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DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Title

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RACINE COUNTY
REGISTER OF DEEDS
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LOT 1	004-04-22-36-060-001
LOT 2	004-04-22-36-060-002
LOT 3	004-04-22-36-060-003
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LOT 5	004-04-22-36-060-005
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LOT 8	004-04-22-36-060-008
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LOT 60	004-04-22-36-060-060
LOT 61	004-04-22-36-060-061
LOT 62	004-04-22-36-060-062
LOT 63	004-04-22-36-060-063

1.1 **Bio-Filtration Area(s)** means the area(s) of the Property designed or designated for stormwater management and water quality enhancement and designated as such herein or by Declarant which may include created wetlands, uplands and fringe areas that buffer natural resource areas from developed areas.

1.2 **Declarant** means Bielinski Development, Inc. in the role as the entity which declares and imposes these Environmental Covenants and Restrictions on the Property and or its assigns.

1.4 **Developer** means Bielinski Development, Inc. in its role as developer of the Auburn Hills Subdivision and or its assigns.

1.5 **Homeowners Association** means the Auburn Hills Homeowners Association, Inc.

1.6 **Improvements** means any and all of the following, regardless of whether permanent or temporary in nature or usage: buildings, outbuildings, sheds, exterior lighting or electric fixtures, antenna including dish receivers and towers, pools, pet kennels, houses or runs, screened or other type porches, patios or gazebos, fences, and Landscaping.

1.7 **Landscaping Plan** means the plan for planting, care and maintenance of vegetation, plantings, trees, shrubs and groundcover submitted by Owner for approval by the NRS Committee. The Landscaping Plan may include integration of Native Landscaping, as appropriate to the Lot.

1.8 **Landscaping** means the vegetation, plantings, trees, shrubs and groundcover on a Lot, and may, but is not required to include Native Landscaping.

1.9 **"Living with Nature" Handbook** means a handbook or set of documents provided to the Owner which describes how to perform environmentally sound land management, including Landscaping and Native Landscaping, in keeping with the General Purpose of this Declaration described in Section 2.1 hereof.

1.10 **Lot** means any platted lot or outlot shown on the recorded plat of the Property.

1.11 **NRS Committee** means the Natural Resources Stewardship Committee, as further described in Article 3. Its obligations with respect to each Lot, including Open Space Areas, are as follows:

(a) To review, approve and assure conformity with the Landscaping Plan; and

(b) To assure conformity with the Stewardship Plan.

1.12 **Native Landscaping** means plantings of indigenous trees, native grasses, shrubs, and herbaceous plants on a Lot using species from wetlands, prairies, savannahs, lakeshores, rivers and other natural resource systems.

DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS

For

AUBURN HILLS SUBDIVISION

THIS DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS (the "Environmental Deed Restrictions"), by Bielinski Development, Inc., a Wisconsin corporation ("Declarant"), dated as of the 26 day of March, 2003, sets forth the conditions, restrictions, easements, reservations and rights that shall apply to the lots (singularly the "Lot", collectively the "Lots") listed on the recorded plat for property owned by Declarant for purposes of the Auburn Hills Subdivision (as described in the legal description attached hereto as Exhibit A), in the Town of Caledonia, Racine County, Wisconsin.

WHEREAS, Declarant desires to create a residential conservation community called Auburn Hills with natural open space areas held in common for all residents, where residents appreciate and care for the natural environment, and where the unique natural, ecological, and scenic resources are maintained for the benefit of the Owners (as hereinafter defined) and the community; and

WHEREAS, Auburn Hills is subject to a conservation easement ("Conservation Easement"), held by the Town of Caledonia ("Town") and recorded in the office of the Racine County Register of Deeds, the purpose of which easement is to secure, in perpetuity, the protection of environmentally sensitive areas within Auburn Hills; and

WHEREAS, Declarant will prepare a uniform comprehensive plan to manage and protect the Open Space Areas, as herein defined;

NOW THEREFORE, Declarant hereby declares that the following conditions, restrictions, easements, reservations and rights which affect the Open Space Areas and each Lot on the Property are necessary to protect the value and desirability of each Owner's property and the Subdivision, and to promote environmentally sound living practices; and further declares that such conditions, restrictions, easements, reservations and rights as set forth in this Declaration shall apply to the Property as stated herein and shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the Property or any portion thereof; all as further set forth below:

ARTICLE 1

DEFINITIONS

1.13 **Nature Preserve(s)** means such area(s) of the Property as may be designated herein or by Declarant based on a determination that the ecological and natural resource features are appropriate for protection, restoration, and monitoring.

1.14 **Open Space Area(s)** means the Bio-Filtration Area(s), Nature Preserve(s) and Recreational Trail Area(s), individually or together, as defined herein. These areas shall be established by Declarant, initially provided for and maintained by Declarant, and subsequently provided for and maintained by the Open Space Areas Steward, its successor or assignee as set forth in Sections 5.4 and 5.5.

1.15 **Open Space Areas Account** means the account established by the Open Space Areas Steward to receive annual assessments, as described in Section 5.5, to be used by the Open Space Areas Steward, its successor or assignee: (i) for the restoration, management and monitoring of the ecology and natural resources in the Open Space Areas, (ii) to retain a qualified ecologist to advise and assist the NRS Committee as specified in Section 3.2., and to prepare the annual compliance assessment required by the Conservation Easement, and (iii) to pay the annual land trust management fee required by the Conservation Easement.

1.16 **Open Space Areas Steward,** or its successor or assignee, means the entity designated by Declarant to assure restoration, management and monitoring of the ecology and natural resources, in conformity with the Stewardship Plan, of the Open Space Areas of this Subdivision. Such entity shall be either one of the following: (i) governmental entity, or (ii) a nonprofit organization that is exempt from tax under Internal Revenue Code Section 501(c)(3) and that is a "qualified organization" to hold a conservation easement pursuant to Internal Revenue Code Section 170(h)(3).

1.17 **Owner** means the person or persons, including any business organization, having the power to convey the fee simple title or land contract vendee's interest to a given Lot.

1.18 **Property** means the entire property owned by the Developer for purposes of this Subdivision, regardless of whether it is platted or unplatted, as described in the legal description attached hereto as Exhibit A.

1.19 **Proposed Landscaping Plan** means a Landscaping Plan proposed by a Lot Owner which alters the existing Landscaping Plan for such lot.

1.20 **Recreational Trail Area(s)** means pedestrian and/or bicycle trails on the Property as may be designated herein or by Declarant, and which may be established as either private or public. Pedestrian trails and bicycle trails may be managed according to different management plans appropriate to the surface material used and the adjacent vegetation.

1.21 **Stewardship Plan** means the plan created by Declarant which guides the restoration, management and monitoring of the ecology and natural resources in the Subdivision.

1.22 **Subdivision** means the Property and Improvements thereon, whether developed in a single or two or more phases, all of which are intended to be subject to this Declaration upon the platting thereof consistent with the provisions of Wis. Stat. Chapter 236.

ARTICLE 2

GENERAL PROVISIONS

2.1 **General Purpose.** The express purpose of this Declaration is to assure that the Subdivision will become and remain an attractive community in which the health, integrity and natural beauty of the natural resources and ecological system are protected and enhanced to the benefit of the Subdivision, the Owners, and members of the general public in the surrounding community, and to effectuate and ensure continued compliance with the terms and conditions of the Conservation Easement. This Declaration is made to ensure that the Landscaping and Native Landscaping within the Subdivision, on the Lots and in Open Space Areas, are consistent with that purpose.

2.2 **Use Restrictions.** Each Lot and any Improvements located thereon shall be used exclusively for single-family residential purposes in a manner consistent with the General Purpose of this Declaration.

2.3 **Phased Development.** The Subdivision may be developed in one or more phases, each of which shall be subject to the terms and conditions of this Declaration. In the event the entire Property is not subject to a single plat of subdivision, when the Developer records the plat of subdivision for a subsequent phase or phases the Developer shall specify on that plat that it is subject to this Declaration. Restoration and management for purposes of protecting and enhancing the natural resources and ecology of the Property may be initiated and completed on a schedule which is different from the schedule for development of the Lots.

ARTICLE 3

NATURAL RESOURCES STEWARDSHIP COMMITTEE

3.1 **Committee Composition and Selection.** The Natural Resources Stewardship Committee (NRS Committee) shall be composed of not less than three (3) members. During the time that Developer continues to own any Lots in the Subdivision and the two years immediately following the date of the sale by Developer of the last Lot in the Subdivision the NRS Committee shall consist of five (5) members and the Developer shall appoint all NRS Committee members. Two years after the sale by Developer of the last Lot in the Subdivision owned by Developer, all NRS Committee members except for two (2) members designated by the Developer ("Developer Members") shall tender their resignations, provided that their successors have been designated in accordance with this Section 3.1. The Developer Members shall remain on the NRS Committee and the Developer shall continue to appoint and designate the Developer Members for as long as Developer desires in its sole discretion or for as long as this Declaration

is in effect. Upon the resignations of the non-Developer Members, the Open Space Areas Steward shall appoint no more than two (2) and no less than one (1) NRS Committee members to the NRS Committee. Vacancies for the non-Developer Member positions and Developer Members, when vacated by the Developer and for which Developer has notified the Open Space Steward in writing that Developer desires not to designate any further Developer Members, shall be filled by the Open Space Areas Steward. NRS Committee members need not be but may be Owners.

The NRS Committee members initially appointed by Developer are:

a. Paul Bielinski
b. Joseph Harvey
c. Robert G. Brownell
d. Brian Carney
e. Steve Apfelbaum

3.2 **NRS Committee Charge and Authority.** The charge of the NRS Committee is to a) approve Landscaping Plans for all Lots, or portions thereof which are within 50 feet of any specific Open Space Area, and the Landscaping Plans for the Open Space Areas in general, subject to the restrictions embodied in the Conservation Easement; b) monitor and enforce conformity with the Stewardship Plan on all Lots, including Open Space Areas; and c) monitor and enforce conformity with the General Purposes of this Declaration and the Conservation Easement. The NRS Committee is authorized to work with a qualified ecologist retained by the Open Space Areas Steward, its successor or assignee, to be paid from the Open Space Areas Account, to advise and assist the NRS Committee in carrying out its obligations.

3.3 **Procedure for NRS Committee Review and Approval.**

(a) An Owner desiring to implement or significantly alter a Landscaping Plan upon a Lot (the "Proposed Landscaping Plan"), or portions thereof which are within 50 feet of any specific Open Space Area or upon the Open Space Areas in general shall deliver the Proposed Landscaping Plan, as described in Section 3.4 below, to the NRS Committee for its consideration.

(b) The NRS Committee shall inform the Owner in writing when the Proposed Landscaping Plan submittal is deemed complete. Within thirty (30) days thereafter, the NRS Committee shall review the Proposed Landscaping Plan, approve, conditionally approve, or reject it, and notify the Owner in writing of the decision. If the NRS Committee does not so notify the Owner within such thirty (30) day period, the Proposed Landscaping Plan shall be deemed approved. In no circumstances, however, shall any Proposed Landscaping Plan that conflicts with the Conservation Easement be allowed.

(c) In carrying out its obligations, the NRS Committee may establish criteria to allow alterations to an approved Landscaping Plan to be implemented without further NRS approval.

3.4 **Proposed Landscaping Plan Submittal to NRS Committee.**

(a) The Proposed Landscaping Plan submitted to the NRS Committee shall include the following information: (1) a Landscaping Plan, or proposed alterations to an approved Landscaping Plan, showing proposed plantings, restoration and maintenance plans; and (2) such other relevant plans, specifications, information or detail which the NRS Committee may reasonably request.

(b) In addition, any Proposed Landscaping Plan related to any Lot which abuts the Bio-Filtration Area or Nature Preserve shall show how the Landscaping and/or Native Landscaping will harmonize with the habitat of that Open Space Area, and shall include means to minimize any adverse impact on and to support ecological and natural resources stewardship of the habitat of that Open Space Area.

(c) In addition, any Proposed Landscaping Plan related to any Lot which requires special grading, as shown on the master grading plan of the Town of Caledonia on file in the Town engineer's office or as designated by the Developer, shall incorporate such special requirements.

3.5 **Standards of Review.** The NRS Committee shall review the Proposed Landscaping Plan for conformity with the elements of the Stewardship Plan applicable to Lots, or portions thereof which are within 50 feet of any specific Open Space Area, the Open Space Areas in general and the requirements of this Declaration and the Conservation Easement. The NRS Committee may approve or conditionally approve the Proposed Landscaping Plan; it may also reject it if a majority of the NRS Committee members, as advised and assisted by any retained professional ecologist, determine it (a) does not conform to the Stewardship Plan; or (b) is otherwise not in conformity with this Declaration or the Conservation Easement.

3.6 **Fees.** The Committee, by majority vote, may from time to time adopt or revise a fee schedule that is in addition to any annual fee that is assessed against each lot pursuant to Section 5.5. Such additional fee shall be designed to defray the committee's out-of-pocket costs incurred in connection with its review of Proposed Landscaping Plans.

ARTICLE 4

PROTECTION AND USE OF OPEN SPACE AREAS

4.1 **Grant of Easements for Use and Enjoyment of Open Space Areas.** Declarant grants to all Owners easements for the use and enjoyment in, to, over, across and upon the Open Space Areas, subject to the restrictions provided in this Declaration and the Conservation Easement, and provided no use shall be made of the Open Space Areas which is inconsistent with the General Purposes of this Declaration and the Conservation Easement. Such inconsistent use includes but is not limited to mowing grass, disposing of animal wastes, removing planting or altering vegetation, applying chemicals, or disposing of grass clippings.

4.2 **Limitation on Liability for Open Space Areas.** Use of any Open Space Area by Owner or Owner's invitee, guest, tenant, or agent, or by any other person shall be at the risk of the person, and Declarant, its successors or assigns shall not be responsible for any injury, loss or damages, or any claim related to or arising therefrom. Owner agrees to indemnify and hold harmless Declarant, Developer, the Open Space Areas Steward, the Homeowners Association, the Town, and their successors or assigns for any injury, loss or damage relating to or arising from the use of any Open Space Area(s) by an Owner or an invitee, guest, tenant, or agent of Owner.

4.3 **Use of Open Space Areas by Schools to Teach Environmental Stewardship.** Open Space Areas may be used by schools or other educational groups ("Educational Group"). An Educational Group must provide the NRS Committee with a written request for use at least thirty (30) days prior to the requested date of use. Such written request shall state the time, date and reason for requesting such use and shall include in writing, satisfactory evidence of insurance. Further, any Educational Group shall agree to indemnify and hold harmless Declarant, Developer, the Open Space Areas Steward, Homeowners Association, the Town, and their successors and assigns, for any and all injury, loss or damage relating to or arising from use of any Open Space Area(s). Declarant, Developer, the Open Space Area Steward, Homeowners Association, and the Town (either singularly or collectively) reserve the right to refuse admission to any such Educational Group if the use by such Educational Group would be detrimental to the Open Space Areas or inconsistent with the General Purpose of this Declaration or the Conservation Easement.

4.4 **Recreational Trail Area.** Declarant shall use its best efforts to connect the public Recreational Trail Area to any other trails in the vicinity of the Property to allow and provide for greater access to and enjoyment by the Owners.

4.5 **Use of Recreational Vehicles Prohibited in Open Space Areas.** No snowmobile, all terrain vehicle (ATV), or similar motorized recreational vehicle may be operated on any Open Space Area, except to the extent the use of any such vehicle is required for maintenance or for the transportation of the physically disabled.

4.6 **Commercial and Industrial Activity Prohibited in Open Space Areas.** No commercial or industrial activity may be undertaken on any Open Space Area, nor shall any right of passage across or upon the Property be allowed or granted in conjunction with authorized commercial or industrial activity which could reasonably be expected to interfere in any manner with any Open Space Area(s) as contemplated herein. Use of the public Recreational Trail Area to connect to other public trails is excluded from this prohibition. Nothing herein prohibits development of a community garden(s).

4.7 **Drawdown or Pumping of Water.** No Owner may draw water from or pump water into any Open Space Area.

4.8 **Grades and Drainage.** Declarant reserves the exclusive right to establish grades and slopes, drainage easements and retention ponds on the Property and to establish the grade for any dwellings erected or placed on the Property. No portion of any Lot shall be filled, graded or

regraded without the written consent of Declarant. No Owner may alter the grade or slope of any Lot or change the direction of, obstruct or retard flow of surface water drainage, dig a pond (except for rain gardens to intercept sump pump and gutter runoff), or interfere in any way with the established drainage pattern within the Property unless adequate provision is made for proper drainage and such alteration is first approved in writing by the Declarant until the last Lot owned by Declarant is sold, and thereafter by the NRS Committee.

4.9 **Use by Declarant, Town.** Declarant reserves the right to access and enter upon the Open Space Areas at all reasonable times for purposes including, but not limited to, exhibiting and demonstrating the Open Space Areas. The Town further reserves the right, under the Conservation Easement, to enter upon the Open Space Areas, at such reasonable times as is necessary, in order to monitor compliance and otherwise enforce the terms of the Conservation Easement.

ARTICLE 5

MAINTENANCE OF LOTS AND OPEN SPACE AREAS

5.1 **Maintenance of Lots.** (a) Each Lot shall be maintained by Owner at Owner's sole expense. All Landscaping and Native Landscaping shall be kept in good repair and clean condition, including without limitation, the mowing of lawns, trimming of plants, care for Landscaping and Native Landscaping, repainting and repair of structures, removal of snow and ice from drive and walk areas, repair and/or replacement of drive and walk surfaces, and such other measures necessary to maintain a clean and orderly environment within the Subdivision in accordance with the General Purpose of this Declaration. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on a Lot, except in sanitary containers and with no undue accumulation. If any public sidewalk is extended through the Subdivision, each Owner shall at its own expense keep the portion of any such sidewalk which is adjacent to the Owner's Lot free of snow and ice.

(b) Following reasonable notice to the Owner, duly authorized representatives of the NRS shall have the right to enter an Owner's Lot and take such actions as are necessary to assure compliance with the provisions of this Section 5.1(a) at the Owner's expense. Such right of action by the NRS is separate and independent from, and in addition to, the rights of enforcement set forth in Section 6.2.

5.2 **"Living with Nature" Handbook.** The "Living with Nature" Handbook shall be provided to each Owner to assist in understanding and implementing opportunities for environmentally sound management of each Lot.

5.3 **Minimization of Fertilizers, Pesticides and Chemicals.** Each Owner shall minimize the use of fertilizers, pesticides, de-icing salts and other chemicals on its Lot in order to avoid or minimize any damage which could be done to Native Landscaping, Landscaping, Open Space Areas, wetlands, streams and other natural resources. Information on alternatives will be included in the "Living with Nature" Handbook provided to each Owner.

5.4 **Maintenance of Open Space Areas.** The Open Space Areas shall be maintained by a qualified professional ecological firm or individual hired by Declarant or the Open Space Areas Steward, its successor or assignee (the "Open Space Areas Maintenance Firm"). The contract with the Open Space Areas Maintenance Firm for such services shall run until two years from the date when legal title to the last Lot owned by Developer is transferred by Developer. From that time on, the Open Space Areas Steward, its successor or assignee, shall be responsible for the maintenance of the Open Space Areas and shall retain a qualified professional ecological firm or individual to continue to maintain, manage, monitor, and enhance the Open Space Areas.

5.5 **Open Space Areas Assessment.** An annual fee (collectively, hereinafter referred to as the "Annual Fee") shall be assessed against each Lot to pay for the perpetual restoration, maintenance and monitoring of the Open Space Areas, and to pay the land trust management fee required by the Conservation Easement.. The Annual Fee shall be collected by the Homeowners Association and within ten (10) business days, deposited in the Open Space Areas Account established by the Open Space Areas Steward, its successor or assignee for this purpose. The Annual Fee shall initially be assessed by Declarant according to a formula to be determined for the Subdivision, and subsequently by the Bielinski Conservation Community Land Foundation, Inc. (the "Foundation") or the Homeowners Association. If the Annual Fee is not paid by an Owner as required, it shall become a lien against the Property and collected pursuant to the Wisconsin Statutes. Any Annual Fee collected pursuant to this Section 5.5 shall be used by the Open Space Areas Steward as provided under Section 1.15.

ARTICLE 6

MISCELLANEOUS

6.1 **Term and Amendment.** This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the lands described on Exhibit A forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration have been sold by Developer, subject to Developer's reserved rights this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of at least seventy percent (70%) of the Lots subject to this Declaration, one of which Owners must be Developer. After all Lots subject to this Declaration have been sold by Developer, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at least seventy-five percent (75%) of the Lots subject hereto. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Developer shall have the right to assign, by written assignment recorded in the office of the Register of Deeds for Racine County, Wisconsin, any and all rights specifically reserved to Developer under this Declaration.

6.2 **Enforcement.**

(a) Except as specifically provided in Section 6.2(b) or elsewhere in this Declaration, or in the applicable terms of the Conservation Easement, the NRS Committee shall have the sole right to enforce this Declaration or any NRS Committee order with respect to any Lot, including Open Space Areas, by proceeding in a court of competent jurisdiction against any person or

persons to obtain such relief as is deemed appropriate; such relief may include, without limitation, an injunction against any noncompliant Landscaping and the requirement that the Owner remedy same at Owner's sole expense, recovery of damages, or both. In the event of an alleged violation of the terms of this Declaration or any NRS Committee order, the NRS Committee shall give the Owner written notice of the alleged violation and thirty (30) days in which to cure such violation to the satisfaction of the NRS Committee. In the event the Owner fails to cure, or in the event of alleged violations or other matters not susceptible to cure in such time period, the NRS Committee may initiate appropriate legal action. If damages are awarded by the court, they shall be distributed as follows: first, to pay the costs of the enforcement action, including attorneys fees; second, to the Owner of any Lot found to be uniquely damaged by the violation to remedy or reimburse the Owner for that damage; and third, to the Open Space Areas Account.

(b) Any Owner aggrieved by an occurrence on another Lot, excluding Open Space Areas, which is alleged to violate this Declaration may file a written petition requesting the NRS Committee to redress such alleged violation. From the date of filing of such petition with the NRS Committee, the NRS Committee shall have thirty (30) days in which to take the action it deems appropriate. Thereafter, in the event the NRS Committee denies the petition or otherwise fails to act thereon to the satisfaction of the petitioner, the petitioner may enforce the terms of this Declaration by proceeding in a court of competent jurisdiction to obtain such relief as is deemed appropriate, which relief may include, without limitation, an injunction against such alleged violation, recovery of damages, or both.

(c) Each remedy set forth in this Section 6.2 shall be in addition to all other rights and remedies available at law or equity. The election of one remedy by the NRS Committee shall not constitute the waiver of any other, nor shall any forbearance or failure by the NRS Committee to exercise any right or remedy for any alleged violation be deemed a waiver of such right or remedy, unless a written waiver is issued by the NRS Committee.

6.3 **Acceptance.** By acceptance of a deed to a Lot within the Property, each Owner shall be deemed to approve and consent to be bound by this Declaration and the Conservation Easement, and all terms, conditions and covenants contained herein.

6.4 **Severability.** Invalidation of any one provision of this Declaration by judgment or order of a court of competent jurisdiction shall not affect any other provision of this Declaration, and all other provisions shall remain in full force and effect.

6.5 **Nonforfeiture.** A violation of any of the terms, conditions or covenants of this Declaration shall not result in a forfeiture of or reversion of title to any Lot in the Subdivision.

6.6 **Developer's Reserved Rights.** Developer hereby reserves the right, but is under no obligation to, establish one or more portions of the Property as Bio-Filtration Area(s), Nature Preserve(s), or Recreational Trail Area(s). At such time as chosen by Developer, title to any such Bio-Filtration Area(s), Nature Preserve(s), or Recreational Trail Area(s) (Open Space Areas) shall be conveyed to the Open Space Areas Steward, to hold and to administer the same as set forth in this Declaration and provided in Sections 5.4 and 5.5.

6.7 **Right and Duties of Declarant.** At such time as chosen by Declarant, all of Declarant's rights, duties, obligations and responsibilities hereunder may be assigned and transferred by Declarant to the Foundation, and, subsequently, theHomeowners Association, each of which shall then assume such rights, duties, obligations and responsibilities.

6.8 **Disclaimer.** Notwithstanding any provision of this Declaration, Developer shall be under no obligation to develop or plat any portion of lands described on Exhibit A which is not platted as of the date of the recording of this Declaration. Developer hereby reserves the right to remove from the provisions of this Declaration any such unplatted lands described on Exhibit A by recording an instrument in the office of the Register of Deeds for Racine County, Wisconsin, describing the lands so removed.

6.9 **Governing Law.** This Declaration shall be governed by the laws of the State of Wisconsin.

[signature page follows]

Executed at Waukesha, Wisconsin, on the 26 day of March, 2003.

BIELINSKI DEVELOPMENT, INC.

By: _____
Frank Bielinski, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 26 day of March, 2003, the above named Frank Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

JESSICA MARTIN NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My commission 2/12/06.

This instrument was drafted by:
Michael S. Green, Esq.
Michael Best & Friedrich LLP
One South Pinckney Street
Madison, Wisconsin 53701
3/19/2003

770272.042

Exhibit A
Legal Description

AUBURN HILLS BEING A PART OF THE SW ¼ OF THE NW ¼ AND THE SW ¼ AND NW ¼ OF THE SW ¼ OF SECTION 36, IN T.4N., R.22E., TOWN OF CALEDONIA, RACINE COUNTY, WISCONSIN

LOT 64	004-04-22-36-060-064
LOT 65	004-04-22-36-060-065
LOT 66	004-04-22-36-060-066
LOT 67	004-04-22-36-060-067
LOT 68	004-04-22-36-060-068
LOT 69	004-04-22-36-060-069
LOT 70	004-04-22-36-060-070
LOT 71	004-04-22-36-060-071
LOT 72	004-04-22-36-060-072
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OUT LOT 3	004-04-22-36-060-116
OUT LOT 4	004-04-22-36-060-117
OUT LOT 5	004-04-22-36-060-118
OUT LOT 6	004-04-22-36-060-119
OUT LOT 7	004-04-22-36-060-120

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DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Number

Document Title

MARK LADD
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $53.00

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Recording Area

Name and Return Address:

Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 300
Milwaukee, Wisconsin 53202

Tax Parcel No.

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FROM PART OF 004-04-22-36-060-000

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LOT 62	004-04-22-36-060-062		
LOT 63	004-04-22-36-060-063		

DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS

For

AUBURN HILLS SUBDIVISION

0002035

THIS DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS (the "Environmental Deed Restrictions"), by Bielinski Development, Inc., a Wisconsin corporation ("Declarant"), dated as of the 26 day of March, 2003, sets forth the conditions, restrictions, easements, reservations and rights that shall apply to the lots (singularly the "Lot", collectively the "Lots") listed on the recorded plat for property owned by Declarant for purposes of the Auburn Hills Subdivision (as described in the legal description attached hereto as Exhibit A), in the Town of Caledonia, Racine County, Wisconsin.

WHEREAS, Declarant desires to create a residential conservation community called Auburn Hills with natural open space areas held in common for all residents, where residents appreciate and care for the natural environment, and where the unique natural, ecological, and scenic resources are maintained for the benefit of the Owners (as hereinafter defined) and the community; and

WHEREAS, Auburn Hills is subject to a conservation easement ("Conservation Easement"), held by the Town of Caledonia ("Town") and recorded in the office of the Racine County Register of Deeds, the purpose of which easement is to secure, in perpetuity, the protection of environmentally sensitive areas within Auburn Hills; and

WHEREAS, Declarant will prepare a uniform comprehensive plan to manage and protect the Open Space Areas, as herein defined;

NOW THEREFORE, Declarant hereby declares that the following conditions, restrictions, easements, reservations and rights which affect the Open Space Areas and each Lot on the Property are necessary to protect the value and desirability of each Owner's property and the Subdivision, and to promote environmentally sound living practices; and further declares that such conditions, restrictions, easements, reservations and rights as set forth in this Declaration shall apply to the Property as stated herein and shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the Property or any portion thereof; all as further set forth below:

ARTICLE 1

DEFINITIONS

1.1 **Bio-Filtration Area(s)** means the area(s) of the Property designed or designated for stormwater management and water quality enhancement and designated as such herein or by Declarant which may include created wetlands, uplands and fringe areas that buffer natural resource areas from developed areas.

1.2 **Declarant** means Bielinski Development, Inc. in the role as the entity which declares and imposes these Environmental Covenants and Restrictions on the Property and or its assigns.

1.4 **Developer** means Bielinski Development, Inc. in its role as developer of the Auburn Hills Subdivision and or its assigns.

1.5 **Homeowners Association** means the Auburn Hills Homeowners Association, Inc.

1.6 **Improvements** means any and all of the following, regardless of whether permanent or temporary in nature or usage: buildings, outbuildings, sheds, exterior lighting or electric fixtures, antenna including dish receivers and towers, pools, pet kennels, houses or runs, screened or other type porches, patios or gazebos, fences, and Landscaping.

1.7 **Landscaping Plan** means the plan for planting, care and maintenance of vegetation, plantings, trees, shrubs and groundcover submitted by Owner for approval by the NRS Committee. The Landscaping Plan may include integration of Native Landscaping, as appropriate to the Lot.

1.8 **Landscaping** means the vegetation, plantings, trees, shrubs and groundcover on a Lot, and may, but is not required to include Native Landscaping.

1.9 **"Living with Nature" Handbook** means a handbook or set of documents provided to the Owner which describes how to perform environmentally sound land management, including Landscaping and Native Landscaping, in keeping with the General Purpose of this Declaration described in Section 2.1 hereof.

1.10 **Lot** means any platted lot or outlot shown on the recorded plat of the Property.

1.11 **NRS Committee** means the Natural Resources Stewardship Committee, as further described in Article 3. Its obligations with respect to each Lot, including Open Space Areas, are as follows:

(a) To review, approve and assure conformity with the Landscaping Plan; and

(b) To assure conformity with the Stewardship Plan.

1.12 **Native Landscaping** means plantings of indigenous trees, native grasses, shrubs, and herbaceous plants on a Lot using species from wetlands, prairies, savannahs, lakeshores, rivers and other natural resource systems.

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1.13 **Nature Preserve(s)** means such area(s) of the Property as may be designated herein or by Declarant based on a determination that the ecological and natural resource features are appropriate for protection, restoration, and monitoring.

1.14 **Open Space Area(s)** means the Bio-Filtration Area(s), Nature Preserve(s) and Recreational Trail Area(s), individually or together, as defined herein. These areas shall be established by Declarant, initially provided for and maintained by Declarant, and subsequently provided for and maintained by the Open Space Areas Steward, its successor or assignee as set forth in Sections 5.4 and 5.5.

1.15 **Open Space Areas Account** means the account established by the Open Space Areas Steward to receive annual assessments, as described in Section 5.5, to be used by the Open Space Areas Steward, its successor or assignee: (i) for the restoration, management and monitoring of the ecology and natural resources in the Open Space Areas, (ii) to retain a qualified ecologist to advise and assist the NRS Committee as specified in Section 3.2., and to prepare the annual compliance assessment required by the Conservation Easement, and (iii) to pay the annual land trust management fee required by the Conservation Easement.

1.16 **Open Space Areas Steward,** or its successor or assignee, means the entity designated by Declarant to assure restoration, management and monitoring of the ecology and natural resources, in conformity with the Stewardship Plan, of the Open Space Areas of this Subdivision. Such entity shall be either one of the following: (i) governmental entity, or (ii) a nonprofit organization that is exempt from tax under Internal Revenue Code Section 501(c)(3) and that is a "qualified organization" to hold a conservation easement pursuant to Internal Revenue Code Section 170(h)(3).

1.17 **Owner** means the person or persons, including any business organization, having the power to convey the fee simple title or land contract vendee's interest to a given Lot.

1.18 **Property** means the entire property owned by the Developer for purposes of this Subdivision, regardless of whether it is platted or unplatted, as described in the legal description attached hereto as Exhibit A.

1.19 **Proposed Landscaping Plan** means a Landscaping Plan proposed by a Lot Owner which alters the existing Landscaping Plan for such lot.

1.20 **Recreational Trail Area(s)** means pedestrian and/or bicycle trails on the Property as may be designated herein or by Declarant, and which may be established as either private or public. Pedestrian trails and bicycle trails may be managed according to different management plans appropriate to the surface material used and the adjacent vegetation.

1.21 **Stewardship Plan** means the plan created by Declarant which guides the restoration, management and monitoring of the ecology and natural resources in the Subdivision.

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1.22 **Subdivision** means the Property and Improvements thereon, whether developed in a single or two or more phases, all of which are intended to be subject to this Declaration upon the platting thereof consistent with the provisions of Wis. Stat. Chapter 236.

ARTICLE 2

GENERAL PROVISIONS

2.1 **General Purpose.** The express purpose of this Declaration is to assure that the Subdivision will become and remain an attractive community in which the health, integrity and natural beauty of the natural resources and ecological system are protected and enhanced to the benefit of the Subdivision, the Owners, and members of the general public in the surrounding community, and to effectuate and ensure continued compliance with the terms and conditions of the Conservation Easement. This Declaration is made to ensure that the Landscaping and Native Landscaping within the Subdivision, on the Lots and in Open Space Areas, are consistent with that purpose.

2.2 **Use Restrictions.** Each Lot and any Improvements located thereon shall be used exclusively for single-family residential purposes in a manner consistent with the General Purpose of this Declaration.

2.3 **Phased Development.** The Subdivision may be developed in one or more phases, each of which shall be subject to the terms and conditions of this Declaration. In the event the entire Property is not subject to a single plat of subdivision, when the Developer records the plat of subdivision for a subsequent phase or phases the Developer shall specify on that plat that it is subject to this Declaration. Restoration and management for purposes of protecting and enhancing the natural resources and ecology of the Property may be initiated and completed on a schedule which is different from the schedule for development of the Lots.

ARTICLE 3

NATURAL RESOURCES STEWARDSHIP COMMITTEE

3.1 **Committee Composition and Selection.** The Natural Resources Stewardship Committee (NRS Committee) shall be composed of not less than three (3) members. During the time that Developer continues to own any Lots in the Subdivision and the two years immediately following the date of the sale by Developer of the last Lot in the Subdivision the NRS Committee shall consist of five (5) members and the Developer shall appoint all NRS Committee members. Two years after the sale by Developer of the last Lot in the Subdivision owned by Developer, all NRS Committee members except for two (2) members designated by the Developer ("Developer Members") shall tender their resignations, provided that their successors have been designated in accordance with this Section 3.1. The Developer Members shall remain on the NRS Committee and the Developer shall continue to appoint and designate the Developer Members for as long as Developer desires in its sole discretion or for as long as this Declaration

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is in effect. Upon the resignations of the non-Developer Members, the Open Space Areas Steward shall appoint no more than two (2) and no less than one (1) NRS Committee members to the NRS Committee. Vacancies for the non-Developer Member positions and Developer Members, when vacated by the Developer and for which Developer has notified the Open Space Steward in writing that Developer desires not to designate any further Developer Members, shall be filled by the Open Space Areas Steward. NRS Committee members need not be but may be Owners.

The NRS Committee members initially appointed by Developer are:

a. Paul Bielinski
b. Joseph Harvey
c. Robert G. Brownell
d. Brian Carney
e. Steve Apfelbaum

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3.2 **NRS Committee Charge and Authority.** The charge of the NRS Committee is to a) approve Landscaping Plans for all Lots, or portions thereof which are within 50 feet of any specific Open Space Area, and the Landscaping Plans for the Open Space Areas in general, subject to the restrictions embodied in the Conservation Easement; b) monitor and enforce conformity with the Stewardship Plan on all Lots, including Open Space Areas; and c) monitor and enforce conformity with the General Purposes of this Declaration and the Conservation Easement. The NRS Committee is authorized to work with a qualified ecologist retained by the Open Space Areas Steward, its successor or assignee, to be paid from the Open Space Areas Account, to advise and assist the NRS Committee in carrying out its obligations.

3.3 **Procedure for NRS Committee Review and Approval.**

(a) An Owner desiring to implement or significantly alter a Landscaping Plan upon a Lot (the "Proposed Landscaping Plan"), or portions thereof which are within 50 feet of any specific Open Space Area or upon the Open Space Areas in general shall deliver the Proposed Landscaping Plan, as described in Section 3.4 below, to the NRS Committee for its consideration.

(b) The NRS Committee shall inform the Owner in writing when the Proposed Landscaping Plan submittal is deemed complete. Within thirty (30) days thereafter, the NRS Committee shall review the Proposed Landscaping Plan, approve, conditionally approve, or reject it, and notify the Owner in writing of the decision. If the NRS Committee does not so notify the Owner within such thirty (30) day period, the Proposed Landscaping Plan shall be deemed approved. In no circumstances, however, shall any Proposed Landscaping Plan that conflicts with the Conservation Easement be allowed.

(c) In carrying out its obligations, the NRS Committee may establish criteria to allow alterations to an approved Landscaping Plan to be implemented without further NRS approval.

3.4 **Proposed Landscaping Plan Submittal to NRS Committee.**

(a) The Proposed Landscaping Plan submitted to the NRS Committee shall include the following information: (1) a Landscaping Plan, or proposed alterations to an approved Landscaping Plan, showing proposed plantings, restoration and maintenance plans; and (2) such other relevant plans, specifications, information or detail which the NRS Committee may reasonably request.

(b) In addition, any Proposed Landscaping Plan related to any Lot which abuts the Bio-Filtration Area or Nature Preserve shall show how the Landscaping and/or Native Landscaping will harmonize with the habitat of that Open Space Area, and shall include means to minimize any adverse impact on and to support ecological and natural resources stewardship of the habitat of that Open Space Area.

(c) In addition, any Proposed Landscaping Plan related to any Lot which requires special grading, as shown on the master grading plan of the Town of Caledonia on file in the Town engineer's office or as designated by the Developer, shall incorporate such special requirements.

3.5 **Standards of Review.** The NRS Committee shall review the Proposed Landscaping Plan for conformity with the elements of the Stewardship Plan applicable to Lots, or portions thereof which are within 50 feet of any specific Open Space Area, the Open Space Areas in general and the requirements of this Declaration and the Conservation Easement. The NRS Committee may approve or conditionally approve the Proposed Landscaping Plan; it may also reject it if a majority of the NRS Committee members, as advised and assisted by any retained professional ecologist, determine it (a) does not conform to the Stewardship Plan; or (b) is otherwise not in conformity with this Declaration or the Conservation Easement.

3.6 **Fees.** The Committee, by majority vote, may from time to time adopt or revise a fee schedule that is in addition to any annual fee that is assessed against each lot pursuant to Section 5.5. Such additional fee shall be designed to defray the committee's out-of-pocket costs incurred in connection with its review of Proposed Landscaping Plans.

ARTICLE 4

PROTECTION AND USE OF OPEN SPACE AREAS

4.1 **Grant of Easements for Use and Enjoyment of Open Space Areas.** Declarant grants to all Owners easements for the use and enjoyment in, to, over, across and upon the Open Space Areas, subject to the restrictions provided in this Declaration and the Conservation Easement, and provided no use shall be made of the Open Space Areas which is inconsistent with the General Purposes of this Declaration and the Conservation Easement. Such inconsistent use includes but is not limited to mowing grass, disposing of animal wastes, removing planting or altering vegetation, applying chemicals, or disposing of grass clippings.

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4.2 **Limitation on Liability for Open Space Areas.** Use of any Open Space Area by Owner or Owner's invitee, guest, tenant, or agent, or by any other person shall be at the risk of the person, and Declarant, its successors or assigns shall not be responsible for any injury, loss or damages, or any claim related to or arising therefrom. Owner agrees to indemnify and hold harmless Declarant, Developer, the Open Space Areas Steward, the Homeowners Association, the Town, and their successors or assigns for any injury, loss or damage relating to or arising from the use of any Open Space Area(s) by an Owner or an invitee, guest, tenant, or agent of Owner.

4.3 **Use of Open Space Areas by Schools to Teach Environmental Stewardship.** Open Space Areas may be used by schools or other educational groups ("Educational Group"). An Educational Group must provide the NRS Committee with a written request for use at least thirty (30) days prior to the requested date of use. Such written request shall state the time, date and reason for requesting such use and shall include in writing, satisfactory evidence of insurance. Further, any Educational Group shall agree to indemnify and hold harmless Declarant, Developer, the Open Space Areas Steward, Homeowners Association, the Town, and their successors and assigns, for any and all injury, loss or damage relating to or arising from use of any Open Space Area(s). Declarant, Developer, the Open Space Area Steward, Homeowners Association, and the Town (either singularly or collectively) reserve the right to refuse admission to any such Educational Group if the use by such Educational Group would be detrimental to the Open Space Areas or inconsistent with the General Purpose of this Declaration or the Conservation Easement.

4.4 **Recreational Trail Area.** Declarant shall use its best efforts to connect the public Recreational Trail Area to any other trails in the vicinity of the Property to allow and provide for greater access to and enjoyment by the Owners.

4.5 **Use of Recreational Vehicles Prohibited in Open Space Areas.** No snowmobile, all terrain vehicle (ATV), or similar motorized recreational vehicle may be operated on any Open Space Area, except to the extent the use of any such vehicle is required for maintenance or for the transportation of the physically disabled.

4.6 **Commercial and Industrial Activity Prohibited in Open Space Areas.** No commercial or industrial activity may be undertaken on any Open Space Area, nor shall any right of passage across or upon the Property be allowed or granted in conjunction with authorized commercial or industrial activity which could reasonably be expected to interfere in any manner with any Open Space Area(s) as contemplated herein. Use of the public Recreational Trail Area to connect to other public trails is excluded from this prohibition. Nothing herein prohibits development of a community garden(s).

4.7 **Drawdown or Pumping of Water.** No Owner may draw water from or pump water into any Open Space Area.

4.8 **Grades and Drainage.** Declarant reserves the exclusive right to establish grades and slopes, drainage easements and retention ponds on the Property and to establish the grade for any dwellings erected or placed on the Property. No portion of any Lot shall be filled, graded or

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regraded without the written consent of Declarant. No Owner may alter the grade or slope of any Lot or change the direction of, obstruct or retard flow of surface water drainage, dig a pond (except for rain gardens to intercept sump pump and gutter runoff), or interfere in any way with the established drainage pattern within the Property unless adequate provision is made for proper drainage and such alteration is first approved in writing by the Declarant until the last Lot owned by Declarant is sold, and thereafter by the NRS Committee.

4.9 **Use by Declarant, Town.** Declarant reserves the right to access and enter upon the Open Space Areas at all reasonable times for purposes including, but not limited to, exhibiting and demonstrating the Open Space Areas. The Town further reserves the right, under the Conservation Easement, to enter upon the Open Space Areas, at such reasonable times as is necessary, in order to monitor compliance and otherwise enforce the terms of the Conservation Easement.

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ARTICLE 5

MAINTENANCE OF LOTS AND OPEN SPACE AREAS

5.1 **Maintenance of Lots.** (a) Each Lot shall be maintained by Owner at Owner's sole expense. All Landscaping and Native Landscaping shall be kept in good repair and clean condition, including without limitation, the mowing of lawns, trimming of plants, care for Landscaping and Native Landscaping, repainting and repair of structures, removal of snow and ice from drive and walk areas, repair and/or replacement of drive and walk surfaces, and such other measures necessary to maintain a clean and orderly environment within the Subdivision in accordance with the General Purpose of this Declaration. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on a Lot, except in sanitary containers and with no undue accumulation. If any public sidewalk is extended through the Subdivision, each Owner shall at its own expense keep the portion of any such sidewalk which is adjacent to the Owner's Lot free of snow and ice.

(b) Following reasonable notice to the Owner, duly authorized representatives of the NRS shall have the right to enter an Owner's Lot and take such actions as are necessary to assure compliance with the provisions of this Section 5.1(a) at the Owner's expense. Such right of action by the NRS is separate and independent from, and in addition to, the rights of enforcement set forth in Section 6.2.

5.2 **"Living with Nature" Handbook.** The "Living with Nature" Handbook shall be provided to each Owner to assist in understanding and implementing opportunities for environmentally sound management of each Lot.

5.3 **Minimization of Fertilizers, Pesticides and Chemicals.** Each Owner shall minimize the use of fertilizers, pesticides, de-icing salts and other chemicals on its Lot in order to avoid or minimize any damage which could be done to Native Landscaping, Landscaping, Open Space Areas, wetlands, streams and other natural resources. Information on alternatives will be included in the "Living with Nature" Handbook provided to each Owner.

5.4 **Maintenance of Open Space Areas.** The Open Space Areas shall be maintained by a qualified professional ecological firm or individual hired by Declarant or the Open Space Areas Steward, its successor or assignee (the "Open Space Areas Maintenance Firm"). The contract with the Open Space Areas Maintenance Firm for such services shall run until two years from the date when legal title to the last Lot owned by Developer is transferred by Developer. From that time on, the Open Space Areas Steward, its successor or assignee, shall be responsible for the maintenance of the Open Space Areas and shall retain a qualified professional ecological firm or individual to continue to maintain, manage, monitor, and enhance the Open Space Areas.

5.5 **Open Space Areas Assessment.** An annual fee (collectively, hereinafter referred to as the "Annual Fee") shall be assessed against each Lot to pay for the perpetual restoration, maintenance and monitoring of the Open Space Areas, and to pay the land trust management fee required by the Conservation Easement.. The Annual Fee shall be collected by the Homeowners Association and within ten (10) business days, deposited in the Open Space Areas Account established by the Open Space Areas Steward, its successor or assignee for this purpose. The Annual Fee shall initially be assessed by Declarant according to a formula to be determined for the Subdivision, and subsequently by the Bielinski Conservation Community Land Foundation, Inc. (the "Foundation") or the Homeowners Association. If the Annual Fee is not paid by an Owner as required, it shall become a lien against the Property and collected pursuant to the Wisconsin Statutes. Any Annual Fee collected pursuant to this Section 5.5 shall be used by the Open Space Areas Steward as provided under Section 1.15.

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ARTICLE 6

MISCELLANEOUS

6.1 **Term and Amendment.** This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the lands described on Exhibit A forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration have been sold by Developer, subject to Developer's reserved rights this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of at least seventy percent (70%) of the Lots subject to this Declaration, one of which Owners must be Developer. After all Lots subject to this Declaration have been sold by Developer, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at least seventy-five percent (75%) of the Lots subject hereto. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Developer shall have the right to assign, by written assignment recorded in the office of the Register of Deeds for Racine County, Wisconsin, any and all rights specifically reserved to Developer under this Declaration.

6.2 **Enforcement.**

(a) Except as specifically provided in Section 6.2(b) or elsewhere in this Declaration, or in the applicable terms of the Conservation Easement, the NRS Committee shall have the sole right to enforce this Declaration or any NRS Committee order with respect to any Lot, including Open Space Areas, by proceeding in a court of competent jurisdiction against any person or

persons to obtain such relief as is deemed appropriate; such relief may include, without limitation, an injunction against any noncompliant Landscaping and the requirement that the Owner remedy same at Owner's sole expense, recovery of damages, or both. In the event of an alleged violation of the terms of this Declaration or any NRS Committee order, the NRS Committee shall give the Owner written notice of the alleged violation and thirty (30) days in which to cure such violation to the satisfaction of the NRS Committee. In the event the Owner fails to cure, or in the event of alleged violations or other matters not susceptible to cure in such time period, the NRS Committee may initiate appropriate legal action. If damages are awarded by the court, they shall be distributed as follows: first, to pay the costs of the enforcement action, including attorneys fees; second, to the Owner of any Lot found to be uniquely damaged by the violation to remedy or reimburse the Owner for that damage; and third, to the Open Space Areas Account.

0002044

(b) Any Owner aggrieved by an occurrence on another Lot, excluding Open Space Areas, which is alleged to violate this Declaration may file a written petition requesting the NRS Committee to redress such alleged violation. From the date of filing of such petition with the NRS Committee, the NRS Committee shall have thirty (30) days in which to take the action it deems appropriate. Thereafter, in the event the NRS Committee denies the petition or otherwise fails to act thereon to the satisfaction of the petitioner, the petitioner may enforce the terms of this Declaration by proceeding in a court of competent jurisdiction to obtain such relief as is deemed appropriate, which relief may include, without limitation, an injunction against such alleged violation, recovery of damages, or both.

(c) Each remedy set forth in this Section 6.2 shall be in addition to all other rights and remedies available at law or equity. The election of one remedy by the NRS Committee shall not constitute the waiver of any other, nor shall any forbearance or failure by the NRS Committee to exercise any right or remedy for any alleged violation be deemed a waiver of such right or remedy, unless a written waiver is issued by the NRS Committee.

6.3 **Acceptance.** By acceptance of a deed to a Lot within the Property, each Owner shall be deemed to approve and consent to be bound by this Declaration and the Conservation Easement, and all terms, conditions and covenants contained herein.

6.4 **Severability.** Invalidation of any one provision of this Declaration by judgment or order of a court of competent jurisdiction shall not affect any other provision of this Declaration, and all other provisions shall remain in full force and effect.

6.5 **Nonforfeiture.** A violation of any of the terms, conditions or covenants of this Declaration shall not result in a forfeiture of or reversion of title to any Lot in the Subdivision.

6.6 **Developer's Reserved Rights.** Developer hereby reserves the right, but is under no obligation to, establish one or more portions of the Property as Bio-Filtration Area(s), Nature Preserve(s), or Recreational Trail Area(s). At such time as chosen by Developer, title to any such Bio-Filtration Area(s), Nature Preserve(s), or Recreational Trail Area(s) (Open Space Areas) shall be conveyed to the Open Space Areas Steward, to hold and to administer the same as set forth in this Declaration and provided in Sections 5.4 and 5.5.

6.7 **Right and Duties of Declarant.** At such time as chosen by Declarant, all of Declarant's rights, duties, obligations and responsibilities hereunder may be assigned and transferred by Declarant to the Foundation, and, subsequently, theHomeowners Association, each of which shall then assume such rights, duties, obligations and responsibilities.

6.8 **Disclaimer.** Notwithstanding any provision of this Declaration, Developer shall be under no obligation to develop or plat any portion of lands described on Exhibit A which is not platted as of the date of the recording of this Declaration. Developer hereby reserves the right to remove from the provisions of this Declaration any such unplatted lands described on Exhibit A by recording an instrument in the office of the Register of Deeds for Racine County, Wisconsin, describing the lands so removed.

6.9 **Governing Law.** This Declaration shall be governed by the laws of the State of Wisconsin.

[signature page follows]

0002045

Exhibit A
Legal Description

AUBURN HILLS BEING A PART OF THE SW ¼ OF THE NW ¼ AND THE SW ¼ AND NW ¼ OF THE SW ¼ OF SECTION 36, IN T.4N., R.22E., TOWN OF CALEDONIA, RACINE COUNTY, WISCONSIN

9402046

Executed at Waukesha, Wisconsin, on the 26 day of March, 2003.

BIELINSKI DEVELOPMENT, INC.

By: _____
Frank Bielinski, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 26 day of March, 2003, the above named Frank Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

JESSICA MARTIN NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My commission 2/12/06.

This instrument was drafted by:
Michael S. Green, Esq.
Michael Best & Friedrich LLP
One South Pinckney Street
Madison, Wisconsin 53701
3/19/2003

770272.042

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DOC # 1951141
Recorded
JAN. 08, 2004 AT 09:50AM

Document Number

DECLARATION OF CONSISTENCY REGARDING AUBURN HILLS SUBDIVISION
Document Title

MARK LADD
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $15.00

Recording Area

Name and Return Address:
Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

PIN:

This Declaration of Consistency (this "Declaration") regarding Auburn Hills Subdivision, legally described on **Exhibit A** attached hereto, is made and entered into by Bielinski Development, Inc. ("Bielinski").

Recitals

Bielinski executed a Declaration of Environmental Covenants and Restrictions of Auburn Hills Subdivision on March 26, 2003 ("ECR") and recorded same with the Register of Deeds for Racine County, Wisconsin on September 10, 2003 as Document Number 1930503 ("September 10 Environmental Declaration") and Bielinski executed a Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision on September 2, 2003 ("CCR") and recorded same with the Register of Deeds for Racine County, Wisconsin on September 10, 2003 as Document Number 1930504 ("September 10 General Declaration").

Bielinski also recorded the ECR a second time with the Register of Deeds for Racine County, Wisconsin on October 2, 2003 as Document Number 1935431 ("October 2 Environmental Declaration") and Bielinski also recorded the CCR a second time with the Register of Deeds for Racine County, Wisconsin on October 2, 2003 as Document Number 1935432 ("October 2 General Declaration").

By this Declaration, Bielinski intends to confirm that the ECR and CCR were recorded twice.

Now, therefore, Bielinski, as the Declarant under both the ECR and the CCR, declares the following.

DECLARATION

1. Bielinski inadvertently recorded the ECR and the CCR twice with the Register of Deeds for Racine County, Wisconsin.

2. The September 10 Environmental Declaration is consistent with and is the exact same document as the October 2 Environmental Declaration.

3. The September 10 General Declaration is consistent with and is the exact same document as the October 2 General Declaration.

4. Any amendments to either of the September 10 Environmental Declaration or the October 2 Environmental Declaration shall be deemed to be an amendment to the ECR.

5. Any amendments to either of the September 10 General Declaration or the October 2 General Declaration shall be deemed to be an amendment to the CCR.

Executed at Waukesha, Wisconsin, on the 15 day of December, 2003.

BIELINSKI DEVELOPMENT, INC.

By _____
Frank Bielinski, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 15 day of December 2003, the above named Frank Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

JESSICA MARTIN NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My commission 2/12/06.

This instrument was drafted by:
Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, #3300
Milwaukee, Wisconsin 53202

Exhibit A
Legal Description

Auburn Hills, being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW ¼ of Section 36, in Town 4 North, Range 22 East, Town of Caledonia, Racine County, Wisconsin.

FROM PART OF 004-04-22-36-060-000

LOT 1	004-04-22-36-060-001	LOT 64	004-04-22-36-060-064		
LOT 2	004-04-22-36-060-002	LOT 65	004-04-22-36-060-065		
LOT 3	004-04-22-36-060-003	LOT 66	004-04-22-36-060-066		
LOT 4	004-04-22-36-060-004	LOT 67	004-04-22-36-060-067		
LOT 5	004-04-22-36-060-005	LOT 68	004-04-22-36-060-068		
LOT 6	004-04-22-36-060-006	LOT 69	004-04-22-36-060-069		
LOT 7	004-04-22-36-060-007	LOT 70	004-04-22-36-060-070		
LOT 8	004-04-22-36-060-008	LOT 71	004-04-22-36-060-071		
LOT 9	004-04-22-36-060-009	LOT 72	004-04-22-36-060-072		
LOT 10	004-04-22-36-060-010	LOT 73	004-04-22-36-060-073		
LOT 11	004-04-22-36-060-011	LOT 74	004-04-22-36-060-074		
LOT 12	004-04-22-36-060-012	LOT 75	004-04-22-36-060-075		
LOT 13	004-04-22-36-060-013	LOT 76	004-04-22-36-060-076		
LOT 14	004-04-22-36-060-014	LOT 77	004-04-22-36-060-077		
LOT 15	004-04-22-36-060-015	LOT 78	004-04-22-36-060-078		
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LOT 18	004-04-22-36-060-018	LOT 81	004-04-22-36-060-081		
LOT 19	004-04-22-36-060-019	LOT 82	004-04-22-36-060-082		
LOT 20	004-04-22-36-060-020	LOT 83	004-04-22-36-060-083		
LOT 21	004-04-22-36-060-021	LOT 84	004-04-22-36-060-084		
LOT 22	004-04-22-36-060-022	LOT 85	004-04-22-36-060-085		
LOT 23	004-04-22-36-060-023	LOT 86	004-04-22-36-060-086		
LOT 24	004-04-22-36-060-024	LOT 87	004-04-22-36-060-087		
LOT 25	004-04-22-36-060-025	LOT 88	004-04-22-36-060-088		
LOT 26	004-04-22-36-060-026	LOT 89	004-04-22-36-060-089		
LOT 27	004-04-22-36-060-027	LOT 90	004-04-22-36-060-090		
LOT 28	004-04-22-36-060-028	LOT 91	004-04-22-36-060-091		
LOT 29	004-04-22-36-060-029	LOT 92	004-04-22-36-060-092		
LOT 30	004-04-22-36-060-030	LOT 93	004-04-22-36-060-093		
LOT 31	004-04-22-36-060-031	LOT 94	004-04-22-36-060-094		
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LOT 33	004-04-22-36-060-033	LOT 96	004-04-22-36-060-096		
LOT 34	004-04-22-36-060-034	LOT 97	004-04-22-36-060-097		
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LOT 37	004-04-22-36-060-037	LOT 100	004-04-22-36-060-100		
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LOT 41	004-04-22-36-060-041				
LOT 42	004-04-22-36-060-042	OUT LOT 1	004-04-22-36-060-114		
LOT 43	004-04-22-36-060-043	OUT LOT 2	004-04-22-36-060-115		
LOT 44	004-04-22-36-060-044	OUT LOT 3	004-04-22-36-060-116		
LOT 45	004-04-22-36-060-045	OUT LOT 4	004-04-22-36-060-117		
LOT 46	004-04-22-36-060-046	OUT LOT 5	004-04-22-36-060-118		
LOT 47	004-04-22-36-060-047	OUT LOT 6	004-04-22-36-060-119		
LOT 48	004-04-22-36-060-048	OUT LOT 7	004-04-22-36-060-120		
LOT 49	004-04-22-36-060-049				
LOT 50	004-04-22-36-060-050				
LOT 51	004-04-22-36-060-051				
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LOT 54	004-04-22-36-060-054				
LOT 55	004-04-22-36-060-055				
LOT 56	004-04-22-36-060-056				
LOT 57	004-04-22-36-060-057				
LOT 58	004-04-22-36-060-058				
LOT 59	004-04-22-36-060-059				
LOT 60	004-04-22-36-060-060				
LOT 61	004-04-22-36-060-061				
LOT 62	004-04-22-36-060-062				
LOT 63	004-04-22-36-060-063				

DOC # 2078234
Recorded
MAR. 29, 2006 AT 04:56PM

Document Number

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Title

JAMES A LADWIG
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $17.00

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision is made and entered into by Bielinski Development, Inc. ("Bielinski").

Recording Area

Name and Return Address:

Timothy J. Voeller, Esq.
Bielinski Homes, Inc.
PO Box 1615
Waukesha, Wisconsin 53187

PIN: 17

WITNESSETH:

Bielinski is the Declarant of and the owner of lots 1-3, 6-8, 12, 16, 17, 18-32, 33, 34, 39, 43, 45, 48-51, 54, 55, 57, 58, 61-63, and 66-113 which are subject to a Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision dated September 2, 2003 and recorded in the Office of the Register of Deeds for Racine County, Wisconsin on September 10, 2003 as Document No. 1930504 ("Declaration") affecting the real estate described as:

Auburn Hills Subdivision, being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW¼ of Section 36, T4N, R22E, Village of Caledonia, Racine County, Wisconsin.

Bielinski, pursuant to Article 8.1 of the Declaration, as the Declarant and the owner of more than 70% of the 113 lots subject to the Declaration, desires to amend the Declaration to add sections to Article 3 of the Declaration and to amend Exhibit A to the Declaration.

NOW THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Article 3 of the Declaration is amended by adding the following sections to said Article:

"**3.6 First Assessment**
Regular assessments shall be levied against a Lot and installments thereon shall commence being due and payable as of the date the Declarant conveys such Lot to an Owner other than Declarant; provided that the installment shall be prorated on a daily basis.

3.7 Deficit Funding
Prior to the earlier of the date that Declarant has conveyed all of the Lots to Owners other than Declarant, or the date Declarant waives its right to control the Association; Declarant will pay to the Association the amount by which the actual

EXHIBIT A-1

Auburn Hills Subdivision, being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW¼ of Section 36, T4N, R22E, Village of Caledonia, Racine County, Wisconsin,

EXCEPTING THEREFROM Outlot 2 of Auburn Hills Subdivision, a part of the SW ¼ of the NW ¼ of section 36, in T4N, R22E, Village of Caledonia, Racine County, Wisconsin.

TAX KEY NUMBERS

LOT 1	104-04-22-36-060-001
LOT 2	104-04-22-36-060-002
LOT 3	104-04-22-36-060-003
LOT 6	104-04-22-36-060-006
LOT 7	104-04-22-36-060-007
LOT 8	104-04-22-36-060-008
LOT 12	104-04-22-36-060-012
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LOT 111	104-04-22-36-060-111
LOT 112	104-04-22-36-060-112
LOT 113	104-04-22-36-060-113

DOC # 2078235
Recorded
MAR. 29, 2006 AT 04:57PM

Document Number

AMENDMENT TO DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Title

JAMES A LADWIG
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $17.00

THIS AMENDMENT to Declaration of Environmental Covenants and Restrictions of Auburn Hills Subdivision is made and entered into by Bielinski Development, Inc. ("Bielinski").

Recording Area

Name and Return Address:

Timothy J. Voeller, Esq.
Bielinski Homes, Inc.
PO Box 1615
Waukesha, Wisconsin 53187

PIN:

17

WITNESSETH:

Bielinski is the Declarant of and the owner of lots 1-3, 6-8, 12, 16, 17, 18-32, 33, 34, 39, 43, 45, 48-51, 54, 55, 57, 58, 61-63, and 66-113 which are subject to a Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision dated March 26, 2003 and recorded in the Office of the Register of Deeds for Racine County, Wisconsin on September 10, 2003 as Document No. 1930503 ("Declaration") affecting the real estate described as:

Auburn Hills Subdivision, being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW¼ of Section 36, T4N, R22E, Village of Caledonia, Racine County, Wisconsin.

Bielinski, pursuant to Article 6.1 of the Declaration, as the Declarant and the owner of more than 70% of the 113 lots subject to the Declaration, desires to amend Exhibit A to the Declaration.

NOW THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Exhibit A to the Declaration shall be deleted and replaced with the attached Exhibit A-1.

2. Except as otherwise stated herein, the Declaration shall remain unchanged and in full force and effect.

Executed at as of the 9th day of March, 2006.

Bielinski Development, Inc.

By: _____
Frank Bielinski, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 9th day of March, 2006, the above named Frank Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

Timothy J. Voeller
Notary Public, State of Wisconsin
My commission: is permanent

This instrument was drafted by:
Timothy J. Voeller, Esq.
Bielinski Homes, Inc.

EXHIBIT A-1

Auburn Hills Subdivision, being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW¼ of Section 36, T4N, R22E, Village of Caledonia, Racine County, Wisconsin,

EXCEPTING THEREFROM Outlot 2 of Auburn Hills Subdivision, a part of the SW ¼ of the NW ¼ of section 36, in T4N, R22E, Village of Caledonia, Racine County, Wisconsin.

TAX KEY NUMBERS

LOT 1	104-04-22-36-060-001
LOT 2	104-04-22-36-060-002
LOT 3	104-04-22-36-060-003
LOT 6	104-04-22-36-060-006
LOT 7	104-04-22-36-060-007
LOT 8	104-04-22-36-060-008
LOT 12	104-04-22-36-060-012
LOT 16	104-04-22-36-060-016
LOT 17	104-04-22-36-060-017
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LOT 81	104-04-22-36-060-081
LOT 82	104-04-22-36-060-082
LOT 83	104-04-22-36-060-083
LOT 84	104-04-22-36-060-084
LOT 85	104-04-22-36-060-085
LOT 86	104-04-22-36-060-086
LOT 87	104-04-22-36-060-087
LOT 88	104-04-22-36-060-088
LOT 89	104-04-22-36-060-089
LOT 90	104-04-22-36-060-090
LOT 91	104-04-22-36-060-091
LOT 92	104-04-22-36-060-092
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LOT 95	104-04-22-36-060-095
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LOT 97	104-04-22-36-060-097
LOT 98	104-04-22-36-060-098
LOT 99	104-04-22-36-060-099
LOT 100	104-04-22-36-060-100
LOT 111	104-04-22-36-060-111
LOT 112	104-04-22-36-060-112
LOT 113	104-04-22-36-060-113

DOC # 2151175
Recorded
OCT. 17, 2007 AT 11:44AM

Document Number

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION
Document Title

James A. Ladwig

JAMES A LADWIG
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $23.00

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision is made and entered into by Bielinski Development, Inc. ("Bielinski").

Recording Area

Name and Return Address:

Timothy J. Voeller, Esq.
Bielinski Homes, Inc.
PO Box 1615
Waukesha, Wisconsin 53187

PIN:

23-

WITNESSETH:

Bielinski is the Declarant of and the owner of lots 7, 18-32, 33, 34, 39, 50, 51, 58, 66-98 and 101-113 which are subject to a Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision dated September 2, 2003 and recorded in the Office of the Register of Deeds for Racine County, Wisconsin on September 10, 2003 as Document No. 1930504, as amended ("Declaration") affecting the real estate described on Exhibit A attached hereto.

Bielinski, pursuant to Article 8.1 of the Declaration, as the Declarant and the owner of more than 70% of the required votes allocated in and required by the Declaration, desires to amend the Declaration.

NOW THEREFORE, the undersigned hereby amends the Declaration as follows:

1. All references to the term "Town" throughout the entire Declaration shall be replaced with the term "Village."

2. Section 8.1 of the Declaration is deleted in its entirety and replaced with the following:

"**8.1 General**

This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the Property forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration are subject to an occupancy permit, subject to Declarant's reserved rights, this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of Lots having at least seventy percent (70%) of the total votes allocated to Lots and Declarant Lots, of which one vote must be that of the Declarant. After all Lots subject to this Declaration have been sold by Declarant, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at

least seventy-five (75%) of the Lots subject hereto. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Declarant shall have three (3) votes for each of the Declarant Lots it owns. In addition to the amendment requirements stated above, any amendment must be approved by at least 51% of the Mortgagees. Notwithstanding the foregoing, any amendments affecting Sections 6.10(b), 8.1 and 12.2 of the Declaration shall require the written approval of the Village and County prior to such amendment being a valid and enforceable amendment."

3. The following shall be added to Section 12.2 of the Declaration:

"Maintenance. Each Lot Owner, at the sole cost and expense of that Lot Owner, shall permanently maintain all storm water drainage ditches and swales ("Drainage Facilities") located within the boundaries of that Owner's Lot. The Drainage Facilities shall be maintained so as to allow the free flow of surface water into, over, across and through the Lot, all pursuant to the approved storm water drainage plan on file with the Village of Caledonia. All Drainage Facilities shall be maintained to the standards and specifications of the approved drainage plan.

Assessments. In the event that the Village Board of the Village of Caledonia, in its sole discretion, finds that a Lot Owner has failed to fulfill the maintenance obligations as stated herein and according to applicable ordinance, the Village of Caledonia may perform maintenance on the drainage facilities and shall then levy the cost thereof as a special assessment against the defaulting lot under the provisions of Sections 66.0627 and 66.0703 of the Wisconsin Statutes.

Right of Entry. The Declarant, its successors and assigns, herewith grant to the Village of Caledonia, its agents and employees, a perpetual easement to enter upon all Lots in the Subdivision for the purposes of maintaining storm water Drainage Facilities and any other utility located thereon pursuant to the terms herein stated. The dimensions of the various easements are set forth on the recorded plat for the Subdivision."

4. Any amendments to the Declaration recorded prior to the date hereof that do not affect Sections 6.10(b), 8.1 and 12.2 of the Declaration are hereby confirmed and acknowledged by the Village of Caledonia and Racine County.

5. Except as otherwise stated herein, the Declaration shall remain unchanged and in full force and effect.

Executed at as of the 4th day of October, 2007.

Bielinski Development, Inc.

By: _____
Frank Bielinski, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 4th day of October, 2007, the above named Frank Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

Timothy J. Voeller
Notary Public, State of Wisconsin
My commission: is permanent

This instrument was drafted by:
Timothy J. Voeller, Esq.
Bielinski Homes, Inc.

APPROVED:
VILLAGE OF CALEDONIA

By: Ronald Coutts
Ronald Coutts, Its Village President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF RACINE)

Personally came before me this 2nd day of July, 2007, the above named Ronald Coutts, as the Village President for the ~~Town~~ of Caledonia, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

Village Wendy A. Christensen
Wendy A. Christensen
Notary Public, State of Wisconsin
My commission: 7/13/08

APPROVED:
RACINE COUNTY

By: Julie A. Anderson
Julie A. Anderson Racine County Planning & Development Director

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF RACINE)

Personally came before me this 10 day of October, 2007, the above named Julie A. Anderson as the Planning and Development Director for the Racine County, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

Nancy Glinski
Notary Public, State of Wisconsin
My commission: February 14, 2010

EXHIBIT A

Auburn Hills Subdivision, being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW¼ of Section 36, T4N, R22E, Village of Caledonia, Racine County, Wisconsin,

EXCEPTING THEREFROM Outlot 2 of Auburn Hills Subdivision, a part of the SW ¼ of the NW ¼ of section 36, in T4N, R22E, Village of Caledonia, Racine County, Wisconsin.

all should be "104"

LOT 1	004-04-22-36-060-001
LOT 2	004-04-22-36-060-002
LOT 3	004-04-22-36-060-003
LOT 4	004-04-22-36-060-004
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LOT 111	004-04-22-36-060-111
LOT 112	004-04-22-36-060-112
LOT 113	004-04-22-36-060-113
OUT LOT 1	004-04-22-36-060-114
[redacted]	
OUT LOT 3	004-04-22-36-060-116
OUT LOT 4	004-04-22-36-060-117
OUT LOT 5	004-04-22-36-060-118
OUT LOT 6	004-04-22-36-060-119
OUT LOT 7	004-04-22-36-060-120

DOC # 1930504
Recorded
SEP. 10,2003 AT 01:07PM

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Number

Document Title

MARK LADD
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $65.00

Recording Area

Name and Return Address:

Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 300
Milwaukee, Wisconsin 53202

Tax Parcel No.

51-004-04-22-36-060-000

65-

LOT 1	004-04-22-36-060-001
LOT 2	004-04-22-36-060-002
LOT 3	004-04-22-36-060-003
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LOT 60	004-04-22-36-060-060
LOT 61	004-04-22-36-060-061
LOT 62	004-04-22-36-060-062
LOT 63	004-04-22-36-060-063

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

OF

AUBURN HILLS SUBDIVISION

This Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision (this "Declaration") is made and entered into by Bielinski Development, Inc. ("Declarant").

Recitals

Declarant owns or previously owned certain real property, described on the attached Exhibit A, upon which Declarant intends to develop a subdivision for residences and other related improvements.

By this Declaration, Declarant intends to subject such property and improvements to certain easements, rights, restrictions, and obligations with respect to the ownership, use and maintenance of such property and improvements and all components thereof.

Now, therefore, Declarant, as fee owner of such property, by this Declaration (1) establishes and imposes certain provisions, restrictions, conditions, easements and uses upon such real property; and (2) specifies that the provisions of this Declaration shall constitute covenants running with the land which shall be binding upon Declarant, its successors and assigns, and all subsequent owners and occupants of all or any part of such real property.

ARTICLE 1. DEFINITIONS

The following terms shall have the assigned definitions:

1.1 Association

The "Association" shall mean Auburn Hills Homeowners Association, Inc., the members of which shall be all Owners of Lots in the Subdivision.

1.2 Association Insurance

"Association Insurance" shall mean all policies of insurance as may be maintained by the Association under this Declaration.

1.3 Auburn Hills Subdivision Documents

"Auburn Hills Subdivision Documents" shall consist of this Declaration, the Declaration of Environmental Covenants and Restrictions, Articles of Incorporation of the Association and the Bylaws of the Association.

1.4 Board
The "Board" or "Board of Directors" shall be the governing body of the Association, elected according to the Bylaws.

1.5 Building
A "Building" shall be any freestanding structure located in the Subdivision.

1.6 Bylaws
The "Bylaws" shall mean the Bylaws of the Association as adopted by the Board.

1.7 Common Areas
The "Common Areas" shall consist of the Outlots or easements on a portion of a Lot used for signage identifying the Subdivision as Auburn Hills Subdivision.

1.8 Common Improvements
The "Common Improvements" consist of the following, some of which may be located in Common Areas and some of which may be located in public streets: all signs on the Property generally identifying the Subdivision as Auburn Hills Subdivision, and any improvements made by the Association in the Common Areas.

1.9 Declarant
The "Declarant" shall mean Bielinski Development, Inc. and the successors and assigns of Declarant pursuant to assignment in accordance with Section 14.7 of this Declaration.

1.10 Declaration
"Declaration" shall mean this Declaration as the same may be amended from time to time.

1.11 Director
A "Director" shall mean a member of the Board.

1.12 Drawings
The term "Drawings" is defined in Section 6.2.

1.13 Environmental Declaration, Covenants and Restrictions
Shall mean the Declaration of Environmental Covenants and Restrictions as the same may be amended from time to time.

1.14 Lot
"Lot" shall mean a platted lot intended for construction of a residence as shown on the Plat. The reference to a Lot by a number shall mean that particular Lot as shown on the Plat.

1.15 Mortgage

"Mortgage" shall mean a recorded first lien mortgage against a Lot or the vendor's interest under a recorded first lien land contract relating to a Lot.

1.16 Mortgagee
"Mortgagee" shall mean the holder of a Mortgage.

1.17 Occupant
"Occupant" shall mean the Owner and any other person residing on a Lot.

1.18 Outlot
"Outlot" shall mean an outlot as shown on the Plat. The reference to an Outlot by a number shall mean that particular Outlot as shown on the Plat.

1.19 Owner
"Owner" shall mean each fee simple owner of a Lot. The Declarant is an Owner with respect to Lots to which it holds title.

1.20 Plat
A "Plat" is the plat of the Property as recorded in the Register's Office.

1.21 Property
The "Property" shall mean the real estate subject to this Declaration, as described on Exhibit A and all Buildings and other improvements constructed or to be constructed thereon.

1.22 Register's Office
The "Register's Office" shall mean the office of the Register of Deeds for Racine County, Wisconsin.

1.23 Rules
The "Rules" shall mean rules established by the Association governing the administration of the Common Areas and Common Improvements.

1.24 Subdivision
"Subdivision" shall mean all of Lots as shown on the Plat.

1.25 Town
"Town" shall mean the Town of Caledonia, Wisconsin, and its successors.

ARTICLE 2. ASSOCIATION OF OWNERS

2.1 Administration
Declarant shall establish the Association to administer the property. Declarant shall include in the Bylaws for the governance and administration of the Common Areas and Common Improvements. The Board may, but need not, from time to time adopt and amend Rules that are binding on all Owners and Occupants. The Board shall administer

and enforce the Common Areas, the provisions of this Declaration and the Bylaws, the Rules, and all other uses of and restrictions on the Property. Until the establishment of the Association, all powers of the Association shall be exercised by Declarant.

2.2 Membership and Voting

Each Owner shall be a member of the Association. In the Association, the Owner(s) of each Lot acquired from Declarant shall be entitled to one (1) vote for each Lot owned. Each Lot owned by Declarant ("Declarant Lot") shall be entitled to three (3) votes for each Declarant Lot. No member shall be permitted to vote if such member is more than thirty (30) days delinquent in the payment of any amount due to the Association under Article 3 of this Declaration.

2.3 Control of Association

Declarant shall have the right to appoint and remove Directors of the Association and to exercise any and all powers and responsibilities assigned to the Association, the Board, or its officers, by the Articles, By Laws, this Declaration or the Wisconsin Nonstock Corporation Law (as amended from time to time), until the earliest of: (1) thirty (30) days after the receipt of occupancy permits from the Town for all of the Lots; or (2) Declarant's election to waive its rights to control.

2.4 Management

The Association may employ a professional management agent or company to assist in carrying out its duties regarding the Common Areas, the Common Improvements, and this Declaration, with such experience and qualifications and on such terms and conditions as are acceptable to the Board. Any such agreement must be terminable by the Board, without cause, upon ninety (90) days notice without payment of any penalty.

2.5 Approvals

Except for proposals requiring approval by the ACC, defined below, pursuant to Article 6 hereof, any proposal by an Owner requiring Board approval shall be submitted in writing, in such detail and with such supporting documents as the Board may require to facilitate its understanding and review. The Board may approve or disapprove any proposal submitted by an Owner after considering one or more of the following concerns and any additional concerns as the Board deems prudent: (1) freedom and safety of access and convenience to other areas of the Property; (2) the costs to be paid by the Owner for restoration of Common Areas and Common Improvements to their prior physical condition upon the completion of work or use contemplated by the proposal; and (3) a fair and reasonable monthly charge to be paid by the Owner to the Association for any encroachment on any Common Areas resulting from the proposal. The Board may at its discretion impose further conditions upon its consent to any proposal as it deems appropriate, including payment of out of pocket charges for professional advice and a standard review fee. Approval of a proposal shall be deemed given if the Association president indicates approval in writing. Except for the signage identifying the Subdivision and the landscaping immediately adjacent thereto, all proposals to affect the Common Areas or Common Improvements require the approval of the NRS Committee ("NRSC") established under the Environmental Declaration, Covenants and Restrictions.

All proposals affecting the signage identifying the Subdivision and the landscaping immediately adjacent thereto shall be approved by the Board.

ARTICLE 3. ASSESSMENTS

3.1 Budget and Assessments

The Association shall annually adopt a budget of common expenses and levy assessments on the Lots allocating such assessments equally to each Lot, subject to the limitations herein. Common expenses shall include the costs associated with the maintenance of Outlots pursuant to the Environmental Declaration, Covenants and Restrictions. The budget shall include amounts representing assessments that are bad debts, and may but need not include a replacement reserve, which in each case shall constitute part of the general assessments. The Association may also levy (a) special assessments on all Lots for any purpose for which a general assessment may be levied and (b) special assessments, or fines on particular Owners for the purpose of collecting any amounts due the Association or enforcing compliance by such Owners with any provision of this Declaration, the Bylaws or any Rules. The Board may adopt a Rule to impose uniform charges for services which the Association provides related to transfer of Lots, review of proposals under Section 2.5, and the like. The Board may adopt an initial budget showing the anticipated amounts necessary to cover common expenses.

3.2 Installments; Late Payments

General assessments shall be levied on an annual basis but shall be due and payable as determined by the Board from time to time. Special assessments shall be due and payable at such time and in such manner as the Board may determine. Any assessment or installment of an assessment not paid within ten (10) days of its due date may be subject to a late charge and/or interest as set forth in the Bylaws or in a Rule.

3.3 Enforcement; Liens

If an Owner defaults in any payment, the Association shall take appropriate measures as permitted by law. The defaulting Owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including the Association's reasonable attorneys' fees. Owners shall be personally liable for assessments or fines and a lien shall be imposed against such Owner's Lot for any unpaid assessments. The lien shall be effective as of the recording of a notice thereof in the Register's Office. Liens for unpaid assessments shall also extend to and secure interest, fines and reasonable costs of collection including attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a property upon the foreclosure of its lien. Under Section 2.2, an Owner delinquent in payments may in some cases not be permitted to vote on matters before the membership of the Association.

3.4 Association Statements

Within five (5) business days of written request from an Owner or a Mortgagee, the Association shall provide a letter stating the existence and amount of outstanding general or special assessments against the Owner's property, if any. Notwithstanding anything to the contrary in the preceding sentence, all property conveyed by Declarant shall be

deemed conveyed free from outstanding general, special or working capital assessments and no such letter shall be required or given as to such property.

3.5 Common Expenses and Surpluses

Common expenses and surpluses shall be allocated in the same manner as general assessments are allocated. All common surpluses for each fiscal year shall be retained for common expenses for the next succeeding fiscal year.

ARTICLE 4. MAINTENANCE AND ALTERATIONS

4.1 Owner Responsibility

Each Owner shall reimburse the Association for the cost of the Association's repair or replacement of any portion of the Common Areas or Common Improvements damaged through the fault or negligence of such Owner or such Owner's family, guests, invitees or tenants. Each Owner shall, at the Owner's cost, even if no residence has been constructed by such Owner, maintain the yard, including the cutting of grass and snow removal from driveways and, if any, sidewalks, in an orderly and neat manner and shall maintain all structures on the Lot in good repair and condition.

4.2 Association Responsibility

Except for the portions of the Common Areas and Common Improvements owned, controlled and/or maintained by the NRSC and/or the Open Spaces Steward, as defined in the Environmental Declaration, Covenants and Restrictions, the Association shall maintain in good condition and repair, replace and operate all of the Common Areas and Common Improvements, including landscaping, trees and plantings in the Common Areas and trimming of such trees for sight lines. The Association may, in its discretion, install additional Common Improvements in the Common Areas.

ARTICLE 5. RESTRICTIONS ON USE AND OCCUPANCY

5.1 Permitted Uses

Each Lot shall be occupied and used only for single family residential purposes and for no other purpose. No trade or business shall be carried on anywhere in the Subdivision, except for (1) the incidental use of a Lot for personal business conducted by mail and telecommunications which does not burden the use of the Subdivision by frequent visits by business service providers or customers, subject to any Rules relating to such burdens, or (2) the sale of Lots, subject to the other provisions of the Auburn Hills Subdivision Documents and any Rules related thereto, or (3) the establishment of offices by Declarant or its agents for sales of Lots or by the Association for conducting its affairs. The term "residential purposes" includes only those activities necessary for or normally associated with the use and enjoyment of a homesite as a place of residence and limited recreation. No garage or other mobile or accessory structure shall be used for temporary or permanent living or sleeping for family or guests without prior approval of the ACC.

5.2 Connection Between Ownership and Occupancy of Lots

Each Lot must be occupied by its Owner; the Owner's equitable beneficiary; the Owner's tenants, the Owner's shareholder, director, member, partner, employee, trustee or officer; or a member of the Owner's immediate family. For purposes of this section, "immediate family" is limited to parents, grandparents, children, grandchildren, siblings, or in-laws. Notwithstanding the foregoing, an Owner shall be responsible to the Association and each other Owner for any breach of any provision of the Auburn Hills Subdivision Documents caused by an Occupant. The Association will only need to deal with the Owner and may, but shall not be obligated to, address any breach with the offending Occupant. Any Owner may lease a residence on a Lot for a term of not less than six (6) months. Any lease or rental agreement must be in writing.

5.3 Vehicles

a) No person shall occupy, park or otherwise use a vehicle so as to block access to a Lot. No vehicle maintenance or lubrication shall be permitted anywhere in the Subdivision except washing of cars in driveways or maintenance performed within a garage.

b) Owners shall use their best efforts to store vehicles in garages. When more vehicles are actively used by household members, the vehicles shall be parked in driveways and not on the street, except for temporary parking, as later defined. Except for temporary parking as defined later, there shall be no outside storage of boats, trailers, buses, large trucks, campers, inoperable vehicles or other vehicles deemed to be unsightly by Declarant or the Board. Temporary parking of boats and vehicles shall be allowed between April 15th and November 15th of each year and shall be on site no more than a total of 90 days per year or no more than two weeks at a time during such seven (7) month period. The purpose of this provision is to provide an aesthetically pleasing subdivision for all residents. The Board shall use its best efforts to fulfill this purpose for the good of all Owners.

5.4 Waste

Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles is prohibited, and garbage containers shall be situated only in locations designated by the Association. No incineration of waste is permitted on the Property. Lots shall be kept free of debris during construction of improvements thereon by maintenance of a dumpster on-site. The refuse and garbage receptacles for each occupied home shall be stored in the residence or garage, except for a period of 12 hours prior to and following the scheduled garbage pickup.

5.5 Restricted Dumping

No construction material, grass clippings, rocks or other debris or waste materials shall be dumped by any Owner onto any Lot which is vacant within the Subdivision.

5.6 Temporary Structures

No structure, trailer, tent, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of a Lot or Common Area without written approval of the Board, except for construction trailers maintained by Declarant and its successors and assigns, or the Association.

5.7 Quiet Enjoyment

Each Owner shall have the right to use its property in accordance with this Declaration and applicable law, free from unreasonable interference from any other Owner, Occupant and other invitee. No person shall cause or permit the Common Areas to be used so as to deny any Owner or Occupant the full use of the Common Areas except as permitted by the Association under Section 2.5.

5.8 Noxious Activity

No use or practice shall be allowed in the Subdivision or the Common Areas which is immoral, improper or offensive in the opinion of the Board or which is in violation of the Auburn Hills Subdivision Documents. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audiovisual equipment.

5.9 Patios and Balconies

Patios, decks and balconies of Buildings on Lots shall not be used for storage of any kind, including, but not limited to, the storage of motorcycles, baby carriages, bicycles or wagons.

5.10 Signs

No Owner or Occupant, except Declarant, may erect, post or display posters, signs or advertising material on the Common Areas or at locations within a Lot which are visible from the public streets or Common Areas without the prior written consent of the Board, except that an Owner may within the Unit erect or post a temporary sign of customary and reasonable dimension relating to the open house of a Lot for sale. Where Board consent is sought and obtained, the permitted signs will be erected and maintained in accordance with all ordinances, rules, regulations and conditions applicable thereto. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include any placard, posters or other such devices as may be affixed to the interior of any exterior windows so as to be visible from the exterior of the Building.

5.11 Environmental Matters

Each Owner and Occupant shall comply with all applicable Rules, governmental statutes, ordinances, regulations or rules relating to the storage, transport and release to, from, on or in such Lot of any hazardous substances, pollutants or contaminants. Each Owner and Occupant shall comply with the Environmental Declaration, Covenants and Restrictions recorded against the Property

5.12 Pets

No animals, livestock, reptiles, poultry, or birds of any kind shall be raised, bred or kept within the Subdivision, except as allowed by Town ordinance. No animals within the Subdivision shall be kept, bred or maintained for any commercial purposes. No pet shall be permitted which causes an unreasonable disturbance as determined by the Board, at the Board's sole discretion. The Board shall establish and enforce rules and regulations regarding pets, which shall be followed by all owners that keep pets. The Board may order the removal of any pet at any time in its sole discretion after notice and a hearing if such pet is or becomes offensive, a nuisance or harmful in any way to the Subdivision or those occupying or owning therein. The Association may charge a fee of any pet owner to cover the Association's administrative or enforcement costs. All pets shall be housed indoors and, if allowed outdoors, shall be kept on a leash unless the Architectural Control Committee has approved of a dog kennel as provided herein. Any pet excrement in portions of the Subdivision other than the pet owner's Lot shall be removed immediately by the Occupant of the residence in which the pet resides. A violation of the provisions of this paragraph shall subject the Lot Owner responsible for such violation to additional special assessments by the Board for the enforcement costs, including but not limited to reasonable attorneys' fees incurred by the Association incident to the enforcement of this paragraph and the rules and regulations established by the Board.

ARTICLE 6. ARCHITECTURAL CONTROL

6.1 Architectural Control Committee

Declarant shall establish an Architectural Control Committee ("ACC"), related to the Association as provided herein, which shall consist of the Board. One or more Committee members may delegate their Committee duties to any one or more of the other Committee members. Buildings and other improvements installed by Declarant, or existing on the date hereof, shall not be subject to any of the terms and conditions contained in this Article 6.

6.2 Prior Approval for Improvements

Prior to the commencement of any of the activities listed below, the Owner(s) of the Lot shall submit to the ACC two (2) copies of a sketch or survey ("Drawings") of the affected Lot prepared by a licensed surveyor, engineer, architect or designer:

a) The construction of any Building or other improvements on any Lot, or the reconstruction thereof following a casualty loss thereto, or

b) The demolition of any Building or other improvements on any portion or portions of a Lot, or

c) The painting, decoration or alteration of the exterior of any Building or other improvement on a Lot, or

d) The installation of any awning, enclosure, hot tub, deck, garden, swimming pool, grading, mailboxes, fixed grill, fences or other landscape features on any such property.

6.3 Prior Approval for Changes

If after the completion of any approved improvements to a Lot, the Owner thereof desires to construct any additional improvements to the Lot or to substantially alter the then existing improvements or the grade of the affected Lot, the Owner shall comply with the provisions of Section 6.2 above. A proposed alteration will be deemed substantial if it affects the location or exterior appearance of the prior approved improvements.

6.4 Review and Approval Process

None of the activities listed above in Section 6.2 shall take place without the prior written or deemed approval by the ACC of the Drawings for any such proposed activity, except if the activity is the repair or replacement of previously approved exterior features with features that are identical or if the action is the repainting of an exterior surface with paint of the same color.

a) The **Drawings** shall include the following:

1) the location, size, elevations and type of Building(s) and other improvements, including, but not limited to, homes, garages and fences or other matters proposed to be erected or reconstructed on such property,

2) detailed plans and specifications for construction or reconstruction, including building material, type and color and plans to screen the demolition, construction or reconstruction from view, and

3) the proposed landscaping.

b) **Standards and Procedural Matters of Consideration for Approval**

1) The ACC shall review and consider any Drawings submitted to the ACC provided that any fees imposed for ACC review have been paid by the Owner(s). In considering the Drawings, the ACC shall consider whether all of the proposed activities proposed in such Drawings comply with the terms of this Declaration and the Town ordinances and in the ACC's sole opinion, do not detract from or depreciate any portion of the Property, even if the Drawings otherwise do not breach any other standard set forth in this Declaration. The ACC may approve Drawings (absolutely or conditionally) or may object to Drawings (absolutely or conditionally). The ACC may not disapprove of any reconstruction of any Building or other improvements on any portion or portions of such property following a casualty loss thereto.

2) If the ACC fails to approve of or object to the Drawings within sixty (60) days after submittal of the complete Drawings and payment of any review fees to the ACC, the Drawings shall be deemed approved as submitted. If the ACC objects to Drawings in whole or in part for any reason, the

submitting Owner shall thereafter resubmit Drawings to the ACC with such revisions as are required. Each time an Owner so submits the Drawings, the ACC shall have the right to approve or object to the Drawings within sixty (60) days after the submittal of the complete revised Drawings and the payment of any additional review fees to the ACC.

3) Following the ACC 's approval of the Drawings, the improvements described therein shall be developed strictly in accordance with the approved Drawings. If the approved improvements are not completed within one (1) year of their initial approval, then such approval shall be deemed withdrawn and the same or different Drawings required to be submitted or resubmitted, as the case may be. The ACC may, in its discretion, extend the withdrawal period by up to an additional 6 months if it reasonably determines that the delay has been primarily caused by factors outside of the control of the Owner.

6.5 Separate Town Approval

Matters which require approval of the ACC may also require approval of the Town. Obtaining approval from the ACC and from the Town is solely the responsibility of the Owner desiring approval. Approval of Drawings by the ACC shall not be deemed approval by the Town and approval by the Town shall not be deemed approval by the ACC.

6.6 Procedures and Budget

The ACC may set its own operating procedures consistent with this Declaration. The costs of operating the ACC shall be assessed by the Association as common expenses, except as permitted below. The ACC may, but need not require the payment of a review fee by an applicant Owner in connection with the submittal and review of any Drawings. The ACC may engage and employ consultants (e.g., architects, engineers or attorneys) either on a general or on a case-by-case basis, and the costs thereof may be charged to an applicant Owner. The members of the ACC shall not receive any compensation for serving on the ACC but may be reimbursed for expenses incurred in performing their duties. All funds relating to the ACC shall be handled by the treasurer of the Association.

6.7 Uniformity Standards; Waiver

The ACC may adopt additional written standards of uniformity, setback, grading, landscaping, basements, roofing, or exterior, whether generally or for certain types of improvements. The ACC may waive any such standard which it has adopted, may waive any standard contained herein, and may waive any floor area requirements by up to 10% so long as the reduction does not exceed the minimums provided by the Town of Caledonia Zoning Ordinance. The ACC may in its discretion also permit comparable or superior construction materials as substitutes for those required in this Declaration. Any such waiver or approval must be express and in writing. The ACC may enforce any standard even if it has, expressly or by acquiescence, permitted previous deviations from such standard. Any variance granted hereunder may be conditioned, and may be

permanent or time-limited (and if not expressly time limited will be deemed to be effective for so long as the use of such property is not materially altered). The ACC may waive any standard even in the absence of an "unnecessary hardship"; those judicially determined standards for granting variances under zoning regulations shall not apply to the ACC.

6.8 Indemnification

Each member or former member of the ACC, together with the personal representatives and heirs of each such person, shall be indemnified by the Association against all loss, costs, damages and expenses, including reasonable attorneys' fees, asserted against, incurred by, or imposed in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason of service as a member thereof, except as to matters resulting in a final determination of negligence or willful misconduct on the part of such member. In the event of a settlement of such proceeding, this indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of negligence or willful misconduct in the such person's performance as a member in the matter involved. This right of indemnification shall be in addition to all other rights and defenses. All liability, loss, damage, costs and expense incurred or suffered by the Association in connection with this indemnification shall be a common expense. Nothing herein shall be deemed an indemnification of such person with respect to such person's status as an Owner, Occupant or otherwise.

6.9 Architectural Requirements & Guidelines

a) Minimum Square Feet

Only one single family home may be constructed on each Lot. Homes shall have the following minimum sizes excluding basements, attics, porches, garages, patios, and similar additions into the calculations.

1 Story:	1800 Square Feet
More than 1 Story:	2200 Square Feet

For purposes hereof, "more than 1 story" includes homes referred to as one and a half story and two story.

b) Restricted Home Types

No split-level or tri-level homes are allowed.

c) Lot Setbacks

Front Yard:	25'
Rear Yard:	35'
Side Yard:	10'

d) **Diversity of Model Type**

Homes adjacent to, directly across from, or in the immediate vicinity of each other can not be exactly the same or so similar as to be monotonous or aesthetically displeasing. The ACC shall be acting reasonably if it does not approve the Drawings for a residence because another residence in close proximity would be too similar in appearance.

e) **Basements**

The ACC shall be acting reasonably if it requires portions of basement walls to be exposed on Lots with significant grades to allow for a more natural transition between residences. Any such exposed basement or foundation walls shall be covered with material consistent with the overall architecture of the residence.

f) **Garage**

Each home on a Lot is required to have a minimum 2.5-car garage attached to the home. The garage must be a minimum of 572 square feet.

Garages must be constructed at the time of construction of the home and all exterior features must be completed prior to occupancy of the residence.

g) **Driveway**

Driveways shall be paved within (12) months of Owner's receipt of an occupancy permit. The driveway must be paved with concrete.

All driveways are to be constructed at least two (2) feet from the Lot boundary lines, and each Lot is restricted to only one (1) access point to the street.

No driveway or parking area is permitted within the vision triangles which are located at all street intersections within the Subdivision. Refer to the Town Ordinances to determine the size of the vision triangles.

h) **Siding**

The exterior siding of a home may be made of materials such as cedar, fiber cement, maintenance free upgraded aluminum or 5" upgraded vinyl siding.

A minimum of 20% of the front façade of each home shall consist of brick or stone material. The ACC at is discretion may require more than 20% brick or stone material on the front façade of each home to ensure that the home has a high quality of aesthetics.

i) **Windows**

Each home is required to use shutters or wide window trim (rough sawn cedar or aluminum wrapped) on every window. Whichever shutter or window trim materials are used on the front façade of the home, then such materials must be used on the side facades and rear façade of the home to maintain architectural consistency.

Window grids are required on all windows, and the style of windows used on the front façade of the home is the style of windows that is required on the side facades and rear façade of the home to maintain architectural consistency.

There shall be no windowless elevations.

j) **Patio Doors**
Each home is required to use wide patio door trim (rough sawn cedar or aluminum wrapped) on every patio door. Whichever trim is used as the window trim is required to be used as the patio door trim.

k) **Corner Boards**
Each home is required to use rough sawn cedar or aluminum wrapped corner boards on all corners of the home. The type of corner boards that are used on the front façade of the home must be used on the side facades and rear façade of the home to maintain architectural consistency..

l) **Aluminum Wrapped Exterior**
The exterior of the home may have aluminum-clad soffit, fascia, frieze boards, gable vent trim, entry door frame trim, overhead door jamb/trim, box windows, fixture blocks and/or aluminum porch columns.

m) **Roof**
A residence shall have a roof of architectural grade dimensional shingles.

Initial roof color is restricted to Driftwood. In the event that the manufacturer is changed or the Driftwood color is no longer available it will become the responsibility of the ACC to choose a comparable color to replace the original color.

Each home must have a minimum roof pitch ratio of 8:12 on the main body of the roof. Roof pitches are subject to ACC approval and may be modified for structural or aesthetic purposes.

n) **Mailbox**
Each Lot Owner is required to install and maintain a uniform mailbox and mailbox support post in a style, size, color and material determined by the ACC. The mailbox will be supplied and installed by the builder.

The location of mailboxes must be consistent on every Lot.

Each owner shall maintain its mailbox in good condition and working order.

o) **Yard Lamp**

Each Lot Owner is required to install and energize a front yard light post and lantern within one year of occupancy. The yard lamp will be supplied and installed by the builder.

The light post must be:

1. Located at least 3 feet and no more than 10 feet from the front Lot line
2. Adjacent to the driveway.
3. Elevated to a height to be determined by the ACC
4. Fitted to use a high pressure sodium lamp of no more than 50 watts
5. Illuminated from dawn to dusk by means of a photocell.

Prior to occupancy of a residence on a Lot, the Owner must demonstrate to the ACC that the light post and lantern is connected to electrical service (paid for by owner). Each owner shall maintain its light post in good condition and working order, and shall make certain that electrical services are continued to the lamp.

p) **Fences**

All fencing must be approved by the ACC prior to installation. The ACC shall make the final determination on what fencing will be permitted, the location of fencing, and the height of the fencing. In general, no fence erected on any residential Lot shall be higher than four (4) feet from the graded surface of the ground on which it is erected with the exception of privacy fences installed near the home for the purpose of screening views between neighbors from side to side. In this situation the privacy fence shall be no more than six (6) feet from the graded surface of the ground. No chain link fencing shall be permitted.

Fences are not allowed to encroach into electrical easements without permission from WE Energies. Each homeowner is advised to contact WE Energies in the event they want to encroach into an electrical easement to make sure they understand all restrictions and rules regarding such easements.

q) **Additions to the Exterior Home**

Additions such as sunrooms, enclosures, awnings, or any other similar structures must be approved by the ACC. All future additions are subject to the architectural controls of this document.

All structural additions must be designed by a qualified engineer, architect or designer experienced in residential design.

r) **Antennas/Satellite Dishes**

No antenna, aerial, satellite dish, cable for television or radio reception which is greater than 24" in diameter shall be erected or installed on any roof or any other portion of a Building or on the unimproved portions of a Lot, except as erected or installed by Declarant, the Association, or any individual Owner with written approval by the ACC. Notwithstanding the foregoing, no antenna, aerial, satellite

dish or cable for television or radio reception shall be installed on the front elevation of any Building on a Lot. Any satellite dish approved by the ACC shall be the smallest sized satellite dish available and shall be installed near the rear of the home. In every case, the antenna, aerial, satellite dish, cable for television or radio reception must be in compliance with Town ordinances.

s) **Clotheslines**
Clotheslines may be installed and/or used on a Lot provided the clothesline installation is approved by the ACC. Any clothesline allowed on a Lot shall be limited to portable or retractable lines and shall be limited to the rear yard of the Lot.

t) **Pools**
No above ground swimming pools shall be installed. In-ground swimming pools may be installed on a Lot only with the approval of the ACC, which will be acting reasonably if it does not approve an in-ground swimming pool which is not completely enclosed by a secure wall or fence of a minimum of four (4) foot elevation, with a self closing or self latching gate or door (at the top of such gate or door). There must be an unobstructed area of at least four (4) feet between the fence and the swimming pool.

u) **Walkways**
All walks leading up to the front door must be paved with a hard surface such as concrete, stamped concrete, brick or flagstone. Asphalt walks are not allowed.

v) **Decks**
Decks must be located to the rear of the home.

The height of the deck is limited to the ground level finished floor line on single story homes and to the second story finished floor line on two story homes.

Decks may be constructed of treated wood as long as the material is in harmony with the adjacent home. Decks may have a clear or tinted preservative stain applied to them or be left to weather naturally. Paint is not permitted on the walking surface of the deck, but can be applied to hand railings and all other deck surfaces.

w) **Patios**
Patios must be constructed with a hard surface material such as concrete, stamped concrete, brick pavers, flagstone or similar materials as long as the material is in harmony with the home.

x) **Fixed Grills**
All fixed grills must be approved by the ACC. Permanent grills should be placed behind the rear elevation of the home and should not be placed within ten (10) feet of the side and rear property lines.

y) **Dog Kennels**
Dog kennels must be located immediately adjacent to the home in the rear yard of the Lot and must be approved by the ACC prior to construction. The ACC may condition any approval for a dog kennel by requiring the appropriate screening of the dog kennel.

z) **Utilities**
All utilities must be installed underground.

aa) **Solar Collectors**
No exterior active solar collectors shall be erected, installed or used unless presented in drawings and approved by the ACC.

bb) **Accessory Structures/Sheds**
No accessory structures or sheds of any kind shall be permitted.

6.10 Landscaping Requirements & Guidelines

a) **Existing Vegetation**
No existing live tree with a diameter of four inches or more, at a height of four feet above the ground shall be cut down, destroyed, mutilated, moved, or disfigured without the approval of the ACC.

b) **Grading**
Declarant and the Town of Caledonia have agreed to a certain Storm Water Management Plans and Master Grading Plans. Each Lot Owner shall conform to the Storm Water Management Plan and Master Grading Plan and shall not alter the grades established in such plans. In the event of a conflict between any proposed Drawings and the Storm Water Management Plan or the Master Grading Plan, the Storm Water Management Plan and/or the Master Grading Plan shall control. The Declarant and the Town, their agents, employees or independent contractors shall each have the right to enter upon any Lot after giving reasonable notice to the Owner for the purpose of inspection, maintenance, or correction of any drainage condition, and the Owner is responsible for the costs thereof. Owner shall be provided with a written notice of any drainage condition requiring maintenance or correction and given thirty (30) days to cure such condition before the Declarant or Town will rectify such condition at Owner's cost.

c) **Ponds**
No ponds shall be constructed on a Lot without the prior approval of the Town. Rain gardens are encouraged to help slow the rates of storm water runoff, but the ACC and the Town must first approve them.

d) **Lawns**
Each homeowner is responsible for planting a lawn within the first twelve (12) months after receipt of the occupancy permit from the Town.

e) **Plantings**
Plantings (other than turf grass) and landscaping are not allowed within drainage easements without the approval of the Town.

1) **Foundation Plantings**
At a minimum, each homeowner is encouraged to plant a foundation planting in the front of their home within the first twelve (12) months after receipt of the occupancy permit from the Town.

2) **Native Plantings**
Each homeowner is encouraged to use native Wisconsin plants when preparing their yard with landscaping. At a minimum the invasive species listed in the "Living with Nature" handbook provided to each homeowner at the time of sale must be avoided.

3) **Shade Trees**
Each homeowner is responsible for planting two (2) shade tree in the front yard of the Lot. The trees must be selected from the approved list attached to this document as Exhibit B. The trees must be planted within the first twelve (12) months after receipt of the occupancy permit from the Town.

f) **Vision Triangles**
There shall be no planting of perennials, shrubs, or trees within the vision triangles located at the intersections of all streets within the Subdivision that exceed a height of thirty (30) inches. Refer to the Town Ordinances to determine the size of the vision triangles.

g) **Retaining Walls**
Retaining walls are to be built out of boulders or manufactured stone products. Railroad ties, sawn timbers or any other wood product are prohibited from use as retaining wall structure materials.

h) **Maintenance**
Each Lot Owner is responsible for keeping their Lot free from debris and weeds prior to the planting of grass on the Lot.

Until grass is planted on each Lot, the Lot Owner shall be responsible for compliance with the Town of Caledonia's Weed Control Ordinance.

Each homeowner is responsible for keeping the lawn and landscaping in their yard in good maintenance. Should the landscaping be left to grow wild as to become a nuisance or an eye sore, the ACC retains the right to remedy the

nuisance and assess the costs back to the homeowner. Owner shall be provided with written notice of situation and will be afforded fifteen (15) days to cure such condition before the ACC can take action.

ARTICLE 7. INSURANCE

7.1 Association Insurance

The Association shall obtain and maintain comprehensive general public liability insurance for occurrences on the Common Areas (including areas which are included in such definition by virtue of easements granted herein) and with respect to Common Improvements not in the Common Areas, all-risk casualty insurance coverage on all Common Improvements, and such other policies and/or coverages as the Board deems necessary or advisable.

7.2 Coverage of Association Insurance

The casualty insurance coverage shall be in an amount equal to the maximum insurable replacement value, with an "agreed amount" and a "replacement cost" endorsement, without deduction or allowance for depreciation. This coverage amount shall be annually reviewed and shall insure against loss or damage by fire and other hazards as commonly covered by a standard extended coverage endorsement and such other hazards as customarily covered with respect to buildings similar in construction, location and use. Comprehensive general liability coverage shall be in such amounts as the Board determines annually, but not less than $1,000,000 per occurrence.

7.3 Proceeds

Association Insurance proceeds for casualty loss shall be for the benefit of the Association in order to finance construction of damaged Common Areas or Common Improvements. Liability coverage and other insurance proceeds shall be applied as the Association directs.

7.4 Cost

All premiums for Association Insurance and other insurance obtained by the Association shall be a common expense.

7.5 Waiver

The Association and, by acceptance of a conveyance to a Lot or Outlot or the use thereof, or any portion thereof or interest therein, each Owner or Occupant acting both for themselves and for their respective insurers, waive any claim it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however the loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence thereof precludes the Association from obtaining any policy of insurance at a reasonable and customary rate.

7.6 Acts Affecting Insurance

No Owner or Occupant shall commit or permit any violation of covenants or agreements contained in any of the Association Insurance, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (a) result in termination of any such policies, (b) adversely affect the right of recovery thereunder, (c) result in reputable insurance companies refusing to provide such insurance, or (d) result in an increase in the insurance rate or premium over the premium which would have been charged in the absence of such violation or condition, unless, in the case of such increase, the Owner or Occupant responsible for such increase shall pay the same. If the rate of premium payable with respect to the Association Insurance shall be increased by reason of, (1) the size, design or composition of a Building, (2) anything done or kept in a property subject to this Declaration, or (3) the failure of an Owner or Occupant to comply with Association Insurance requirements, or (4) the failure of any such Owner or Occupant to comply with this Declaration or the Bylaws, then the particular Owner or Occupant shall reimburse the Associations for the resulting additional premiums. The Association reimbursement right is without prejudice to any other Association remedy, and may be enforced by special assessment against the particular property involved.

7.7 Exclusions From Coverage

Association Insurance coverage shall exclude (a) coverage on any residence or personal property located within or pertaining to the exclusive use of an Owner except to the extent included as a standard coverage in the policy of Association Insurance; and (b) liability coverage on an Owner or Occupant, its guests, invitee, employees or tenants, arising out of any occurrences within a Lot and/or relating in any way to an Owner's or Occupant's personal property. It is the sole responsibility of each Owner or Occupant to obtain such insurance coverages as are excluded from Association Insurance.

ARTICLE 8. AMENDMENT OF DECLARATION

8.1 General

This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the Property forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration are subject to an occupancy permit, subject to Declarant's reserved rights, this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of Lots having at least seventy percent (70%) of the total votes allocated to Lots and Declarant Lots, of which one vote must be that of the Declarant with written approval from the County and Town. After all Lots subject to this Declaration have been sold by Declarant, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at least seventy-five (75%) of the Lots subject hereto with written approval from the County and Town. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Declarant shall have three (3) votes for each of the Declarant Lots it owns. In addition to the amendment requirements stated above, any amendment must be approved by at least 51% of the Mortgagees.

8.2 Procedures

Amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Register's Office. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded.

ARTICLE 9. RIGHTS OF MORTGAGE HOLDERS

9.1 Notice

Any Mortgage holder, insurer or guarantor of a Mortgage on a Lot who submits a written request to the Association, identifying the name and address of such holder, insurer or guarantor and the property involved, will be entitled to timely written notice of:

(a) Any thirty (30) day delinquency in the payment of assessments owed by the Owner of the property on which it holds a Mortgage or any breach of the provisions of any of the Auburn Hills Subdivision Documents which is not cured by such Owner within thirty (30) days of such Owner's receipt of notice of such breach;

(b) A lapse, cancellation or material modification of any Association Insurance; and

(c) Any proposed action that requires the consent of a Mortgage holder as specified in Article 8.

9.2 Mortgagee Acquisition of Lot

A Mortgagee acquiring title to a Lot pursuant to remedies provided in its Mortgage or by a deed in lieu of foreclosure following an Owner's default under the Mortgage shall not be liable for such property's unpaid assessments under this Declaration accruing prior to the Mortgagee's acquisition of title to such property (except to the extent unpaid assessments are included in subsequent budgets generally).

ARTICLE 10. RIGHTS OF DECLARANT

10.1 Reserved Rights

Pending the sale of all Lots by Declarant, Declarant:

(a) may use the Outlots, and any unsold Lots in any manner as may facilitate the sale of Lots including, but not limited to, maintaining a sales and/or rental office or offices, models and signs and/or showing the Lots. Declarant may from time to time also delegate such rights (on a non-exclusive basis and subject to such conditions as Declarant may impose) to persons desiring to construct Buildings on particular Lots as model homes. In delegating such rights to other persons, Declarant's delegees shall not have the right, without Declarant's express written consent, to locate a general office operation in any such model home, although

use of a model home to facilitate sales of Lots or sales of Buildings on Lots may be permitted so long as that (1) once a model home is used as a residence for an Occupant, it may not thereafter be used as a "model home"; and (2) construction materials shall not be delivered to or stored at a model home, except for construction of such model home.

(b) shall have the right to (1) grant easements upon, over, through and across the Lots (limited to the 10 feet area adjacent to each Lot line), which rights shall expire one year after conveyance of a Lot by Declarant), and the Outlots as may be required in Declarant's opinion for furnishing any kind of utility services, and maintenance and replacement thereof, or for drainage or other public purposes including, but not limited to, cable television or master antenna service, which easements may be granted to itself or its nominee and as may be necessary for excavation and construction of any Buildings and (2) grant easements upon, over, through or across the Common Areas for ingress and egress and maintenance and replacement thereof, to and from, and within, the Property and other real property adjacent to it.

(c) shall have the right to veto any proposed amendment to this Declaration for any reason or no reason, in which case it shall not be deemed approved or effective.

(d) may apply the covenants contained in this Declaration to future stages of the development of Auburn Hills. The future stages of the development of Auburn Hills shall only include lands which are adjacent to the real estate which is or becomes subject to this Declaration or any additional supplemental declaration. The future stages shall become subject to this Declaration by the recording of an amendment to this Declaration with the Register of Deeds for Racine County, Wisconsin. Except with respect to future stages of the development of Auburn Hills, such an amendment to this Declaration shall not revoke, modify or add to the restrictions and covenants contained herein. Notwithstanding anything contained within to the contrary, such an amendment as referred to in this Section, shall only require the consent, approval and signature of the Declarant.

ARTICLE 11. REMEDIES FOR VIOLATION BY OWNER

11.1 General Remedies

If any Owner or Occupant fails to comply with this Declaration, the Bylaws, or the Rules, such Owner or Occupant shall be liable for damages, subject to injunctive relief including an order requiring the removal at the Owner's expense of Buildings constructed without ACC approval, subject to any other remedy provided by the Bylaws, or all of the above, as a result of such noncompliance. The Association or, in a proper case, an aggrieved Owner, may bring an action because of such noncompliance. The "prevailing party" in any action brought to enforce this Declaration or any term or condition hereof shall be entitled to recover from the other party the prevailing party's costs incurred in enforcing this Agreement, including its reasonable attorneys' fees, in addition to any other relief to

which the prevailing party is entitled. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

11.2 Owner or Occupant Violation; Association Right to Cure

In addition to any other remedies provided herein, if any Owner or Occupant fails to comply with this Declaration, the Bylaws or the Rules, which failure continues for a period of fifteen (15) days following written notice from the Association, the Association shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the Association deems necessary or appropriate, and if an action or other proceeding is commenced in connection therewith, using the fund established in Section 3.7. Expenses incurred therefor by the Association shall be assessed against the Owner or Occupant and shall be subject to all rights and remedies reserved under this Declaration with respect to collection, expense, late payment penalties or interest, filing of a lien and/or foreclosure as reserved at Article 3 of this Declaration. Once the Association has taken such an action, it shall not be obligated to take any other or further action with respect to the same, similar or subsequent failure by the same or a different Owner or Occupant.

ARTICLE 12. EASEMENTS

12.1 Right of Entry

A right of entry to each Lot, Common Area or Outlot is reserved to the Association to service utility installations located on, in or under such Lot, Common Area or Outlot provided request for entry is made in advance and such entry is limited in scope so as to extend only as is reasonably necessary to service such utility installations. In case of emergency, entry by the Association onto any such Lot, Common Area or Outlot may be made immediately, whether the Owner or Occupant of such Lot, Common Area or Outlot is or is not present and without liability of the Association or its agents if such entry is necessary for the safety or welfare of persons or property. Any damage or loss caused as a result of such emergency entry shall be the sole expense of the Owner or Occupant if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

12.2 Drainage

An easement is reserved to Declarant, the Association and the Town over Lots and Outlots for the installation of drainage tile, swales, streams or other storm sewer and drainage system elements as shown on the Plat or in any Storm Water Management Plan referenced in Section 6.10.

ARTICLE 13. TERMINATION

13.1 Termination

This Declaration shall be in effect for a period of 25 years and automatically renewed for successive periods of 10 years each, unless terminated at the end of the original or any extended term by: (1) Declarant (if during the period of Declarant control of the Association), or (2) the written consent of the owners of at least 90% of the aggregate

Lots provided that no vote shall effect an amendment to or termination of any provision hereof conferring on or reserving a special right or easement to Declarant without the express written consent of Declarant, as appropriate. Voluntary termination of this Declaration must be express and shall be effective upon recording a written instrument to such effect in the Register's Office.

ARTICLE 14. CONSTRUCTION AND EFFECT

14.1 Number and Gender

Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

14.2 Including

Whenever used herein, the term "including" preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

14.3 Captions

The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

14.4 Severability

If any portion of this Declaration or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. The remainder of this Declaration shall be valid, and enforced, to the fullest extent permitted by law.

14.5 Remedies

All remedies herein are cumulative.

14.6 Waivers

Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. A waiver, consent or approval to any one matter shall not be deemed a waiver, consent or approval to any subsequent matter whether similar or not.

14.7 Assignment of Declarant's Rights

Declarant may from time to time assign any or all of the rights and benefits conferred on or reserved herein for Declarant in its status as such (as opposed to those rights or benefits conferred on or reserved for all Owners or groups thereof), by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register's Office.

14.8 Other Regulation

Nothing herein shall preclude or restrict Declarant recording other covenants, conditions or restrictions which further regulate portions of the Subdivision which Declarant owns at the time of recordation.

14.9 Zoning Code

Nothing contained herein shall be construed to reduce, modify or alter the minimum requirements set forth in the present zoning ordinance, building code or subdivision control ordinance of the County or Town, except as specifically modified in writing by the Town and County, within the framework of the planned unit development portion of the present zoning ordinance.

Executed at Waukesha, Wisconsin, on the 2nd day of September, 2003.

BIELINSKI DEVELOPMENT, INC.

By: _____
Harry Bielinski, Vice President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 2 day of Sept., 2003, the above named ~~Frank~~ Harry Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

JESSICA MARTIN NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My commission 2/12/06.

This instrument was drafted by:
Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, #3300
Milwaukee, Wisconsin 53202

Exhibit A
Legal Description

AUBURN HILLS BEING A PART OF THE SW ¼ OF THE NW ¼ AND THE SW ¼ AND NW ¼ OF THE SW ¼ OF SECTION 36, IN T.4N., R.22E., TOWN OF CALEDONIA, RACINE COUNTY, WISCONSIN

LOT 64	004-04-22-36-060-064
LOT 65	004-04-22-36-060-065
LOT 66	004-04-22-36-060-066
LOT 67	004-04-22-36-060-067
LOT 68	004-04-22-36-060-068
LOT 69	004-04-22-36-060-069
LOT 70	004-04-22-36-060-070
LOT 71	004-04-22-36-060-071
LOT 72	004-04-22-36-060-072
LOT 73	004-04-22-36-060-073
LOT 74	004-04-22-36-060-074
LOT 75	004-04-22-36-060-075
LOT 76	004-04-22-36-060-076
LOT 77	004-04-22-36-060-077
LOT 78	004-04-22-36-060-078
LOT 79	004-04-22-36-060-079
LOT 80	004-04-22-36-060-080
LOT 81	004-04-22-36-060-081
LOT 82	004-04-22-36-060-082
LOT 83	004-04-22-36-060-083
LOT 84	004-04-22-36-060-084
LOT 85	004-04-22-36-060-085
LOT 86	004-04-22-36-060-086
LOT 87	004-04-22-36-060-087
LOT 88	004-04-22-36-060-088
LOT 89	004-04-22-36-060-089
LOT 90	004-04-22-36-060-090
LOT 91	004-04-22-36-060-091
LOT 92	004-04-22-36-060-092
LOT 93	004-04-22-36-060-093
LOT 94	004-04-22-36-060-094
LOT 95	004-04-22-36-060-095
LOT 96	004-04-22-36-060-096
LOT 97	004-04-22-36-060-097
LOT 98	004-04-22-36-060-098
LOT 99	004-04-22-36-060-099
LOT 100	004-04-22-36-060-100
LOT 111	004-04-22-36-060-111
LOT 112	004-04-22-36-060-112
LOT 113	004-04-22-36-060-113
OUT LOT 1	004-04-22-36-060-114
OUT LOT 2	004-04-22-36-060-115
OUT LOT 3	004-04-22-36-060-116
OUT LOT 4	004-04-22-36-060-117
OUT LOT 5	004-04-22-36-060-118
OUT LOT 6	004-04-22-36-060-119
OUT LOT 7	004-04-22-36-060-120

Exhibit B
Approved Tree List

Large Trees
Red Maple
Sugar Maple
White Ash
Green Ash
Gingko Biloba (male)
Kentucky Coffeetree
White Oak
Burr Oak
Red Oak
Little Leaf Linden
Redmond Linden
Horse Chestnut
River Birch
White Birch
Shagbark Hickory
Northern Catalpa
Common Hackberry

Small Trees
Serviceberry
Hornbeam (Musclewood)
Crabapple Hybrids
Ironwood (Hop Hornbeam)
Flowering Pear
Japanese Tree Lilac
Pagoda Dogwood
Cockspur Hawthorn
Washington Hawthorn

Trees to Avoid (Invasive Non-Native Species)
Black Locust
Norway Maple
Amur Maple
Siberian Peashrub
Russian Olive
Tatarian Honeysuckle

Many cultivars exist for this species. Cultivars are used for variety among species and improved performance through characteristics: i.e. shape, structure, growth habit, insect/disease resistance, absence/persistence of fruit and color.

DOC # 1935432
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OCT. 02, 2003 AT 04:50PM

Document Number

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Title

MARK LADD
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $94.00

0002018-2005

Recording Area

Name and Return Address:
Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

PIN: 65-

FROM PART OF 004-04-22-36-060-000

LOT 1	004-04-22-36-060-001	LOT 64	004-04-22-36-060-064
LOT 2	004-04-22-36-060-002	LOT 65	004-04-22-36-060-065
LOT 3	004-04-22-36-060-003	LOT 66	004-04-22-36-060-066
LOT 4	004-04-22-36-060-004	LOT 67	004-04-22-36-060-067
LOT 5	004-04-22-36-060-005	LOT 68	004-04-22-36-060-068
LOT 6	004-04-22-36-060-006	LOT 69	004-04-22-36-060-069
LOT 7	004-04-22-36-060-007	LOT 70	004-04-22-36-060-070
LOT 8	004-04-22-36-060-008	LOT 71	004-04-22-36-060-071
LOT 9	004-04-22-36-060-009	LOT 72	004-04-22-36-060-072
LOT 10	004-04-22-36-060-010	LOT 73	004-04-22-36-060-073
LOT 11	004-04-22-36-060-011	LOT 74	004-04-22-36-060-074
LOT 12	004-04-22-36-060-012	LOT 75	004-04-22-36-060-075
LOT 13	004-04-22-36-060-013	LOT 76	004-04-22-36-060-076
LOT 14	004-04-22-36-060-014	LOT 77	004-04-22-36-060-077
LOT 15	004-04-22-36-060-015	LOT 78	004-04-22-36-060-078
LOT 16	004-04-22-36-060-016	LOT 79	004-04-22-36-060-079
LOT 17	004-04-22-36-060-017	LOT 80	004-04-22-36-060-080
LOT 18	004-04-22-36-060-018	LOT 81	004-04-22-36-060-081
LOT 19	004-04-22-36-060-019	LOT 82	004-04-22-36-060-082
LOT 20	004-04-22-36-060-020	LOT 83	004-04-22-36-060-083
LOT 21	004-04-22-36-060-021	LOT 84	004-04-22-36-060-084
LOT 22	004-04-22-36-060-022	LOT 85	004-04-22-36-060-085
LOT 23	004-04-22-36-060-023	LOT 86	004-04-22-36-060-086
LOT 24	004-04-22-36-060-024	LOT 87	004-04-22-36-060-087
LOT 25	004-04-22-36-060-025	LOT 88	004-04-22-36-060-088
LOT 26	004-04-22-36-060-026	LOT 89	004-04-22-36-060-089
LOT 27	004-04-22-36-060-027	LOT 90	004-04-22-36-060-090
LOT 28	004-04-22-36-060-028	LOT 91	004-04-22-36-060-091
LOT 29	004-04-22-36-060-029	LOT 92	004-04-22-36-060-092
LOT 30	004-04-22-36-060-030	LOT 93	004-04-22-36-060-093
LOT 31	004-04-22-36-060-031	LOT 94	004-04-22-36-060-094
LOT 32	004-04-22-36-060-032	LOT 95	004-04-22-36-060-095
LOT 33	004-04-22-36-060-033	LOT 96	004-04-22-36-060-096
LOT 34	004-04-22-36-060-034	LOT 97	004-04-22-36-060-097
LOT 35	004-04-22-36-060-035	LOT 98	004-04-22-36-060-098
LOT 36	004-04-22-36-060-036	LOT 99	004-04-22-36-060-099
LOT 37	004-04-22-36-060-037	LOT 100	004-04-22-36-060-100
LOT 38	004-04-22-36-060-038	LOT 111	004-04-22-36-060-111
LOT 39	004-04-22-36-060-039	LOT 112	004-04-22-36-060-112
LOT 40	004-04-22-36-060-040	LOT 113	004-04-22-36-060-113
LOT 41	004-04-22-36-060-041		
LOT 42	004-04-22-36-060-042	OUT LOT 1	004-04-22-36-060-114
LOT 43	004-04-22-36-060-043	OUT LOT 2	004-04-22-36-060-115
LOT 44	004-04-22-36-060-044	OUT LOT 3	004-04-22-36-060-116
LOT 45	004-04-22-36-060-045	OUT LOT 4	004-04-22-36-060-117
LOT 46	004-04-22-36-060-046	OUT LOT 5	004-04-22-36-060-118
LOT 47	004-04-22-36-060-047	OUT LOT 6	004-04-22-36-060-119
LOT 48	004-04-22-36-060-048	OUT LOT 7	004-04-22-36-060-120
LOT 49	004-04-22-36-060-049		
LOT 50	004-04-22-36-060-050		
LOT 51	004-04-22-36-060-051		
LOT 52	004-04-22-36-060-052		
LOT 53	004-04-22-36-060-053		
LOT 54	004-04-22-36-060-054		
LOT 55	004-04-22-36-060-055		
LOT 56	004-04-22-36-060-056		
LOT 57	004-04-22-36-060-057		
LOT 58	004-04-22-36-060-058		
LOT 59	004-04-22-36-060-059		
LOT 60	004-04-22-36-060-060		
LOT 61	004-04-22-36-060-061		
LOT 62	004-04-22-36-060-062		
LOT 63	004-04-22-36-060-063		

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

OF

AUBURN HILLS SUBDIVISION

00020049

This Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision (this "Declaration") is made and entered into by Bielinski Development, Inc. ("Declarant").

Recitals

Declarant owns or previously owned certain real property, described on the attached Exhibit A, upon which Declarant intends to develop a subdivision for residences and other related improvements.

By this Declaration, Declarant intends to subject such property and improvements to certain easements, rights, restrictions, and obligations with respect to the ownership, use and maintenance of such property and improvements and all components thereof.

Now, therefore, Declarant, as fee owner of such property, by this Declaration (1) establishes and imposes certain provisions, restrictions, conditions, easements and uses upon such real property; and (2) specifies that the provisions of this Declaration shall constitute covenants running with the land which shall be binding upon Declarant, its successors and assigns, and all subsequent owners and occupants of all or any part of such real property.

ARTICLE 1. DEFINITIONS

The following terms shall have the assigned definitions:

1.1 Association

The "Association" shall mean Auburn Hills Homeowners Association, Inc., the members of which shall be all Owners of Lots in the Subdivision.

1.2 Association Insurance

"Association Insurance" shall mean all policies of insurance as may be maintained by the Association under this Declaration.

1.3 Auburn Hills Subdivision Documents

"Auburn Hills Subdivision Documents" shall consist of this Declaration, the Declaration of Environmental Covenants and Restrictions, Articles of Incorporation of the Association and the Bylaws of the Association.

1.4 Board
The "Board" or "Board of Directors" shall be the governing body of the Association, elected according to the Bylaws.

1.5 Building
A "Building" shall be any freestanding structure located in the Subdivision.

1.6 Bylaws
The "Bylaws" shall mean the Bylaws of the Association as adopted by the Board.

1.7 Common Areas
The "Common Areas" shall consist of the Outlots or easements on a portion of a Lot used for signage identifying the Subdivision as Auburn Hills Subdivision.

1.8 Common Improvements
The "Common Improvements" consist of the following, some of which may be located in Common Areas and some of which may be located in public streets: all signs on the Property generally identifying the Subdivision as Auburn Hills Subdivision, and any improvements made by the Association in the Common Areas.

1.9 Declarant
The "Declarant" shall mean Bielinski Development, Inc. and the successors and assigns of Declarant pursuant to assignment in accordance with Section 14.7 of this Declaration.

1.10 Declaration
"Declaration" shall mean this Declaration as the same may be amended from time to time.

1.11 Director
A "Director" shall mean a member of the Board.

1.12 Drawings
The term "Drawings" is defined in Section 6.2.

1.13 Environmental Declaration, Covenants and Restrictions
Shall mean the Declaration of Environmental Covenants and Restrictions as the same may be amended from time to time.

1.14 Lot
"Lot" shall mean a platted lot intended for construction of a residence as shown on the Plat. The reference to a Lot by a number shall mean that particular Lot as shown on the Plat.

1.15 Mortgage

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"Mortgage" shall mean a recorded first lien mortgage against a Lot or the vendor's interest under a recorded first lien land contract relating to a Lot.

1.16 Mortgagee
"Mortgagee" shall mean the holder of a Mortgage.

1.17 Occupant
"Occupant" shall mean the Owner and any other person residing on a Lot.

1.18 Outlot
"Outlot" shall mean an outlot as shown on the Plat. The reference to an Outlot by a number shall mean that particular Outlot as shown on the Plat.

1.19 Owner
"Owner" shall mean each fee simple owner of a Lot. The Declarant is an Owner with respect to Lots to which it holds title.

1.20 Plat
A "Plat" is the plat of the Property as recorded in the Register's Office.

1.21 Property
The "Property" shall mean the real estate subject to this Declaration, as described on Exhibit A and all Buildings and other improvements constructed or to be constructed thereon.

1.22 Register's Office
The "Register's Office" shall mean the office of the Register of Deeds for Racine County, Wisconsin.

1.23 Rules
The "Rules" shall mean rules established by the Association governing the administration of the Common Areas and Common Improvements.

1.24 Subdivision
"Subdivision" shall mean all of Lots as shown on the Plat.

1.25 Town
"Town" shall mean the Town of Caledonia, Wisconsin, and its successors.

ARTICLE 2. ASSOCIATION OF OWNERS

2.1 Administration
Declarant shall establish the Association to administer the property. Declarant shall include in the Bylaws for the governance and administration of the Common Areas and Common Improvements. The Board may, but need not, from time to time adopt and amend Rules that are binding on all Owners and Occupants. The Board shall administer

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and enforce the Common Areas, the provisions of this Declaration and the Bylaws, the Rules, and all other uses of and restrictions on the Property. Until the establishment of the Association, all powers of the Association shall be exercised by Declarant.

2.2 Membership and Voting

Each Owner shall be a member of the Association. In the Association, the Owner(s) of each Lot acquired from Declarant shall be entitled to one (1) vote for each Lot owned. Each Lot owned by Declarant ("Declarant Lot") shall be entitled to three (3) votes for each Declarant Lot. No member shall be permitted to vote if such member is more than thirty (30) days delinquent in the payment of any amount due to the Association under Article 3 of this Declaration.

2.3 Control of Association

Declarant shall have the right to appoint and remove Directors of the Association and to exercise any and all powers and responsibilities assigned to the Association, the Board, or its officers, by the Articles, By Laws, this Declaration or the Wisconsin Nonstock Corporation Law (as amended from time to time), until the earliest of: (1) thirty (30) days after the receipt of occupancy permits from the Town for all of the Lots; or (2) Declarant's election to waive its rights to control.

2.4 Management

The Association may employ a professional management agent or company to assist in carrying out its duties regarding the Common Areas, the Common Improvements, and this Declaration, with such experience and qualifications and on such terms and conditions as are acceptable to the Board. Any such agreement must be terminable by the Board, without cause, upon ninety (90) days notice without payment of any penalty.

2.5 Approvals

Except for proposals requiring approval by the ACC, defined below, pursuant to Article 6 hereof, any proposal by an Owner requiring Board approval shall be submitted in writing, in such detail and with such supporting documents as the Board may require to facilitate its understanding and review. The Board may approve or disapprove any proposal submitted by an Owner after considering one or more of the following concerns and any additional concerns as the Board deems prudent: (1) freedom and safety of access and convenience to other areas of the Property; (2) the costs to be paid by the Owner for restoration of Common Areas and Common Improvements to their prior physical condition upon the completion of work or use contemplated by the proposal; and (3) a fair and reasonable monthly charge to be paid by the Owner to the Association for any encroachment on any Common Areas resulting from the proposal. The Board may at its discretion impose further conditions upon its consent to any proposal as it deems appropriate, including payment of out of pocket charges for professional advice and a standard review fee. Approval of a proposal shall be deemed given if the Association president indicates approval in writing. Except for the signage identifying the Subdivision and the landscaping immediately adjacent thereto, all proposals to affect the Common Areas or Common Improvements require the approval of the NRS Committee ("NRSC") established under the Environmental Declaration, Covenants and Restrictions.

0002052

All proposals affecting the signage identifying the Subdivision and the landscaping immediately adjacent thereto shall be approved by the Board.

ARTICLE 3. ASSESSMENTS

3.1 Budget and Assessments

The Association shall annually adopt a budget of common expenses and levy assessments on the Lots allocating such assessments equally to each Lot, subject to the limitations herein. Common expenses shall include the costs associated with the maintenance of Outlots pursuant to the Environmental Declaration, Covenants and Restrictions. The budget shall include amounts representing assessments that are bad debts, and may but need not include a replacement reserve, which in each case shall constitute part of the general assessments. The Association may also levy (a) special assessments on all Lots for any purpose for which a general assessment may be levied and (b) special assessments, or fines on particular Owners for the purpose of collecting any amounts due the Association or enforcing compliance by such Owners with any provision of this Declaration, the Bylaws or any Rules. The Board may adopt a Rule to impose uniform charges for services which the Association provides related to transfer of Lots, review of proposals under Section 2.5, and the like. The Board may adopt an initial budget showing the anticipated amounts necessary to cover common expenses.

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3.2 Installments; Late Payments

General assessments shall be levied on an annual basis but shall be due and payable as determined by the Board from time to time. Special assessments shall be due and payable at such time and in such manner as the Board may determine. Any assessment or installment of an assessment not paid within ten (10) days of its due date may be subject to a late charge and/or interest as set forth in the Bylaws or in a Rule.

3.3 Enforcement; Liens

If an Owner defaults in any payment, the Association shall take appropriate measures as permitted by law. The defaulting Owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including the Association's reasonable attorneys' fees. Owners shall be personally liable for assessments or fines and a lien shall be imposed against such Owner's Lot for any unpaid assessments. The lien shall be effective as of the recording of a notice thereof in the Register's Office. Liens for unpaid assessments shall also extend to and secure interest, fines and reasonable costs of collection including attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a property upon the foreclosure of its lien. Under Section 2.2, an Owner delinquent in payments may in some cases not be permitted to vote on matters before the membership of the Association.

3.4 Association Statements

Within five (5) business days of written request from an Owner or a Mortgagee, the Association shall provide a letter stating the existence and amount of outstanding general or special assessments against the Owner's property, if any. Notwithstanding anything to the contrary in the preceding sentence, all property conveyed by Declarant shall be

deemed conveyed free from outstanding general, special or working capital assessments and no such letter shall be required or given as to such property.

3.5 Common Expenses and Surpluses

Common expenses and surpluses shall be allocated in the same manner as general assessments are allocated. All common surpluses for each fiscal year shall be retained for common expenses for the next succeeding fiscal year.

ARTICLE 4. MAINTENANCE AND ALTERATIONS

4.1 Owner Responsibility

Each Owner shall reimburse the Association for the cost of the Association's repair or replacement of any portion of the Common Areas or Common Improvements damaged through the fault or negligence of such Owner or such Owner's family, guests, invitees or tenants. Each Owner shall, at the Owner's cost, even if no residence has been constructed by such Owner, maintain the yard, including the cutting of grass and snow removal from driveways and, if any, sidewalks, in an orderly and neat manner and shall maintain all structures on the Lot in good repair and condition.

4.2 Association Responsibility

Except for the portions of the Common Areas and Common Improvements owned, controlled and/or maintained by the NRSC and/or the Open Spaces Steward, as defined in the Environmental Declaration, Covenants and Restrictions, the Association shall maintain in good condition and repair, replace and operate all of the Common Areas and Common Improvements, including landscaping, trees and plantings in the Common Areas and trimming of such trees for sight lines. The Association may, in its discretion, install additional Common Improvements in the Common Areas.

ARTICLE 5. RESTRICTIONS ON USE AND OCCUPANCY

5.1 Permitted Uses

Each Lot shall be occupied and used only for single family residential purposes and for no other purpose. No trade or business shall be carried on anywhere in the Subdivision, except for (1) the incidental use of a Lot for personal business conducted by mail and telecommunications which does not burden the use of the Subdivision by frequent visits by business service providers or customers, subject to any Rules relating to such burdens, or (2) the sale of Lots, subject to the other provisions of the Auburn Hills Subdivision Documents and any Rules related thereto, or (3) the establishment of offices by Declarant or its agents for sales of Lots or by the Association for conducting its affairs. The term "residential purposes" includes only those activities necessary for or normally associated with the use and enjoyment of a homesite as a place of residence and limited recreation. No garage or other mobile or accessory structure shall be used for temporary or permanent living or sleeping for family or guests without prior approval of the ACC.

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5.2 Connection Between Ownership and Occupancy of Lots

Each Lot must be occupied by its Owner; the Owner's equitable beneficiary; the Owner's tenants, the Owner's shareholder, director, member, partner, employee, trustee or officer; or a member of the Owner's immediate family. For purposes of this section, "immediate family" is limited to parents, grandparents, children, grandchildren, siblings, or in-laws. Notwithstanding the foregoing, an Owner shall be responsible to the Association and each other Owner for any breach of any provision of the Auburn Hills Subdivision Documents caused by an Occupant. The Association will only need to deal with the Owner and may, but shall not be obligated to, address any breach with the offending Occupant. Any Owner may lease a residence on a Lot for a term of not less than six (6) months. Any lease or rental agreement must be in writing.

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5.3 Vehicles

a) No person shall occupy, park or otherwise use a vehicle so as to block access to a Lot. No vehicle maintenance or lubrication shall be permitted anywhere in the Subdivision except washing of cars in driveways or maintenance performed within a garage.

b) Owners shall use their best efforts to store vehicles in garages. When more vehicles are actively used by household members, the vehicles shall be parked in driveways and not on the street, except for temporary parking, as later defined. Except for temporary parking as defined later, there shall be no outside storage of boats, trailers, buses, large trucks, campers, inoperable vehicles or other vehicles deemed to be unsightly by Declarant or the Board. Temporary parking of boats and vehicles shall be allowed between April 15th and November 15th of each year and shall be on site no more than a total of 90 days per year or no more than two weeks at a time during such seven (7) month period. The purpose of this provision is to provide an aesthetically pleasing subdivision for all residents. The Board shall use its best efforts to fulfill this purpose for the good of all Owners.

5.4 Waste

Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles is prohibited, and garbage containers shall be situated only in locations designated by the Association. No incineration of waste is permitted on the Property. Lots shall be kept free of debris during construction of improvements thereon by maintenance of a dumpster on-site. The refuse and garbage receptacles for each occupied home shall be stored in the residence or garage, except for a period of 12 hours prior to and following the scheduled garbage pickup.

5.5 Restricted Dumping

No construction material, grass clippings, rocks or other debris or waste materials shall be dumped by any Owner onto any Lot which is vacant within the Subdivision.

5.6 Temporary Structures

No structure, trailer, tent, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of a Lot or Common Area without written approval of the Board, except for construction trailers maintained by Declarant and its successors and assigns, or the Association.

5.7 Quiet Enjoyment

Each Owner shall have the right to use its property in accordance with this Declaration and applicable law, free from unreasonable interference from any other Owner, Occupant and other invitee. No person shall cause or permit the Common Areas to be used so as to deny any Owner or Occupant the full use of the Common Areas except as permitted by the Association under Section 2.5.

5.8 Noxious Activity

No use or practice shall be allowed in the Subdivision or the Common Areas which is immoral, improper or offensive in the opinion of the Board or which is in violation of the Auburn Hills Subdivision Documents. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audiovisual equipment.

5.9 Patios and Balconies

Patios, decks and balconies of Buildings on Lots shall not be used for storage of any kind, including, but not limited to, the storage of motorcycles, baby carriages, bicycles or wagons.

5.10 Signs

No Owner or Occupant, except Declarant, may erect, post or display posters, signs or advertising material on the Common Areas or at locations within a Lot which are visible from the public streets or Common Areas without the prior written consent of the Board, except that an Owner may within the Unit erect or post a temporary sign of customary and reasonable dimension relating to the open house of a Lot for sale. Where Board consent is sought and obtained, the permitted signs will be erected and maintained in accordance with all ordinances, rules, regulations and conditions applicable thereto. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include any placard, posters or other such devices as may be affixed to the interior of any exterior windows so as to be visible from the exterior of the Building.

5.11 Environmental Matters

Each Owner and Occupant shall comply with all applicable Rules, governmental statutes, ordinances, regulations or rules relating to the storage, transport and release to, from, on or in such Lot of any hazardous substances, pollutants or contaminants. Each Owner and Occupant shall comply with the Environmental Declaration, Covenants and Restrictions recorded against the Property

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5.12 Pets

No animals, livestock, reptiles, poultry, or birds of any kind shall be raised, bred or kept within the Subdivision, except as allowed by Town ordinance. No animals within the Subdivision shall be kept, bred or maintained for any commercial purposes. No pet shall be permitted which causes an unreasonable disturbance as determined by the Board, at the Board's sole discretion. The Board shall establish and enforce rules and regulations regarding pets, which shall be followed by all owners that keep pets. The Board may order the removal of any pet at any time in its sole discretion after notice and a hearing if such pet is or becomes offensive, a nuisance or harmful in any way to the Subdivision or those occupying or owning therein. The Association may charge a fee of any pet owner to cover the Association's administrative or enforcement costs. All pets shall be housed indoors and, if allowed outdoors, shall be kept on a leash unless the Architectural Control Committee has approved of a dog kennel as provided herein. Any pet excrement in portions of the Subdivision other than the pet owner's Lot shall be removed immediately by the Occupant of the residence in which the pet resides. A violation of the provisions of this paragraph shall subject the Lot Owner responsible for such violation to additional special assessments by the Board for the enforcement costs, including but not limited to reasonable attorneys' fees incurred by the Association incident to the enforcement of this paragraph and the rules and regulations established by the Board.

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ARTICLE 6. ARCHITECTURAL CONTROL

6.1 Architectural Control Committee

Declarant shall establish an Architectural Control Committee ("ACC"), related to the Association as provided herein, which shall consist of the Board. One or more Committee members may delegate their Committee duties to any one or more of the other Committee members. Buildings and other improvements installed by Declarant, or existing on the date hereof, shall not be subject to any of the terms and conditions contained in this Article 6.

6.2 Prior Approval for Improvements

Prior to the commencement of any of the activities listed below, the Owner(s) of the Lot shall submit to the ACC two (2) copies of a sketch or survey ("Drawings") of the affected Lot prepared by a licensed surveyor, engineer, architect or designer:

a) The construction of any Building or other improvements on any Lot, or the reconstruction thereof following a casualty loss thereto, or

b) The demolition of any Building or other improvements on any portion or portions of a Lot, or

c) The painting, decoration or alteration of the exterior of any Building or other improvement on a Lot, or

d) The installation of any awning, enclosure, hot tub, deck, garden, swimming pool, grading, mailboxes, fixed grill, fences or other landscape features on any such property.

6.3 Prior Approval for Changes

If after the completion of any approved improvements to a Lot, the Owner thereof desires to construct any additional improvements to the Lot or to substantially alter the then existing improvements or the grade of the affected Lot, the Owner shall comply with the provisions of Section 6.2 above. A proposed alteration will be deemed substantial if it affects the location or exterior appearance of the prior approved improvements.

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6.4 Review and Approval Process

None of the activities listed above in Section 6.2 shall take place without the prior written or deemed approval by the ACC of the Drawings for any such proposed activity, except if the activity is the repair or replacement of previously approved exterior features with features that are identical or if the action is the repainting of an exterior surface with paint of the same color.

a) The **Drawings** shall include the following:

1) the location, size, elevations and type of Building(s) and other improvements, including, but not limited to, homes, garages and fences or other matters proposed to be erected or reconstructed on such property,

2) detailed plans and specifications for construction or reconstruction, including building material, type and color and plans to screen the demolition, construction or reconstruction from view, and

3) the proposed landscaping.

b) **Standards and Procedural Matters of Consideration for Approval**

1) The ACC shall review and consider any Drawings submitted to the ACC provided that any fees imposed for ACC review have been paid by the Owner(s). In considering the Drawings, the ACC shall consider whether all of the proposed activities proposed in such Drawings comply with the terms of this Declaration and the Town ordinances and in the ACC's sole opinion, do not detract from or depreciate any portion of the Property, even if the Drawings otherwise do not breach any other standard set forth in this Declaration. The ACC may approve Drawings (absolutely or conditionally) or may object to Drawings (absolutely or conditionally). The ACC may not disapprove of any reconstruction of any Building or other improvements on any portion or portions of such property following a casualty loss thereto.

2) If the ACC fails to approve of or object to the Drawings within sixty (60) days after submittal of the complete Drawings and payment of any review fees to the ACC, the Drawings shall be deemed approved as submitted. If the ACC objects to Drawings in whole or in part for any reason, the

submitting Owner shall thereafter resubmit Drawings to the ACC with such revisions as are required. Each time an Owner so submits the Drawings, the ACC shall have the right to approve or object to the Drawings within sixty (60) days after the submittal of the complete revised Drawings and the payment of any additional review fees to the ACC.

3) Following the ACC 's approval of the Drawings, the improvements described therein shall be developed strictly in accordance with the approved Drawings. If the approved improvements are not completed within one (1) year of their initial approval, then such approval shall be deemed withdrawn and the same or different Drawings required to be submitted or resubmitted, as the case may be. The ACC may, in its discretion, extend the withdrawal period by up to an additional 6 months if it reasonably determines that the delay has been primarily caused by factors outside of the control of the Owner.

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6.5 Separate Town Approval

Matters which require approval of the ACC may also require approval of the Town. Obtaining approval from the ACC and from the Town is solely the responsibility of the Owner desiring approval. Approval of Drawings by the ACC shall not be deemed approval by the Town and approval by the Town shall not be deemed approval by the ACC.

6.6 Procedures and Budget

The ACC may set its own operating procedures consistent with this Declaration. The costs of operating the ACC shall be assessed by the Association as common expenses, except as permitted below. The ACC may, but need not require the payment of a review fee by an applicant Owner in connection with the submittal and review of any Drawings. The ACC may engage and employ consultants (e.g., architects, engineers or attorneys) either on a general or on a case-by-case basis, and the costs thereof may be charged to an applicant Owner. The members of the ACC shall not receive any compensation for serving on the ACC but may be reimbursed for expenses incurred in performing their duties. All funds relating to the ACC shall be handled by the treasurer of the Association.

6.7 Uniformity Standards; Waiver

The ACC may adopt additional written standards of uniformity, setback, grading, landscaping, basements, roofing, or exterior, whether generally or for certain types of improvements. The ACC may waive any such standard which it has adopted, may waive any standard contained herein, and may waive any floor area requirements by up to 10% so long as the reduction does not exceed the minimums provided by the Town of Caledonia Zoning Ordinance. The ACC may in its discretion also permit comparable or superior construction materials as substitutes for those required in this Declaration. Any such waiver or approval must be express and in writing. The ACC may enforce any standard even if it has, expressly or by acquiescence, permitted previous deviations from such standard. Any variance granted hereunder may be conditioned, and may be

permanent or time-limited (and if not expressly time limited will be deemed to be effective for so long as the use of such property is not materially altered). The ACC may waive any standard even in the absence of an "unnecessary hardship"; those judicially determined standards for granting variances under zoning regulations shall not apply to the ACC.

6.8 Indemnification

Each member or former member of the ACC, together with the personal representatives and heirs of each such person, shall be indemnified by the Association against all loss, costs, damages and expenses, including reasonable attorneys' fees, asserted against, incurred by, or imposed in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason of service as a member thereof, except as to matters resulting in a final determination of negligence or willful misconduct on the part of such member. In the event of a settlement of such proceeding, this indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of negligence or willful misconduct in the such person's performance as a member in the matter involved. This right of indemnification shall be in addition to all other rights and defenses. All liability, loss, damage, costs and expense incurred or suffered by the Association in connection with this indemnification shall be a common expense. Nothing herein shall be deemed an indemnification of such person with respect to such person's status as an Owner, Occupant or otherwise.

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6.9 Architectural Requirements & Guidelines

a) Minimum Square Feet

Only one single family home may be constructed on each Lot. Homes shall have the following minimum sizes excluding basements, attics, porches, garages, patios, and similar additions into the calculations.

1 Story:	1800 Square Feet
More than 1 Story:	2200 Square Feet

For purposes hereof, "more than 1 story" includes homes referred to as one and a half story and two story.

b) Restricted Home Types

No split-level or tri-level homes are allowed.

c) Lot Setbacks

Front Yard:	25'
Rear Yard:	35'
Side Yard:	10'

d) **Diversity of Model Type**
Homes adjacent to, directly across from, or in the immediate vicinity of each other can not be exactly the same or so similar as to be monotonous or aesthetically displeasing. The ACC shall be acting reasonably if it does not approve the Drawings for a residence because another residence in close proximity would be too similar in appearance.

e) **Basements**
The ACC shall be acting reasonably if it requires portions of basement walls to be exposed on Lots with significant grades to allow for a more natural transition between residences. Any such exposed basement or foundation walls shall be covered with material consistent with the overall architecture of the residence.

f) **Garage**
Each home on a Lot is required to have a minimum 2.5-car garage attached to the home. The garage must be a minimum of 572 square feet.

Garages must be constructed at the time of construction of the home and all exterior features must be completed prior to occupancy of the residence.

g) **Driveway**
Driveways shall be paved within (12) months of Owner's receipt of an occupancy permit. The driveway must be paved with concrete.

All driveways are to be constructed at least two (2) feet from the Lot boundary lines, and each Lot is restricted to only one (1) access point to the street.

No driveway or parking area is permitted within the vision triangles which are located at all street intersections within the Subdivision. Refer to the Town Ordinances to determine the size of the vision triangles.

h) **Siding**
The exterior siding of a home may be made of materials such as cedar, fiber cement, maintenance free upgraded aluminum or 5" upgraded vinyl siding.

A minimum of 20% of the front façade of each home shall consist of brick or stone material. The ACC at is discretion may require more than 20% brick or stone material on the front façade of each home to ensure that the home has a high quality of aesthetics.

i) **Windows**
Each home is required to use shutters or wide window trim (rough sawn cedar or aluminum wrapped) on every window. Whichever shutter or window trim materials are used on the front façade of the home, then such materials must be used on the side facades and rear façade of the home to maintain architectural consistency.

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Window grids are required on all windows, and the style of windows used on the front façade of the home is the style of windows that is required on the side facades and rear façade of the home to maintain architectural consistency.

There shall be no windowless elevations.

j) **Patio Doors**
Each home is required to use wide patio door trim (rough sawn cedar or aluminum wrapped) on every patio door. Whichever trim is used as the window trim is required to be used as the patio door trim.

k) **Corner Boards**
Each home is required to use rough sawn cedar or aluminum wrapped corner boards on all corners of the home. The type of corner boards that are used on the front façade of the home must be used on the side facades and rear façade of the home to maintain architectural consistency..

l) **Aluminum Wrapped Exterior**
The exterior of the home may have aluminum-clad soffit, fascia, frieze boards, gable vent trim, entry door frame trim, overhead door jamb/trim, box windows, fixture blocks and/or aluminum porch columns.

m) **Roof**
A residence shall have a roof of architectural grade dimensional shingles.

Initial roof color is restricted to Driftwood. In the event that the manufacturer is changed or the Driftwood color is no longer available it will become the responsibility of the ACC to choose a comparable color to replace the original color.

Each home must have a minimum roof pitch ratio of 8:12 on the main body of the roof. Roof pitches are subject to ACC approval and may be modified for structural or aesthetic purposes.

n) **Mailbox**
Each Lot Owner is required to install and maintain a uniform mailbox and mailbox support post in a style, size, color and material determined by the ACC. The mailbox will be supplied and installed by the builder.

The location of mailboxes must be consistent on every Lot.

Each owner shall maintain its mailbox in good condition and working order.

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o) **Yard Lamp**

Each Lot Owner is required to install and energize a front yard light post and lantern within one year of occupancy. The yard lamp will be supplied and installed by the builder.

The light post must be:

1. Located at least 3 feet and no more than 10 feet from the front Lot line
2. Adjacent to the driveway.
3. Elevated to a height to be determined by the ACC
4. Fitted to use a high pressure sodium lamp of no more than 50 watts
5. Illuminated from dawn to dusk by means of a photocell.

Prior to occupancy of a residence on a Lot, the Owner must demonstrate to the ACC that the light post and lantern is connected to electrical service (paid for by owner). Each owner shall maintain its light post in good condition and working order, and shall make certain that electrical services are continued to the lamp.

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p) **Fences**

All fencing must be approved by the ACC prior to installation. The ACC shall make the final determination on what fencing will be permitted, the location of fencing, and the height of the fencing. In general, no fence erected on any residential Lot shall be higher than four (4) feet from the graded surface of the ground on which it is erected with the exception of privacy fences installed near the home for the purpose of screening views between neighbors from side to side. In this situation the privacy fence shall be no more than six (6) feet from the graded surface of the ground. No chain link fencing shall be permitted.

Fences are not allowed to encroach into electrical easements without permission from WE Energies. Each homeowner is advised to contact WE Energies in the event they want to encroach into an electrical easement to make sure they understand all restrictions and rules regarding such easements.

q) **Additions to the Exterior Home**

Additions such as sunrooms, enclosures, awnings, or any other similar structures must be approved by the ACC. All future additions are subject to the architectural controls of this document.

All structural additions must be designed by a qualified engineer, architect or designer experienced in residential design.

r) **Antennas/Satellite Dishes**

No antenna, aerial, satellite dish, cable for television or radio reception which is greater than 24" in diameter shall be erected or installed on any roof or any other portion of a Building or on the unimproved portions of a Lot, except as erected or installed by Declarant, the Association, or any individual Owner with written approval by the ACC. Notwithstanding the foregoing, no antenna, aerial, satellite

dish or cable for television or radio reception shall be installed on the front elevation of any Building on a Lot. Any satellite dish approved by the ACC shall be the smallest sized satellite dish available and shall be installed near the rear of the home. In every case, the antenna, aerial, satellite dish, cable for television or radio reception must be in compliance with Town ordinances.

s) **Clotheslines**
Clotheslines may be installed and/or used on a Lot provided the clothesline installation is approved by the ACC. Any clothesline allowed on a Lot shall be limited to portable or retractable lines and shall be limited to the rear yard of the Lot.

t) **Pools**
No above ground swimming pools shall be installed. In-ground swimming pools may be installed on a Lot only with the approval of the ACC, which will be acting reasonably if it does not approve an in-ground swimming pool which is not completely enclosed by a secure wall or fence of a minimum of four (4) foot elevation, with a self closing or self latching gate or door (at the top of such gate or door). There must be an unobstructed area of at least four (4) feet between the fence and the swimming pool.

u) **Walkways**
All walks leading up to the front door must be paved with a hard surface such as concrete, stamped concrete, brick or flagstone. Asphalt walks are not allowed.

v) **Decks**
Decks must be located to the rear of the home.

The height of the deck is limited to the ground level finished floor line on single story homes and to the second story finished floor line on two story homes.

Decks may be constructed of treated wood as long as the material is in harmony with the adjacent home. Decks may have a clear or tinted preservative stain applied to them or be left to weather naturally. Paint is not permitted on the walking surface of the deck, but can be applied to hand railings and all other deck surfaces.

w) **Patios**
Patios must be constructed with a hard surface material such as concrete, stamped concrete, brick pavers, flagstone or similar materials as long as the material is in harmony with the home.

x) **Fixed Grills**
All fixed grills must be approved by the ACC. Permanent grills should be placed behind the rear elevation of the home and should not be placed within ten (10) feet of the side and rear property lines.

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y) **Dog Kennels**
Dog kennels must be located immediately adjacent to the home in the rear yard of the Lot and must be approved by the ACC prior to construction. The ACC may condition any approval for a dog kennel by requiring the appropriate screening of the dog kennel.

z) **Utilities**
All utilities must be installed underground.

aa) **Solar Collectors**
No exterior active solar collectors shall be erected, installed or used unless presented in drawings and approved by the ACC.

bb) **Accessory Structures/Sheds**
No accessory structures or sheds of any kind shall be permitted.

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6.10 Landscaping Requirements & Guidelines

a) **Existing Vegetation**
No existing live tree with a diameter of four inches or more, at a height of four feet above the ground shall be cut down, destroyed, mutilated, moved, or disfigured without the approval of the ACC.

b) **Grading**
Declarant and the Town of Caledonia have agreed to a certain Storm Water Management Plans and Master Grading Plans. Each Lot Owner shall conform to the Storm Water Management Plan and Master Grading Plan and shall not alter the grades established in such plans. In the event of a conflict between any proposed Drawings and the Storm Water Management Plan or the Master Grading Plan, the Storm Water Management Plan and/or the Master Grading Plan shall control. The Declarant and the Town, their agents, employees or independent contractors shall each have the right to enter upon any Lot after giving reasonable notice to the Owner for the purpose of inspection, maintenance, or correction of any drainage condition, and the Owner is responsible for the costs thereof. Owner shall be provided with a written notice of any drainage condition requiring maintenance or correction and given thirty (30) days to cure such condition before the Declarant or Town will rectify such condition at Owner's cost.

c) **Ponds**
No ponds shall be constructed on a Lot without the prior approval of the Town. Rain gardens are encouraged to help slow the rates of storm water runoff, but the ACC and the Town must first approve them.

d) **Lawns**
Each homeowner is responsible for planting a lawn within the first twelve (12) months after receipt of the occupancy permit from the Town.

e) **Plantings**
Plantings (other than turf grass) and landscaping are not allowed within drainage easements without the approval of the Town.

1) **Foundation Plantings**
At a minimum, each homeowner is encouraged to plant a foundation planting in the front of their home within the first twelve (12) months after receipt of the occupancy permit from the Town.

2) **Native Plantings**
Each homeowner is encouraged to use native Wisconsin plants when preparing their yard with landscaping. At a minimum the invasive species listed in the "Living with Nature" handbook provided to each homeowner at the time of sale must be avoided.

3) **Shade Trees**
Each homeowner is responsible for planting two (2) shade tree in the front yard of the Lot. The trees must be selected from the approved list attached to this document as Exhibit B. The trees must be planted within the first twelve (12) months after receipt of the occupancy permit from the Town.

f) **Vision Triangles**
There shall be no planting of perennials, shrubs, or trees within the vision triangles located at the intersections of all streets within the Subdivision that exceed a height of thirty (30) inches. Refer to the Town Ordinances to determine the size of the vision triangles.

g) **Retaining Walls**
Retaining walls are to be built out of boulders or manufactured stone products. Railroad ties, sawn timbers or any other wood product are prohibited from use as retaining wall structure materials.

h) **Maintenance**
Each Lot Owner is responsible for keeping their Lot free from debris and weeds prior to the planting of grass on the Lot.

Until grass is planted on each Lot, the Lot Owner shall be responsible for compliance with the Town of Caledonia's Weed Control Ordinance.

Each homeowner is responsible for keeping the lawn and landscaping in their yard in good maintenance. Should the landscaping be left to grow wild as to become a nuisance or an eye sore, the ACC retains the right to remedy the

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nuisance and assess the costs back to the homeowner. Owner shall be provided with written notice of situation and will be afforded fifteen (15) days to cure such condition before the ACC can take action.

ARTICLE 7. INSURANCE

7.1 Association Insurance

The Association shall obtain and maintain comprehensive general public liability insurance for occurrences on the Common Areas (including areas which are included in such definition by virtue of easements granted herein) and with respect to Common Improvements not in the Common Areas, all-risk casualty insurance coverage on all Common Improvements, and such other policies and/or coverages as the Board deems necessary or advisable.

7.2 Coverage of Association Insurance

The casualty insurance coverage shall be in an amount equal to the maximum insurable replacement value, with an "agreed amount" and a "replacement cost" endorsement, without deduction or allowance for depreciation. This coverage amount shall be annually reviewed and shall insure against loss or damage by fire and other hazards as commonly covered by a standard extended coverage endorsement and such other hazards as customarily covered with respect to buildings similar in construction, location and use. Comprehensive general liability coverage shall be in such amounts as the Board determines annually, but not less than $1,000,000 per occurrence.

7.3 Proceeds

Association Insurance proceeds for casualty loss shall be for the benefit of the Association in order to finance construction of damaged Common Areas or Common Improvements. Liability coverage and other insurance proceeds shall be applied as the Association directs.

7.4 Cost

All premiums for Association Insurance and other insurance obtained by the Association shall be a common expense.

7.5 Waiver

The Association and, by acceptance of a conveyance to a Lot or Outlot or the use thereof, or any portion thereof or interest therein, each Owner or Occupant acting both for themselves and for their respective insurers, waive any claim it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however the loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence thereof precludes the Association from obtaining any policy of insurance at a reasonable and customary rate.

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7.6 Acts Affecting Insurance

No Owner or Occupant shall commit or permit any violation of covenants or agreements contained in any of the Association Insurance, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (a) result in termination of any such policies, (b) adversely affect the right of recovery thereunder, (c) result in reputable insurance companies refusing to provide such insurance, or (d) result in an increase in the insurance rate or premium over the premium which would have been charged in the absence of such violation or condition, unless, in the case of such increase, the Owner or Occupant responsible for such increase shall pay the same. If the rate of premium payable with respect to the Association Insurance shall be increased by reason of, (1) the size, design or composition of a Building, (2) anything done or kept in a property subject to this Declaration, or (3) the failure of an Owner or Occupant to comply with Association Insurance requirements, or (4) the failure of any such Owner or Occupant to comply with this Declaration or the Bylaws, then the particular Owner or Occupant shall reimburse the Associations for the resulting additional premiums. The Association reimbursement right is without prejudice to any other Association remedy, and may be enforced by special assessment against the particular property involved.

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7.7 Exclusions From Coverage

Association Insurance coverage shall exclude (a) coverage on any residence or personal property located within or pertaining to the exclusive use of an Owner except to the extent included as a standard coverage in the policy of Association Insurance; and (b) liability coverage on an Owner or Occupant, its guests, invitee, employees or tenants, arising out of any occurrences within a Lot and/or relating in any way to an Owner's or Occupant's personal property. It is the sole responsibility of each Owner or Occupant to obtain such insurance coverages as are excluded from Association Insurance.

ARTICLE 8. AMENDMENT OF DECLARATION

8.1 General

This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the Property forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration are subject to an occupancy permit, subject to Declarant's reserved rights, this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of Lots having at least seventy percent (70%) of the total votes allocated to Lots and Declarant Lots, of which one vote must be that of the Declarant with written approval from the County and Town. After all Lots subject to this Declaration have been sold by Declarant, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at least seventy-five (75%) of the Lots subject hereto with written approval from the County and Town. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Declarant shall have three (3) votes for each of the Declarant Lots it owns. In addition to the amendment requirements stated above, any amendment must be approved by at least 51% of the Mortgagees.

8.2 Procedures

Amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Register's Office. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded.

ARTICLE 9. RIGHTS OF MORTGAGE HOLDERS

9.1 Notice

Any Mortgage holder, insurer or guarantor of a Mortgage on a Lot who submits a written request to the Association, identifying the name and address of such holder, insurer or guarantor and the property involved, will be entitled to timely written notice of:

(a) Any thirty (30) day delinquency in the payment of assessments owed by the Owner of the property on which it holds a Mortgage or any breach of the provisions of any of the Auburn Hills Subdivision Documents which is not cured by such Owner within thirty (30) days of such Owner's receipt of notice of such breach;

(b) A lapse, cancellation or material modification of any Association Insurance; and

(c) Any proposed action that requires the consent of a Mortgage holder as specified in Article 8.

9.2 Mortgagee Acquisition of Lot

A Mortgagee acquiring title to a Lot pursuant to remedies provided in its Mortgage or by a deed in lieu of foreclosure following an Owner's default under the Mortgage shall not be liable for such property's unpaid assessments under this Declaration accruing prior to the Mortgagee's acquisition of title to such property (except to the extent unpaid assessments are included in subsequent budgets generally).

ARTICLE 10. RIGHTS OF DECLARANT

10.1 Reserved Rights

Pending the sale of all Lots by Declarant, Declarant:

(a) may use the Outlots, and any unsold Lots in any manner as may facilitate the sale of Lots including, but not limited to, maintaining a sales and/or rental office or offices, models and signs and/or showing the Lots. Declarant may from time to time also delegate such rights (on a non-exclusive basis and subject to such conditions as Declarant may impose) to persons desiring to construct Buildings on particular Lots as model homes. In delegating such rights to other persons, Declarant's delegees shall not have the right, without Declarant's express written consent, to locate a general office operation in any such model home, although

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use of a model home to facilitate sales of Lots or sales of Buildings on Lots may be permitted so long as that (1) once a model home is used as a residence for an Occupant, it may not thereafter be used as a "model home"; and (2) construction materials shall not be delivered to or stored at a model home, except for construction of such model home.

(b) shall have the right to (1) grant easements upon, over, through and across the Lots (limited to the 10 feet area adjacent to each Lot line), which rights shall expire one year after conveyance of a Lot by Declarant), and the Outlots as may be required in Declarant's opinion for furnishing any kind of utility services, and maintenance and replacement thereof, or for drainage or other public purposes including, but not limited to, cable television or master antenna service, which easements may be granted to itself or its nominee and as may be necessary for excavation and construction of any Buildings and (2) grant easements upon, over, through or across the Common Areas for ingress and egress and maintenance and replacement thereof, to and from, and within, the Property and other real property adjacent to it.

(c) shall have the right to veto any proposed amendment to this Declaration for any reason or no reason, in which case it shall not be deemed approved or effective.

(d) may apply the covenants contained in this Declaration to future stages of the development of Auburn Hills. The future stages of the development of Auburn Hills shall only include lands which are adjacent to the real estate which is or becomes subject to this Declaration or any additional supplemental declaration. The future stages shall become subject to this Declaration by the recording of an amendment to this Declaration with the Register of Deeds for Racine County, Wisconsin. Except with respect to future stages of the development of Auburn Hills, such an amendment to this Declaration shall not revoke, modify or add to the restrictions and covenants contained herein. Notwithstanding anything contained within to the contrary, such an amendment as referred to in this Section, shall only require the consent, approval and signature of the Declarant.

ARTICLE 11. REMEDIES FOR VIOLATION BY OWNER

11.1 General Remedies

If any Owner or Occupant fails to comply with this Declaration, the Bylaws, or the Rules, such Owner or Occupant shall be liable for damages, subject to injunctive relief including an order requiring the removal at the Owner's expense of Buildings constructed without ACC approval, subject to any other remedy provided by the Bylaws, or all of the above, as a result of such noncompliance. The Association or, in a proper case, an aggrieved Owner, may bring an action because of such noncompliance. The "prevailing party" in any action brought to enforce this Declaration or any term or condition hereof shall be entitled to recover from the other party the prevailing party's costs incurred in enforcing this Agreement, including its reasonable attorneys' fees, in addition to any other relief to

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which the prevailing party is entitled. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

11.2 Owner or Occupant Violation; Association Right to Cure

In addition to any other remedies provided herein, if any Owner or Occupant fails to comply with this Declaration, the Bylaws or the Rules, which failure continues for a period of fifteen (15) days following written notice from the Association, the Association shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the Association deems necessary or appropriate, and if an action or other proceeding is commenced in connection therewith, using the fund established in Section 3.7. Expenses incurred therefor by the Association shall be assessed against the Owner or Occupant and shall be subject to all rights and remedies reserved under this Declaration with respect to collection, expense, late payment penalties or interest, filing of a lien and/or foreclosure as reserved at Article 3 of this Declaration. Once the Association has taken such an action, it shall not be obligated to take any other or further action with respect to the same, similar or subsequent failure by the same or a different Owner or Occupant.

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ARTICLE 12. EASEMENTS

12.1 Right of Entry

A right of entry to each Lot, Common Area or Outlot is reserved to the Association to service utility installations located on, in or under such Lot, Common Area or Outlot provided request for entry is made in advance and such entry is limited in scope so as to extend only as is reasonably necessary to service such utility installations. In case of emergency, entry by the Association onto any such Lot, Common Area or Outlot may be made immediately, whether the Owner or Occupant of such Lot, Common Area or Outlot is or is not present and without liability of the Association or its agents if such entry is necessary for the safety or welfare of persons or property. Any damage or loss caused as a result of such emergency entry shall be the sole expense of the Owner or Occupant if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

12.2 Drainage

An easement is reserved to Declarant, the Association and the Town over Lots and Outlots for the installation of drainage tile, swales, streams or other storm sewer and drainage system elements as shown on the Plat or in any Storm Water Management Plan referenced in Section 6.10.

ARTICLE 13. TERMINATION

13.1 Termination

This Declaration shall be in effect for a period of 25 years and automatically renewed for successive periods of 10 years each, unless terminated at the end of the original or any extended term by: (1) Declarant (if during the period of Declarant control of the Association), or (2) the written consent of the owners of at least 90% of the aggregate

Lots provided that no vote shall effect an amendment to or termination of any provision hereof conferring on or reserving a special right or easement to Declarant without the express written consent of Declarant, as appropriate. Voluntary termination of this Declaration must be express and shall be effective upon recording a written instrument to such effect in the Register's Office.

ARTICLE 14. CONSTRUCTION AND EFFECT

14.1 Number and Gender
Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

14.2 Including
Whenever used herein, the term "including" preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

14.3 Captions
The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

14.4 Severability
If any portion of this Declaration or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. The remainder of this Declaration shall be valid, and enforced, to the fullest extent permitted by law.

14.5 Remedies
All remedies herein are cumulative.

14.6 Waivers
Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. A waiver, consent or approval to any one matter shall not be deemed a waiver, consent or approval to any subsequent matter whether similar or not.

14.7 Assignment of Declarant's Rights
Declarant may from time to time assign any or all of the rights and benefits conferred on or reserved herein for Declarant in its status as such (as opposed to those rights or benefits conferred on or reserved for all Owners or groups thereof), by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register's Office.

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14.8 Other Regulation

Nothing herein shall preclude or restrict Declarant recording other covenants, conditions or restrictions which further regulate portions of the Subdivision which Declarant owns at the time of recordation.

14.9 Zoning Code

Nothing contained herein shall be construed to reduce, modify or alter the minimum requirements set forth in the present zoning ordinance, building code or subdivision control ordinance of the County or Town, except as specifically modified in writing by the Town and County, within the framework of the planned unit development portion of the present zoning ordinance.

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Executed at Waukesha, Wisconsin, on the 2 day of September, 2003.

BIELINSKI DEVELOPMENT, INC.

By: _____
Harry Bielinski, Vice President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 2 day of Sept., 2003, the above named ~~Frank~~ Harry Bielinski, as Vice President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

JESSICA MARTIN NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My commission 2/12/06.

This instrument was drafted by:
Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, #3300
Milwaukee, Wisconsin 53202

Exhibit A
Legal Description

AUBURN HILLS BEING A PART OF THE SW ¼ OF THE NW ¼ AND THE SW ¼ AND NW ¼ OF THE SW ¼ OF SECTION 36, IN T.4N., R.22E., TOWN OF CALEDONIA, RACINE COUNTY, WISCONSIN

0002074

Exhibit B
Approved Tree List

Large Trees
Red Maple
Sugar Maple
White Ash
Green Ash
Gingko Biloba (male)
Kentucky Coffeetree
White Oak
Burr Oak
Red Oak
Little Leaf Linden
Redmond Linden
Horse Chestnut
River Birch
White Birch
Shagbark Hickory
Northern Catalpa
Common Hackberry

Small Trees
Serviceberry
Hornbeam (Musclewood)
Crabapple Hybrids
Ironwood (Hop Hornbeam)
Flowering Pear
Japanese Tree Lilac
Pagoda Dogwood
Cockspur Hawthorn
Washington Hawthorn

Trees to Avoid (Invasive Non-Native Species)
Black Locust
Norway Maple
Amur Maple
Siberian Peashrub
Russian Olive
Tatarian Honeysuckle

Many cultivars exist for this species. Cultivars are used for variety among species and improved performance through characteristics: i.e. shape, structure, growth habit, insect/disease resistance, absence/persistence of fruit and color.

0002075

DOC # 1972337
Recorded
MAY 18, 2004 AT 11:25AM

MARK LADD
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: $16.00

Document Number

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AUBURN HILLS SUBDIVISION

Document Title

THIS AMENDMENT ("Amendment") to Declaration of Covenants, Conditions and Restrictions of Auburn Hills Subdivision is made and entered into by Bielinski Development, Inc. ("Bielinski").

WITNESSETH:

Bielinski is the Declarant and the owner of lots numbered 1 - 113 which are subject to a Declaration of Covenants, Conditions and Restrictions of Auburn Hills dated September 2, 2003 recorded in the Office of the Register of Deeds for Racine County, Wisconsin on September 10, 2003 as Document No. 1930504 ("Declaration") affecting the real estate described as:

Recording Area

Name and Return Address:
Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

PIN: 51-004-04-22-36-060-000

Auburn Hills Subdivision being a part of the SW ¼ of the NW ¼ and the SW ¼ and NW ¼ of the SW ¼ of Section 36, T4N, R22E, Town of Caledonia, Racine County, Wisconsin.

Bielinski, pursuant to Article 8.1 of the Declaration, as the Declarant and the owner of more than 70% of the 113 lots subject to the Declaration, desires to amend the Declaration to alter Section 6.9(m) of the Declaration.

NOW THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Section 6.9(m) of the Declaration is deleted in its entirety and replaced with the following:

   (m) Roof
   A residence shall have a roof of architectural grade dimensional shingles.

   Each home must have a minimum roof pitch ratio of 8:12 on the main body of the roof. Roof pitches are subject to ACC approval and may be modified for structural or aesthetic purposes.

2. Except as otherwise stated herein, the Declaration shall remain unchanged and in full force and effect.

Executed at as of the 13th day of May, 2004.

BIELINSKI DEVELOPMENT, INC.

By _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 13th day of May, 2004, the above named Frank Bielinski, as President of Bielinski Development, Inc., to me known to be the person who executed the foregoing instrument in such capacities and acknowledged the same.

JILL A. BAKER NOTARY PUBLIC STATE OF WISCONSIN

_____
Notary Public, State of Wisconsin
My commission: 09-02-07

This instrument was drafted by
and should be returned to:
Timothy J. Voeller, Esq.
MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, Wisconsin 53202-4108
(414) 271-6560