCE    | CURVE #     | BEARING DISTANCE  |
| CL1        | N89°11'20"W 330.15' | C1          | 250.00' R 115.20' |
| CL2        | N89°11'20"W 100.00' | C2          | 250.00' R 115.20' |
| CL3        | N89°11'20"W 219.87' | C3          | 250.00' R 115.20' |
| CL4        | N89°11'20"W 254.86' | CLC1        | 250.00' R 115.20' |
| CL5        | N89°11'20"W 73.67'  | CLC2        | 250.00' R 115.20' |
| CL6        | N89°11'20"W 173.95' | CLC3        | 250.00' R 115.20' |
| CL7        | N89°11'20"W 48.37'  |             |                   |

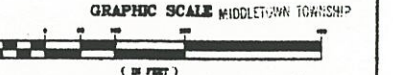


- NOTE:**
- 1.) IT IS THE INTENT OF THIS PLAN TO RECORD PHASES II & IV
  - 2.) FOR ADDITIONAL INFORMATION SEE FINAL P.R.D. DEVELOPMENT PLANS FOR DARLINGTON VALLEY PREPARED BY BRANDYWINE VALLEY ENGINEERS, INC. DATED 7/10/89, REV. 11/14/94 ETC.
  - 3.) THESE PLANS AMEND THE ORIGINAL APPROVED PLANS.

**SITE DATA:**

|                                   |                      |
|-----------------------------------|----------------------|
| TOTAL TRACT AREA                  | 100,982 ACS± (GROSS) |
| SEPTA RIGHT OF WAY                | 1,843 ACS±           |
| TOTAL TRACT AREA                  | 99,139 ACS± (NET)    |
| PHASE I & 2 AREA                  | 22,219 ACS±          |
| PHASES 3 & 4 AREA                 | 9,395 ACS± (GROSS)   |
| COMMUNITY OPEN SPACE AREA         | 53,111 ACS± (GROSS)  |
| COMMUNITY OPEN SPACE AREA         | 50,911 ACS± (NET)    |
| DARLINGTON VALLEY OPEN SPACE AREA | 16,594 ACS± (NET)    |
| DARLINGTON VALLEY OPEN SPACE AREA | 18,207 ACS± (GROSS)  |

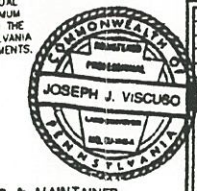
37-08-00632-02  
 5/25/00  
 9/14/02  
**EQUITABLE OWNER & DEVELOPER OF PHASES II & IV**  
 DARLINGTON VALLEY ASSOCIATES, L.P.  
 C/O DAVID DELLA PORTA  
 RADNOR BLDG. - 771 LANCASTER AVE.  
 YLANOVA, PA. 19088  
 (610) 520-3427  
 RECEIVED  
 MAY 17 2002



REVIEWED BY THE DELAWARE COUNTY PLANNING COMMISSION  
 DATE: 9/16/99  
 ATTEST: *John P. DeBartolo* (DIRECTOR)  
 DCPD NO.: 26193-72-P992-99

APPROVED THIS 17th DAY OF MAY 2002  
 BY THE ENGINEER OF THE TOWNSHIP OF MIDDLETOWN  
 ENGINEER: *Joseph J. Viscuso*

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED FROM AN ACTUAL FIELD SURVEY PERFORMED BY ME IN ACCORDANCE WITH THE MINIMUM STANDARDS OF PRACTICE FOR PROFESSIONAL LAND SURVEYORS IN THE COMMONWEALTH OF PENNSYLVANIA AS ADOPTED BY THE PENNSYLVANIA SOCIETY OF LAND SURVEYORS AND THAT ALL THE EXISTING MONUMENTS, PIPES, STAKES, ETC. ARE AS SHOWN.



- [Hatched Pattern] DARLINGTON VALLEY OPEN SPACE (CONVEYED TO & MAINTAINED BY DARLINGTON VALLEY HOMEOWNERS ASSOCIATION.)
- [White Box] COMMUNITY OPEN SPACE (DEDICATED TO MIDDLETOWN TOWNSHIP)

**PHASE III & IV RECORD PLAN FOR DARLINGTON VALLEY P.R.D.**

|  |       |
|--|-------|
| 4. BOUNDARY NOTES (OWNERS, DATES AND ADDITIONAL TERMS AND CONDITION RESOLUTIONS) | AS BY |
| 3. BOUNDARY LOT/PARCEL LINES TO CENTERLINE OF RICHARD LANE                       | W&M   |
| 2. BOUNDARY OWNER/DEVELOPER'S NAMES & CERTIFICATIONS                             | W&M   |
| 1. BOUNDARY TOWNSHIP REVIEW & CLIENT'S COMMENTS                                  | W&M   |

NO. DATE REVISION BY

BRANDYWINE VALLEY ENGINEERS  
 A DIVISION OF WILLIAMS ASSOCIATES LLP  
 CONSULTING ENGINEERS & LAND SURVEYORS  
 MAIN OFFICE: 180 PENNELL ROAD, ASTOR, PA. 19014-3012  
 451-B BARBERS ROAD, EDINBURG SQUARE, PA. 17042

EXHIBIT "D"