City of Dublin

14-052V
Rear Yard Setback Variance
Williams Residence
6290 Belvedere Green Blvd

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Feet

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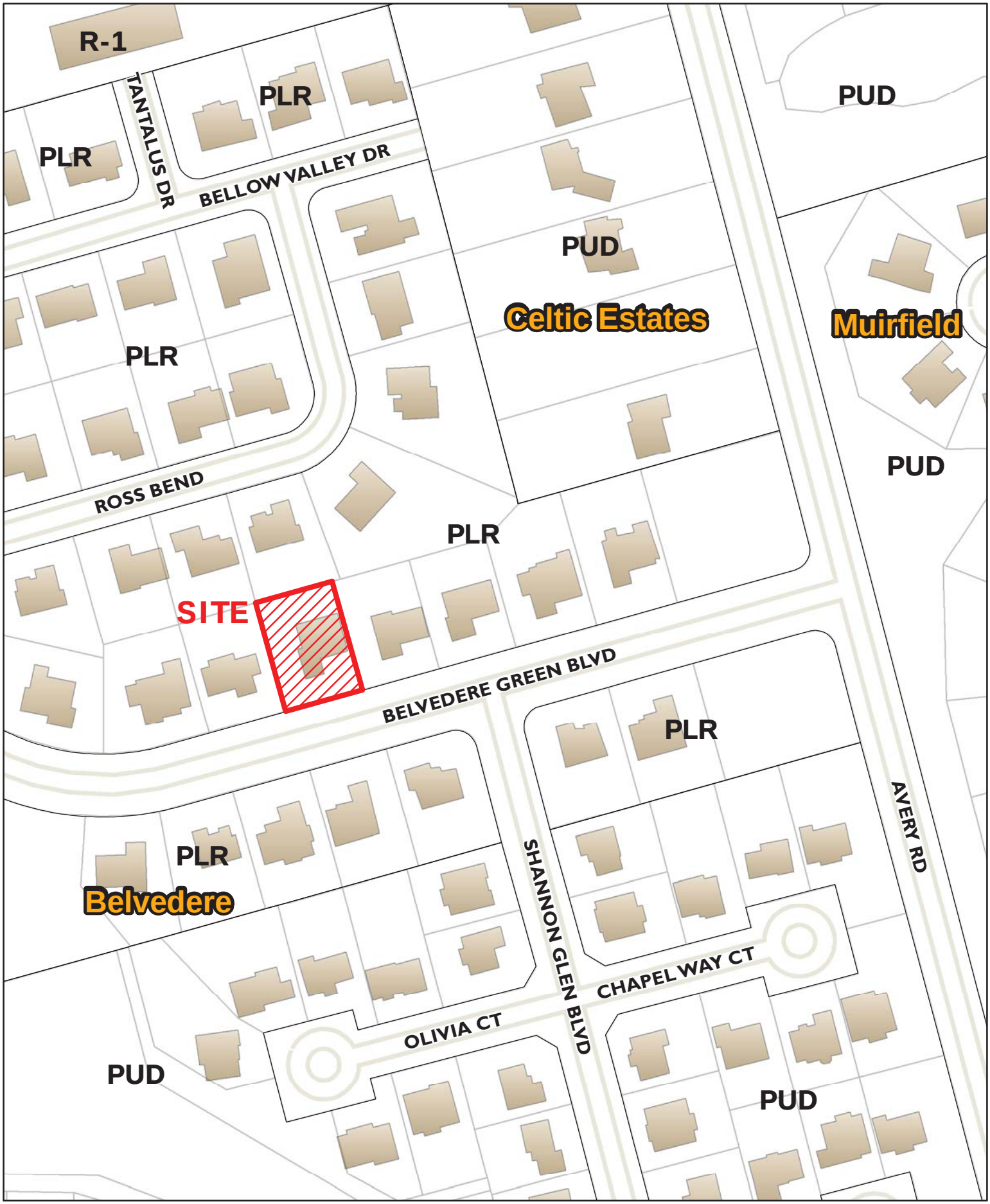

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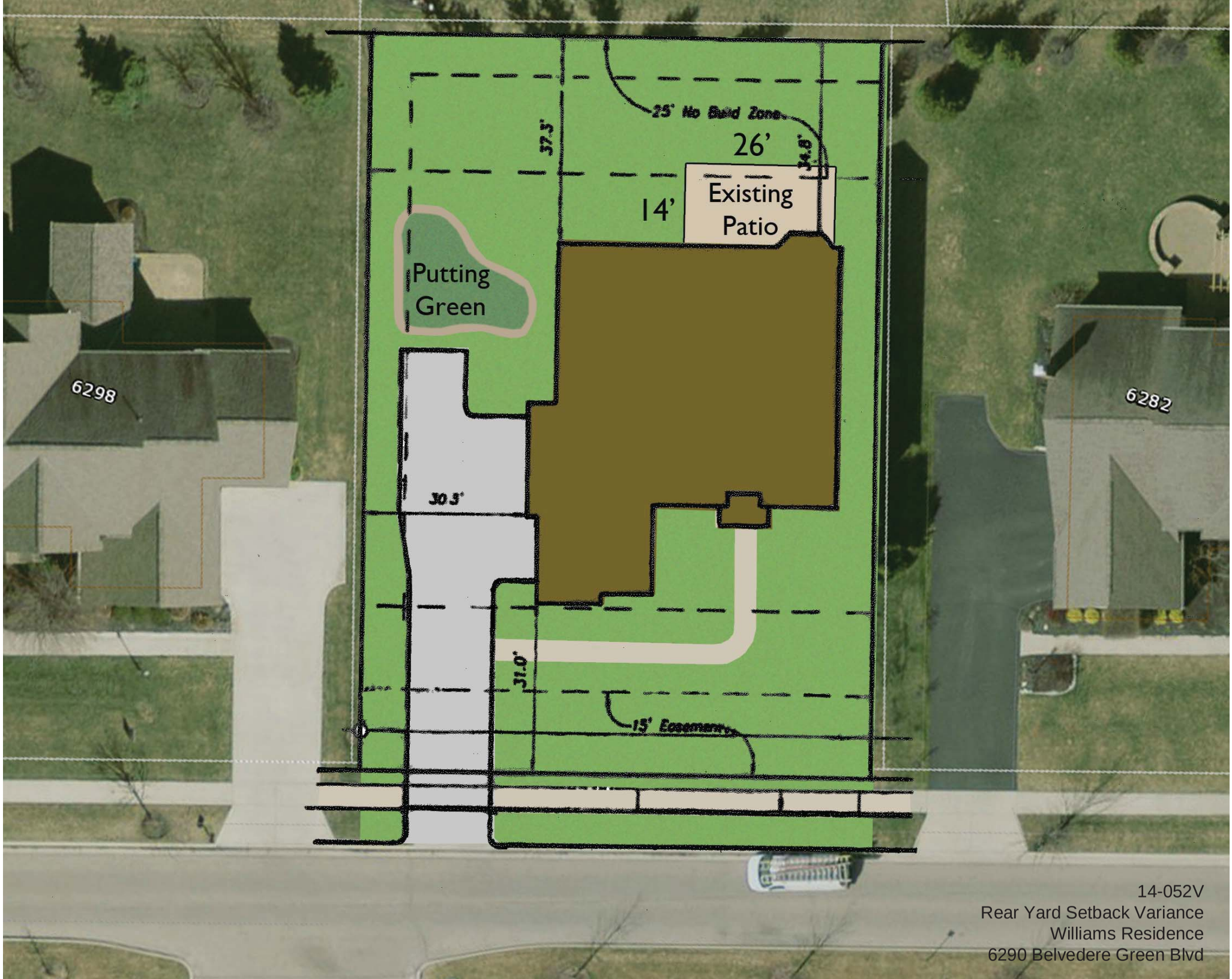

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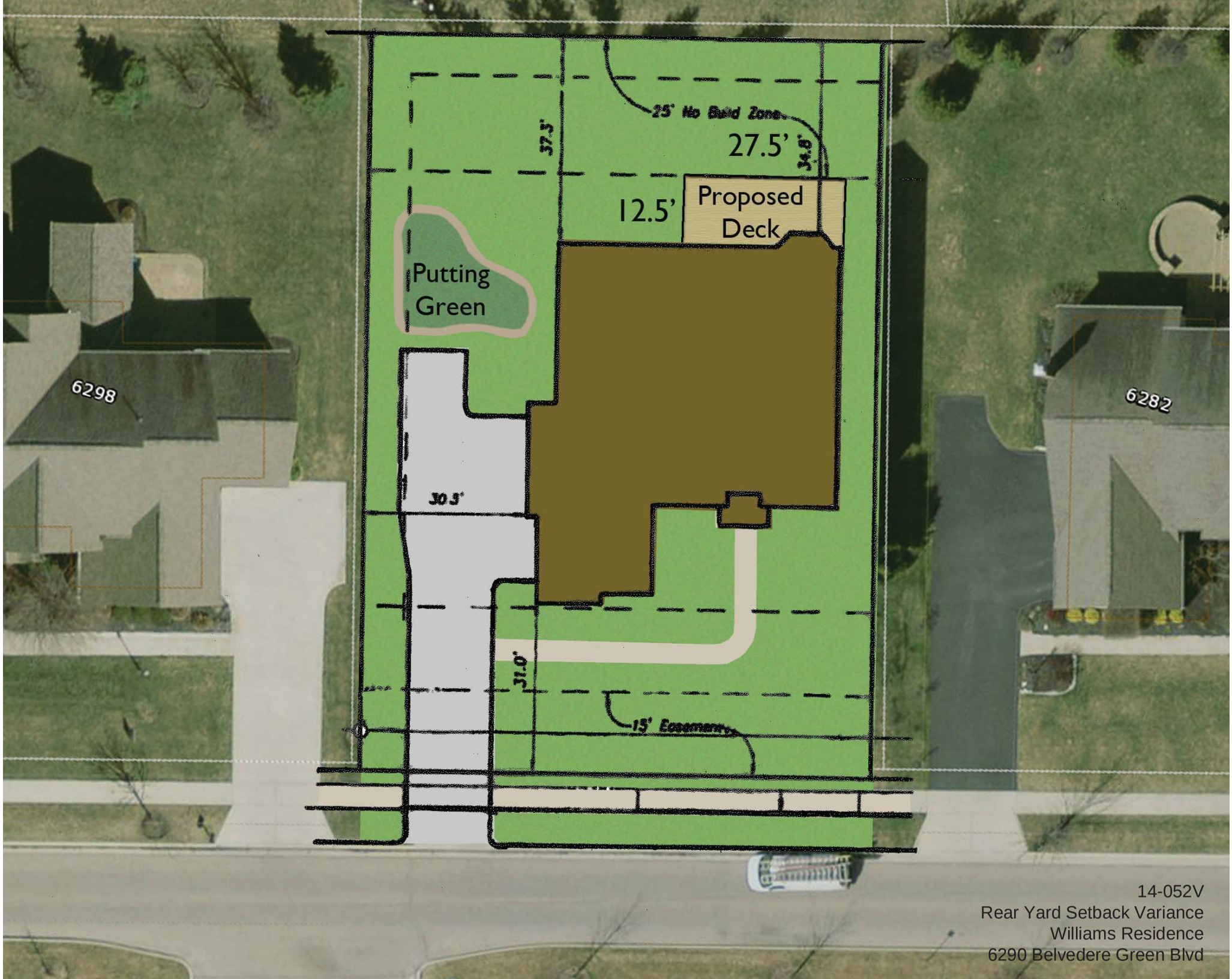

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Williams Residence
6290 Belvedere Green Blvd

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AUG - 6 1999
CITY OF DUBLIN

BELVEDERE SUBDIVISION
PLANNED LOW-DENSITY RESIDENTIAL
DEVELOPMENT PLAN TEXT
SHAWNEE HILLS LAND CO. TRACT
AVERY AND BRAND ROADS
3/31/99

The following information is submitted in accordance with the requirements of Section 1181.02(b)(2) of the Dublin City Code and include a total of 99+/- acres including a proposed school site.

A. The proposed location and size of areas of residential use, indicating dwelling unit densities, dwelling unit types, the total number of dwelling units for each density area and the total number of dwelling units proposed in the development plan:

Gross acreage: 99 +/- acres
Total units: 178 single family lots/houses
Gross density: 1.79 du/acre
Two lot sizes: minimum width of 90 feet (lots between Avery Road and east of Indian Creek) with a minimum lot size of 12,600 square feet (minimum lot width is 90' at the building setback line) minimum of 80' x 130' (lots off Brand Road and west of Indian Creek) with a minimum lot size of 10,400 square feet (minimum lot width is 80; at the building setback line)
Setback from dedicated road right-of-way: will be 25' or 30' as the homes will be staggered throughout the subdivision to provide a variety of front yard setbacks.
Lot side yards: total lot 18' or more with a minimum of 6' on each side. Encroachments on side yard by fireplaces, bay windows, eaves, and overhangs a distance not to exceed 2 feet are allowed.
Lot rear yards: for main building it shall be 25% or more of the lot depth but not to be more than 50' with a minimum of 30'
Maximum height: 35'
No build zone: No build zones shall remain free of any structures including, but not limited to, drives and walks, buildings and outbuildings, sheds, fences, (except adjacent to park ground) swimming pools, decks, swing sets/play structures, satellite dish antennae, etc. Nothing herein shall prohibit over-lot grading and drainage facilities and utility lines and utility structures within said No Build Zones (No Build Zones are shown on the site layout abutting the Shannon Glen Subdivision boundary and along the western side of the open space bordering Indian Run Creek). The rear 25 feet of all lots within the subdivision shall be covered by a no build zone to keep those areas free of obstructions. The rear 30 feet of all lots abutting the central open space west of Indian Run Creek and 10 feet of the yards of lots abutting the central open space on the east side of Indian

Run Creek, shall be covered by a no build zone to keep those areas free of obstructions.

No Disturb Zone: Designated areas which shall remain free of any structures, including but not limited to drives, walks, buildings and outbuildings, sheds, fences, swimming pools, decks, swing sets/play structures, satellite dish antennae, basketball courts, etc. The existing natural features shall not be disturbed, removed, or physically altered unless written permission is granted by the Planning Director or designee. Grading activities and placement of utilities within said zones are not permitted unless written permission is granted by both the Planning Director and the City Engineer or designee. Utilities may cross at right angles to the zones or run outside and parallel to it. A 30-foot wide No Disturb Zone runs along the western and northern boundaries of the subdivision. This No Disturb Zone will be indicated on the subdivision plat with a note regarding maintenance and removal of trees in these areas.

B. The proposed size, location and use of nonresidential portions of the tract, including usable open areas, parks, playgrounds, school sites and other areas and spaces with the suggested ownership of such areas and spaces:

Park/open space provided:	15.5+ acres (per section 153.05 of Zoning Code does not include retention areas)
Park/open space required:	11.77+ acres

Park/open space counted as part of the park/open space requirement is more than the minimum required within the subdivision. The 15.5 acres of park provided shall be located along both sides of Indian Run Creek, in a 2.8 ± acre neighborhood park north of Brand Road, and in the 200' setback area north of Brand Road west of the entry drive. The 2.8 +/- acre park located north of Brand Road and west of Indian Run Creek will be owned and maintained by the homeowners association (make-up, organization, and funding of the homeowners association is attached) established for the subdivision or dedicated to the City of Dublin if requested by the Department of Parks & Recreation. This park shall be developed with play structures as approved by the Department of Parks & Recreation.

The open space shown at the entrances to the subdivision off Avery and Brand Roads shall be dedicated to the City of Dublin upon platting. The homeowners association shall be responsible for the upkeep and maintenance of the open space areas upon dedication.

Location: See attached preliminary site plan. The open space locations shown on the preliminary site plan are schematic and maybe adjusted to accommodate final development. Buffering and landscaping plans shall be submitted as part of the

relief available at law or in equity.

NOW, THEREFORE, in pursuance of a general plan for the protection, benefit and mutual advantage of the Property described above and of all persons who now are or may hereafter become owners of any of the Property or plats thereof, the following restrictions, conditions, easements, covenants, obligations, and charges are hereby created, declared and established:

GENERAL PROVISIONS

APPLICABILITY

A. This Declaration shall apply to the entire Property as described on the attached Exhibit A. The Property is part of a larger tract of land owned and/or intended by Developer for future development, generally consistent with the development of the Property. As Developer acquires and/or develops additional parcels adjacent to the Property, Developer may annex said additional parcels to, and declare them to be, subsequent phases of _____Subdivision. Upon such annexation, Developer shall have the right, but not the obligation, to subject such annexed parcels to the terms and conditions of this Declaration. Developer may subject annexed adjacent parcels to this Declaration without modification, or Developer may supplement and amend this Declaration as it applies to such additional phases of development. As to each development phase of SubdivisionName~, Developer may re-record this Declaration with an attached exhibit which modifies and/or supplements this Declaration with respect to such phase, or Developer may incorporate this Declaration by reference into a supplemental declaration which establishes the modifications and/or supplemental provisions desired by Developer to be applicable to such phase. The modifications and/or supplemental provisions applicable to different phases of development at SubdivisionName~ may be comparable to, more restrictive or less restrictive than the parallel provisions applicable to other development phases, as determined to be appropriate by Developer in the exercise of its sole discretion. In the event of any inconsistency between the provisions of this Declaration and the provisions of any phase-specific modifications and/or supplements hereto, the terms of the phase-specific document shall control.

B. Developer reserves the right at any time prior to the transfer of the last Lot (as defined hereinafter) owned by it at SubdivisionName~, to create an association for the purpose of carrying out and performing certain obligations as described herein. The right so reserved by Developer creates no obligation on Developer's part to create such an association, if Developer determines in the exercise of its sole discretion, that the creation of such an association is not desirable. In the event Developer does not create an association prior to the time it transfers the last Lot owned by it at SubdivisionName~, an association may be formed thereafter by the agreement of a majority of the Owners. In recognition of the benefits which may result from a homeowners' association, and in further recognition of the detrimental impact which an improperly organized association may have on the Property, Developer establishes and declares that in the event an association is established, whether by Developer or by any Owners, the purpose of which is to own and/or maintain any portion of the Property on behalf of the various owners of Lots in the subdivision, said association shall be formed and shall operate in accordance with the terms and

conditions of, and shall be subject to, the restrictions provided hereinafter. Until such time as an association is formed for such purpose, the terms and conditions contained herein regarding such association's operations shall be deemed mere surplussage, and shall not affect the validity or enforceability of any other provision hereof.

II. DEFINITIONS

A. "Annual Assessment" - amount to be paid to the Association by each Owner annually.

B. "Assessments" - collectively referring to Annual Assessments, Lot Assessments and Special Assessments.

C. "Association" – the legal entity (and its successors and assigns) formed for the purpose of owning and/or maintaining any portion of the Property on behalf of the owners of two (2) or more Lots in the Subdivision. If formed, the Association shall be named AssociationName~, and shall be formed as an StateWhereLandIs~ non-profit corporation or other appropriate non-profit entity.

D. "Association Documents" – the formative documents of the Association, consisting of the articles of incorporation, code of regulations and any and all procedures, rules, regulations or policies adopted by the Association, or comparable formative documents if the Association is not a corporate entity.

E. "Board" - the board of trustees or other management body of the Association.

F. "Common Expenses" - expenses incurred in maintaining the Common Property.

G. "Common Property" - all real and personal property now or hereafter acquired, pursuant to this Declaration or otherwise, and owned by the Association for the common use and the enjoyment of the Owners.

H. "Developer" – M/I Schottenstein Homes, Inc., an Ohio corporation~~M/I Schottenstein Homes, Inc.~~ and any manager, general partner, shareholder, ~~and any~~ successor or assign thereof to which Developer specifically assigns any of its rights under this Declaration by a written instrument.

I. "Improvements" - all man-made or man-installed alterations to the Property which cause the Property to deviate from its natural condition, including but not limited to buildings, outbuildings and garages; overhead, aboveground and underground installations, including without limitation, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; swimming pools and tennis courts; slope and drainage alterations; roads, driveways, uncovered parking areas and other paved areas; fences, trellises, walls, retaining walls, exterior stairs, decks, patios and porches, trees, hedges, shrubs and other forms of landscaping, and all other structures of every type.

J. "Lot" - a discrete parcel of real property identified upon the recorded subdivision plat of the Property, or recorded re-subdivision thereof and any other discrete parcel of real property designated by Developer, excluding the Common Property and any portion of the Property dedicated for public use.

K. "Lot Assessment" an assessment that the Board may levy against one or more Lots to reimburse the Association for costs incurred on behalf of those Lot(s), including without limitation, costs associated with making repairs that are the responsibility of the Owner of those Lots; costs of additional insurance premiums specifically allocable to an Owner; costs of any utility expenses chargeable to an Owner but not separately billed by the utility company; and all other charges reasonably determined to be a Lot Assessment by the Board.

L. "Manager" - the person or entity retained by the Board to assist in the management of the Association as set forth in Article VIII, Paragraph F.

M. "Member" - any person or entity entitled to membership in the Association, as provided for in Article VII.

N. "Owner" - the record owner, whether one or more persons or entities, of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as security for performance of an obligation and also excluding the Developer.

O. "Property" - all of the real property described in Exhibit A attached hereto and such additional property as may be annexed by amendment to this Declaration, or that is owned in fee simple by the Association, together with all easements and appurtenances.

P. "Reserve Fund" - the fund established pursuant to Article IX.

Q. "Rules" - the rules and regulations governing use of the Property and the Common Property, as may be established by the Board from time to time pursuant to Article VIII.

R. "Special Assessment" - an assessment levied by the Association against all Lots pursuant to Article IX or at a special meeting of the Members of the Association to pay for capital expenditures or interest expense on indebtedness incurred for the purpose of making capital expenditures and not projected to be paid out of the Reserve Fund.

S. "State" - the State of Ohio, and, unless the context requires otherwise, any political subdivision thereof exercising jurisdiction over the Property.

T. "Turnover Date" - the date described in Article IX, Paragraph C.

III. GOALS

The covenants, easements, conditions and restrictions contained in this Declaration are declared to be in furtherance of the following purposes:

A. Compliance with all zoning and similar governmental regulations;

B. Promotion of the health, safety and welfare of all Owners and residents of the Property;

C. Preservation, beautification and maintenance of the Property and all Improvements; and

D Establishment of requirements for the development and use of the Property.

DEVELOPMENT & USE RESTRICTIONS

IV. USE RESTRICTIONS

The following restrictions and covenants concerning the use and occupancy of the Property shall run with the land and be binding upon the Developer and every Owner or occupant, their respective heirs, successors and assigns, as well as their family members, guests, and invitees.

A. Use of Lots. Except as otherwise permitted herein, each Lot shall be occupied and used exclusively for single-family, residential purposes and purposes customarily incidental to a residence. No Improvements may be constructed on any Lot until and unless the plans therefor have been approved by the Design Review Board (or Developer if no Design Review Board has been established) as provided for hereinafter.

B. Use of Common Property. Any Common Property may be used only in accordance with the purposes for which it is intended and for any reasonable purposes incidental to the residential use of a Lot. All uses of the Common Property shall benefit or promote the health, safety, welfare, convenience, comfort, recreation, and enjoyment of the Owners and occupants, and shall comply with the provisions of this Declaration, the laws of the State, and the Rules.

C. Hazardous Actions or Materials. Nothing shall be done or kept in or on any Lot or in or on any portion of the Common Property that is unlawful or hazardous, that might reasonably be expected to increase the cost of casualty or public liability insurance covering the Common Property or that might unreasonably disturb the quiet occupancy of any person residing on any other Lot. This paragraph shall not be construed so as to prohibit the Developer from construction activities consistent with its residential construction practices.

D. Signs. No signs of any character shall be erected, posted or displayed upon the Property, except: (i) marketing signs installed by the Developer while marketing the Lots and

residences for sale; (ii) street and identification signs installed by the Association or the Developer; and (iii) one temporary real estate sign not to exceed six square feet in area advertising that such Lot is for sale.

E. Animals. No person may keep, breed, board or raise any animal, livestock, reptile, or poultry of any kind for breeding or other commercial purpose on any Lot, or in or upon any part of the Common Property, unless expressly permitted by the Rules.

F. Nuisances. No noxious or offensive trade shall be permitted on the Property or within any dwelling located on the Property.

G. Business. No industry, business, trade, occupation or profession of any kind may be conducted, operated or established on the Property, without the prior written approval of the Board.

H. Storage. No open storage of any kind is permitted. No storage buildings of any kind are permitted, including without limitation, sheds or barns.

I. Hotel/Transient Uses; Leases. No Lot may be used for hotel or transient uses, including without limitation, uses in which the occupant is provided customary hotel services such as room service for food and beverage, maid service, furnishing laundry and linen, or similar services, or leases to roomers or boarders. All leases shall be in writing and shall be subject to this Declaration.

J. Vehicles. The Board shall be entitled to create and enforce reasonable rules concerning the parking of any vehicle permitted in the Common Property. In addition to its authority to levy Lot Assessments as penalties for the violation of such rules, the Board shall be authorized to cause the removal of any vehicle violating such rules. No trucks, commercial vehicles, boats, trailers, campers or mobile homes shall be parked or stored on the street or on any Lot (except in an enclosed structure shielded from view) for any time period longer than forty-eight (48) hours in any thirty (30) day period, provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of residences on the Lots.

The word "trailer" shall include trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit use and occupancy thereof, or for storage or the conveyance of machinery, tools or equipment, whether resting on wheels, jacks, tires or other foundation. The word "truck" shall include and mean every type of motor vehicle other than passenger cars, passenger vans and any vehicle other than any light pickup truck which is used as a personal automotive vehicle by an Owner or a member of an Owner's family.

K. Trash. Except for the reasonably necessary activities of the Developer during the original development of the Property, no burning or storage of trash of any kind shall be permitted on the Property. All trash shall be deposited in covered, sanitary containers, screened from view.

L. Antennae. No outside television or radio aerial or antenna, or other aerial or antenna, including satellite receiving dishes, for reception or transmission, shall be maintained on the premises, to the extent permissible under applicable statutes and regulations, including those administered by the Federal Communications Commission, except that this restriction shall not apply to satellite dishes with a diameter less than twenty-four inches (24"), erected or installed to minimize visibility from the street which the dwelling fronts.

M. Utility Lines. All utility lines on the Property shall be underground, subject to the requirements of relevant governmental authorities and utility companies.

N. Tanks. No tanks for the storage of propane gas or fuel oil shall be permitted to be located above or beneath the ground of any Lot except that propane gas grills are permitted.

O. Street Tree. Developer may designate one (1) or more trees as deemed necessary by Developer along the street in front of each Lot. If Developer determines to designate street tree(s) then the Lot Owners agree to such uniform street trees. Each Lot Owner shall care for, and, if necessary, replace such tree or trees at the Lot Owner's expense with a like type of tree.

P. Mailbox. Developer may designate a curb side mailbox for each Lot with a design in giving uniformity to the subdivision. If the mailbox is damaged, destroyed or deteriorates, then each Lot Owner, at such Lot Owner's expense, shall repair or replace such mailbox with another of a like kind, design, pattern and color as the initial mailbox.

Q. Yard Lights and Lamp Posts. All yard lights and lamp posts shall conform to the standards set forth by the Design Review Board.

R. Fencing. The Design Review Board shall have the authority to establish standards according to which fencing and walls may be permitted in the Subdivision. Said authority shall include the power to prohibit fencing or walls, or both, entirely, to prohibit fencing or walls of certain types, and to prohibit fencing or walls in certain areas. All fencing and walls shall conform to the standards set forth by the Design Review Board, and shall be approved by the Board, in writing, prior to the installation thereof. By way of example, and not limitation, compliance with the following standards shall be considered by the Board in reviewing fence applications:

Fences or walls shall be constructed of wood, approved plastic, stone or brick only, and in no event shall chain link or other metal or wire fencing be permitted;

No fence or wall shall be constructed in excess of forty-eight inches (48") above finished grade, provided however that if a governmental agency exercising jurisdiction over the property on which the fence or wall is to be constructed requires a minimum height in excess of 48" for safety reasons (i.e. swimming pool enclosure), such fence or wall may exceed 48" above finish grade, but only to the extent necessary to meet the governmentally required minimum;

Fences or walls shall not be located closer to the street than a line parallel to the street and extending from the midpoint between the front and rear corners of the home, and in no event shall fences be located closer to any street than the building line shown on the recorded plat, except for ornamental railings, walls or fences not exceeding three feet (3') in height which are located on or adjacent to entrance platforms or steps;

Treated wood split rail fences are permitted. Dark painted wire mesh or plastic mesh attached inside a split rail fence is permitted; and

Decorative wood and plastic fencing is permitted by approval of the Design Review Board or its assigns.

Nothing contained herein shall be interpreted or construed to permit the use of approved fencing materials to accomplish a purpose or use otherwise prohibited hereunder.

S. Swimming Pools. No above ground swimming pool extending twelve (12) inches or more above the finished grade of the Lot shall be permitted upon any Lot except that this Article IV, Paragraph S shall not be intended to prohibit the installation of a hot tub or sauna.

V. ARCHITECTURAL STANDARDS

All Property at any time subject to this Declaration shall be governed and controlled by this Article.

A. Design Review Board. The Design Review Board shall be a board consisting of three (3) persons. Until the Turnover Date, Developer shall have the sole and exclusive right to appoint and remove all three members of the Design Review Board at will, and may elect in the exercise of its sole discretion, to act itself as the Board in lieu of appointing individuals. After the Turnover Date, the Board shall have the right to appoint all three members to the Design Review Board at will. If no Association exists at any time on or after the Turnover Date, the Design Review Board shall consist of three (3) members elected by the Owners, at an annual election at which the owner(s) of each Lot shall have 1 vote (one vote per lot, regardless of the number of owners). The then current Board shall handle the administration of the election, pursuant to which the new Board members are to be elected, each for a term of one year.

The Design Review Board shall have the exclusive authority, by action of two or more of the members thereof, at a private or public meeting to determine the architectural standards which shall govern the construction of Improvements on the Property. Each Owner covenants and agrees by acceptance of a deed to a Lot, to comply with, and to cause his/her Lot and any occupant thereof to comply with the standards promulgated by the Design Review Board. No Improvement shall be placed, erected or installed on the Property, no construction (which term shall include in its definition staking, clearing, excavation, grading and other site work) and no plantings or removal of plants, trees or shrubs shall be permitted without, until and unless the Owner first obtains the

written approval thereof of the Design Review Board and otherwise complies with the provisions of this Declaration.

B. Modifications. Except as otherwise provide in this Declaration, the Design Review Board shall have jurisdiction over all construction, modifications, additions or alterations of Improvements on or to the Property. No person shall construct any Improvement on any Lot, including without limitation, alter surfaces of existing Improvements, change paint colors or roofing materials, construct or modify fencing, or install any recreational device, without the prior written consent of the Design Review Board. Owners shall submit plans and specifications showing the nature, kind, shape, color, size, materials and location of Improvements and alterations to the Design Review Board for its approval. Nothing contained herein shall be construed to limit the right of an Owner to remodel or decorate the interior of his/her residence.

C. Variances. To avoid unnecessary hardship and/or to overcome practical difficulties in the application of the provisions of this Declaration, the Design Review Board shall have the authority to grant reasonable variances from the provisions of this Article and from the architectural standards established pursuant to this Article, provided that the activity or condition is not prohibited by applicable law; and provided further that, in their judgment, the variance is in the best interest of the community and is within the spirit of the standards of the Design Review Board. No variance granted pursuant to this Section shall constitute a waiver of any provision of this Declaration as applied to any other person or any other part of the Property.

D. Improvements by Developer. Notwithstanding the foregoing to the contrary, all Improvements and landscaping constructed by the Developer or its partners, members or shareholders shall be deemed to comply in all respects with the requirements of the Design Review Board.

VI. EASEMENTS AND LICENSES

A. Easement of Access and Enjoyment Over Common Property. Every Owner shall have a right and easement (in common with all other Owners) of enjoyment in, over, and upon the Common Property, and a right of access to and from his/her Lot, which rights shall be appurtenant to, and shall pass with the title to, his/her Lot, subject to the terms and limitations set forth in this Declaration, subject to the Rules. An Owner may delegate his/her rights of access and enjoyment to family members, occupants, guests and invitees.

B. Right of Entry for Repair. The duly authorized agents, officers, contractors, and employees of the Association shall have a right of entry and access to the Property, including without limitation the Lots, for the purpose of performing the Association's rights or obligations set forth in this Declaration. The Association may enter any Lot to remove or correct any violation of this Declaration or the Rules, or to maintain, repair, and replace the Common Property, but only during reasonable hours and after providing seventy-two (72) hours advance notice to the Owner,

preliminary plat process. A tree survey/preservation plan will be submitted with the Preliminary Plat.

Street trees shall be chosen from the following three species and shall be placed 50 feet on center: Red Maple, Green Ash, and Red Oak and these trees shall be planted so that only one variety is used per street.

C. The proposed provision of water, sanitary sewer and surface drainage facilities, including engineering feasibility studies or other evidence of reasonableness:

Sanitary sewer and water shall be extended to the site from the current termini adjacent to the proposed development area. Surface drainage shall be handled in conjunction with a lake/retention basins within Reserve(s) along Indian Run Creek which will be constructed by the applicant with approval from the City of Dublin. The surface drainage shall comply with all applicable requirements. The lake/retention basins found within the subdivision will be mechanically aerated, and the aeration equipment shall be owned and maintained by the home owners association.

D. The proposed traffic circulation patterns, including public and private streets, parking areas, walks and other access ways, indicating their relationship to topography, existing streets or showing other evidence of reasonableness:

See the attached preliminary site plan which show the developer's attempt to integrate this proposal into the developments south along Brand Road, to the Shannon Glen Subdivision and to areas east along Avery Road.

With the exception of the "Hippodrome Street", all internal rights-of-way shall be 50' with pavement width(s) of 14' for each lane. The "Hippodrome Street" shall have a right of way of 60'. Cul-de-sacs will have a right-of-way of 110' and a pavement width of as determined by the City of Dublin Engineering staff. House setbacks on cul-de-sacs within the subdivision shall be calculated from curved radii of a bulb turn around rather than a boxed end. Any intersection improvements for Brand and Avery Roads will be coordinated with the City of Dublin Engineering staff. The boulevard shall have a right-of-way of 70 feet from Avery Road to the Hippodrome area with the exception of the portion crossing the park/open space area.

Sidewalks and bike paths will be provided in the following locations:

Four foot wide sidewalks will be installed on both sides of the streets within the subdivision to provide for pedestrian traffic. The sidewalk that encircles the central residential island, which is not a part of the bike path, shall be widened to five (5) feet.

An east-west concrete bike path will extend through the subdivision from Brand Road to

Avery Road as indicated on the Site Development Plan. This bike path shall be eight (8) feet wide with saw cut control joints.

An eight (8) foot wide asphalt bike path shall be installed along the west side of Avery Road according to the Southwest Area Plan.

An eight (8) foot wide asphalt bike path shall also be installed along the north side of Brand Road within the landscaped setback area to connect to the future Dublin school site. Two additional 8' bike path connections shall be made from the bike path long Brand Road to the internal streets as shown on the Site Development Plan.

Two 40' wide open spaces shall contain an 8 foot wide asphalt bike path to connect to the school site. These will be located as generally indicated on the Site Development Plan. (Exact location shall be determined at the time of platting.)

An eight (8) foot wide asphalt bike path shall be extended from Shannon Glen Subdivision north through the open space area to the Riviera Country Club.

E. The proposed schedule of site development; construction of structures and associated facilities, including sketches and other materials indicating design principles and concepts to be followed in site development, construction, landscaping and other features. Such schedule shall include the proposed use of reuse of existing features such as topography, structures, streets and easements:

Upon completion of the zoning and obtaining of all plat approvals, utilities will be extended to the site. Construction shall commence thereafter to develop the subdivision starting from the Avery Road and/or Brand Road location and working west or north respectively. The applicant shall prohibit the use of chain link, metal or plastic fencing on any of the lots within this area through this zoning restriction and recorded deed restrictions. Any fencing installed upon any lot shall be a three (3) rail split rail fence with a maximum height of 3.5 feet above finished grade with posts at approximately 8 feet on center. The fence may be backed with black welded wire mesh of 12.5 or 14 gauge wire. The specific details of the fence are shown on recorded plat of Wyndham Village Section 1 on Plat 79, pages 101 and 102, Recorder's Office, Franklin County, Ohio. No fencing shall be installed forward of the building line of any lot. The developer shall provide either the above described fencing or suitable landscaping between the lots and park/open space areas. Such fencing or landscaping shall be installed on the lot.

Ground signage will be located along both Brand and Avery Roads and will be incorporated into a landscaped entry feature at both locations. The signage will be incorporated in the overall landscape plan developed for those frontages. The entry feature and signage will be located within the open space areas along Brand Road and Avery Road. These areas will be identified and noted on the preliminary and final plats.

A tree survey shall be completed and submitted to Staff prior to hearings on the preliminary plat. The right-of-way along Brand and Avery Roads be dedicated consistent with the Thoroughfare Plan. The right-of-way and street pavement width meet with the approval of the City Engineer.

Housing styles shall be varied throughout the subdivision so that no two home models shall be located side by side. The applicant will adopt a policy on preventing repetition of housing elevations within the subdivision so that throughout the development (1) the same model with the same front elevation shall not appear within two separate houses on the same side of the street; and (2) the same model with the same front elevation shall not appear directly across the street or side by side to the house directly across the street. Streets shall count as a lot when applying the above formula. When the lot in question is a corner lot, no lot at the same corner shall have the same model with the same front elevation.

The exterior of all homes shall be constructed of all natural materials, brick, stone, wood, stucco, and/or hardy plank. All homes shall have dimensional asphalt shingles. Garages shall be side loaded wherever possible. All chimneys within the subdivision (either side or rear of the house) shall be constructed of brick, masonry, or stucco, and there shall be a plan to add to each elevation some architectural features to those windows which also face the open space.

F. The relationship of the proposed development to existing and future land use in the surrounding area, the street system, community facilities, services and other public improvements.

The proposed site is located adjacent to the existing Dublin Board of Education property on the west and to the east is the existing Muirfield Subdivision, on the north by the Riviera Country Club and south by Shannon Glen and Westbury Subdivisions.

G. Evidence that the applicant has sufficient control over the land to effectuate the proposed development plan. Evidence of control includes property rights and the engineering feasibility data which may be necessary.

The applicant owns the property the subject of this rezoning.

shawnee.txt
3/31/99

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AUG
CITY OF DUBLIN

DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS

FOR

_____

THIS DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made as of the _____ day of _____, 199_, by M/I Schottenstein Homes, Inc., an Ohio corporation, Address2~, City~, State~ PostalCode~ ~~corporation~~ ("Developer").

A. Developer is the owner of the real property more fully~~fully~~ described in Exhibit A attached hereto and by this reference incorporated herein (the "Property" as defined hereinafter); and

B. Developer desires to develop the Property into a residential subdivision, and to restrict the use and occupancy of the Property for the protection of the Property and the future owners of the Property; and

C. Developer or its successors in interest may deem it desirable to establish an association consisting of itself and/or future owners of portions of the Property, for the purpose of owning and/or maintaining certain areas at and/or improvements constructed as part of the Subdivision; and

D. Developer declares that all of the Property shall be held, developed, encumbered, leased, occupied, improved, used, and conveyed subject to the following covenants, easements, conditions and restrictions (the "Restrictive Covenants"), which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner of any portion of the Property.

This Declaration is hereby declared to inure to the benefit of all future owners of any Lot (as hereinafter defined) and all others claiming under or through them ("Owners"); the Developer, its successors and assigns; and all utility companies or agencies or instrumentalities of local government providing utility services.

It is hereby declared that irreparable harm will result to the Developer and other beneficiaries of this Declaration by reason of violation of the provisions hereof or default in the observance thereof and therefore, each Owner shall be entitled to relief by way of injunction, damages or specific performance to enforce the provisions of this Declaration as well as any other

except in cases of emergency.

C. Easement for Utilities and Other Purposes. The Board or Developer may convey easements over the Common Property to any entity for the purpose of constructing, installing, maintaining, and operating poles, pipes, conduit, wires, ducts, cables, and other equipment necessary to furnish electrical, gas, sewer, water, telephone, cable television, and other similar utility or security services, whether of public or private nature, to the Property and to any entity for such other purposes as the Board or Developer deems appropriate; provided that such equipment or the exercise of such easement rights shall not unreasonably interfere with the Owners' use and enjoyment of the Property. The Board or Developer may grant such easements over all portions of the Property for the benefit of adjacent properties as the Board or Developer deems appropriate; provided that the grant of such easements imposes no undue, unreasonable, or material burden or cost upon the Property; and further provided that the Board or Developer may not convey any easement over a Lot without the prior written consent of the Owner of such Lot (which consent shall not be unreasonably delayed or withheld).

D. Easement for Services. A non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage removal personnel, and all similar persons, and to the local governmental authorities and the Association (but not to the public in general) to enter upon the Common Property to perform their duties.

E. Reservation of Special Easements. Attached hereto as Exhibit B is a site plan of SubdivisionName~, upon which certain areas have been "shaded" or "cross-hatched." The areas marked by shading or cross-hatching identify and represent portions of the Property over, across, under and through which the Developer reserves Special Easements for the purpose of constructing Improvements or conveying rights deemed by the Developer to be beneficial to the Property. Unless indicated otherwise on Exhibit B, the Special Easement areas are also No-Build Zones. The Special Easement areas may be parts of individual Lots instead of on Common Property. In such cases, the owner(s) of the Lot(s) affected by the Special Easement(s) shall be and remain responsible for the ordinary care and maintenance of the Special Easement area. If special fencing, landscaping, storm water detention/retention, or community safety or entry features are constructed in a Special Easement area by the Developer, the State or the Association, the responsibilities of the Lot owner on whose Lot such Improvement has been constructed shall not exceed ordinary grass cutting, trimming and watering around such Improvements. Nothing contained in this Section shall require that the Developer reserve or establish Special Easements, and if no areas on Exhibit B have been shaded or cross-hatched, Developer has not reserved any Special Easements.

F. No-Build Zones. Any areas designated on the recorded plat of SubdivisionName~ Subdivision, in prior deed restrictions, or on Exhibit B, as "No-Build Zones" shall be areas in which no Owner shall have the right to construct or locate any Improvements. In vegetated No-Build Zones, Owners may perform maintenance necessary for the safety of persons and property (i.e. removing noxious and poisonous plants, or removing dead trees which may fall and harm persons or other Improvements). Grassed No-Build Zones shall be mowed, trimmed and watered by the person(s) responsible for the maintenance of the specific area in question according to the

other terms hereof.

HOMEOWNERS' ASSOCIATION

VII. MEMBERSHIP AND VOTING RIGHTS

A. Membership. Every Owner shall be deemed to have a membership in the Association. Membership is a right appurtenant to and inseparable from an Owner's fee simple title in a Lot, and such right of membership shall automatically transfer to any transferee of fee simple title to a Lot at the time such title is conveyed or at such time as a land installment contract is entered for the conveyance of fee simple title. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest or mortgage shall not terminate an Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Lot owned. In the event an Owner consists of more than one person, such persons shall have one membership in the Association in common.

B. Governance. Voting and all other matters regarding the governance and operation of the Association shall be set forth in the Association Documents.

VIII. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

A. Common Property. Developer may, from time to time, at Developer's option, convey to the Association for the use and benefit of the Association and the Members real or personal property, or any interest therein, as part of the Common Property in the nature of an easement appurtenant to the Property. The Association shall accept title to any interest in any real or personal property transferred to it by Developer. The Association, subject to the rights of the Owners set forth in this Declaration and the Association Documents, shall be responsible for the exclusive management and control of the Common Property, if any, and all improvements thereon, and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, in accordance with the terms and conditions of this Declaration.

B. Personal Property and Real Property for Common Use. The Association may acquire, hold, mortgage and dispose of tangible and intangible personal property and real property in addition to that property conveyed to it by Developer.

C. Cost-Sharing Agreements. The Association may enter into cost-sharing agreements with other homeowners associations pursuant to which the Association agrees to share in the cost of maintaining, repairing and replacing entranceway features, landscaping, storm water retention facilities, mounding, fencing and any other improvements that benefit the Property.

D. Rules and Regulations. The Association may make and enforce reasonable rules and regulations governing the use of the Property, which shall be consistent with this Declaration and the Association Documents. The Association shall have the power to impose sanctions on Owners, including without limitation: (i) reasonable monetary fines which shall be considered Lot

Assessments, (ii) suspension of the right to vote as a Member of the Association, and (iii) suspension of the right to use the Common Property. In addition, the Board shall have the power to seek relief in any court for violations or to abate unreasonable disturbances. If the Board expends funds for attorneys' fees or litigation expenses in connection with enforcing this Declaration, the Association Documents or the Rules against any Owner, tenant, guest or invitee of any Owner, the amount shall be due and payable by such Owner and shall be a Lot Assessment against such Owner's Lot.

E. Implied Rights. The Association may exercise any other right or privilege given to it expressly by the laws of the State and this Declaration, and every other right or privilege reasonably implied from the existence of any right or privilege granted in this Declaration, or reasonably necessary to effect any such right or privilege.

F. Managing Agent. The Board may retain and employ on behalf of the Association a Manager, which may be Developer, and may delegate to the Manager such duties as the Board might otherwise be authorized or obligated to perform. The compensation of the Manager shall be a Common Expense. The term of any management agreement shall not exceed three years and shall allow for termination by either party, without cause, and without penalty, upon no more than 90 days' prior written notice.

G. Insurance.

1. The Association shall be required to obtain and maintain adequate blanket property insurance, liability insurance and flood insurance covering all of the Common Property in an amount as is commonly required by prudent institutional mortgage investors.

2. The Association may, in the Board's discretion, obtain and maintain the following insurance: (a) fidelity bond coverage and workers' compensation insurance for all officers, directors, board members and employees of the Association and all other persons handling or responsible for handling funds of the Association, (b) adequate comprehensive general liability insurance, (c) officers' and trustees' liability insurance to fund the obligations of the Association under Article X Paragraph D, (d) additional insurance against such other hazards and casualties as is required by law, and (e) any other insurance the Association deems necessary.

3. In the event of damage or destruction of any portion of the Common Property, the Association shall promptly repair or replace the same, to the extent that insurance proceeds are available. Each Owner hereby appoints the Association as its attorney-in-fact for such purpose. If such proceeds are insufficient to cover the cost of the repair or replacement, then the Association may levy a Special Assessment pursuant to Section IX to cover the additional costs.

H. Condemnation. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Property, or any portion thereof. Each Owner hereby appoints the Association as its attorney-in-fact for such purpose. The awards or proceeds of any condemnation action shall be payable to the Association, to be held in trust for the benefit of the Owners.

I. Books, Records. Upon reasonable request of any Member, the Association shall be required to make available for inspection all books, records and financial statements of the Association.

IX. ASSESSMENTS

A. Reserve Fund. The Board shall establish a Reserve Fund for financing the operation of the Association, for paying necessary costs and expenses of operating the Association and repairing and maintaining the Common Property.

B. Types of Assessments. The Developer, for each Lot owned, covenants and agrees, and each Owner, by accepting a deed to a Lot, is deemed to covenant and agree, to pay to the Association the following assessments: (i) Annual Assessments; (ii) Special Assessments; and (iii) Lot Assessments. No Owner may gain exemption from liability for any Assessment by waiving or foregoing the use or enjoyment of any of the Common Property or by abandoning his/her Lot. Annual and Special Assessments shall be fixed at a uniform rate for all Lots.

C. Annual Assessments. The Board shall annually estimate the Common Expenses and the expenses, if any, it expects the Association to incur in the Association's next ensuing fiscal year for the maintenance, operation and management of the Association, (which may include amounts, if any, for the Reserve Fund -- as may be determined by the Board) and shall assess each Owner of a Lot an Annual Assessment equal to such estimated expenses divided by the total number of Lots. The Annual Assessments shall be paid in accordance with the procedures set forth in the Rules. Notwithstanding the foregoing to the contrary (i) prior to January 1, _____ in no event shall the Annual Assessments for each Lot exceed_____; and (ii) prior to the date that Developer relinquishes its right to appoint members of the Board as set forth in the Association Documents (the "Turnover Date"), Developer may elect to pay the Annual Assessments applicable to Lots owned by Developer or in lieu thereof, not pay such Annual Assessments and pay any deficit incurred in operating the Association.

D. Special Assessments. The Board may levy against any Lot(s) a Special Assessment to pay for capital expenditures or interest expense on indebtedness incurred for the purpose of making capital expenditures and not projected to be paid out of the Reserve Fund; provided that any such assessment shall have the assent of two-thirds (2/3) of Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting called for the purpose of levying a Special Assessment shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. A quorum must be present at any such meeting.

E. Lot Assessments. The Board may levy a Lot Assessment against any Lot(s) and the Owner(s) thereof to reimburse the Association for costs incurred on behalf of the Lot(s), including without limitation, costs associated with making repairs that are the responsibility of the Owner; costs of additional insurance premiums specifically allocable to an Owner; costs of any utility expenses chargeable to an Owner but not separately billed by the utility company; and all other fines and charges reasonably determined to be a Lot Assessment by the Board. Upon its

14-052V
Rear Yard Setback Variance
Williams Residence
6290 Belvedere Green Blvd

determination to levy a Lot Assessment, the Board shall give the affected Owner(s) written notice and the right to be heard by the Board or a duly appointed committee thereof in connection with such Lot Assessment, 10 days prior to the effective date of the levy of any Lot Assessment. The Board may levy a Lot Assessment in the nature of a fine reasonably determined by the Board against the Lot of any Owner who violates the Rules, the Association Documents or any provision of this Declaration, or who suffers or permits his/her family members, guests, invitees or tenants to violate such Rules, the Association Documents, or provisions of this Declaration.

F. Remedies.

1. Late Charge; Acceleration. If any Assessment remains unpaid for 10 days after all or any part thereof shall become due and payable, the Board may charge interest at the lesser of the rate of 12% per annum or the highest rate permitted by law, together with an administrative collection charge of $25.

2. Liability for Unpaid Assessments. Each Assessment or installment of an Assessment, together with interest thereon and any costs of collection, including reasonable attorneys' fees shall become the personal obligation of the Owner(s) beginning on the date the Assessment or installment thereof becomes due and payable. The Board may authorize the Association to institute an action at law on behalf of the Association against the Owner(s) personally obligated to pay any delinquent assessment. An Owner's personal obligation for a Lot's delinquent Assessments shall also be the personal obligation of ~~not pass to~~ his/her successors in title who acquire an interest after any Assessment becomes due and payable and both such Owner and his/her successor in title shall be jointly and severally liable therefor. ~~unless expressly assumed by them or required by applicable law.~~ Except as otherwise provided herein, the transfer of an interest in a Lot shall neither impair the Association's lien against that Lot for any delinquent Assessment nor prohibit the Association from foreclosing that lien.

3. Liens. All unpaid Assessments, together with any interest and charges thereon or costs of collection, shall constitute a continuing charge in favor of the Association and a lien on the Lot against which the Assessment was levied. If any Assessment remains unpaid for 10 days after it is due, then the Board may authorize any officer or appointed agent of the Association to file a certificate of lien for all or any part of the unpaid balance of that Assessment, together with interest and costs, with the appropriate governmental office containing a description of the Lot which the lien encumbers, the name(s) of the Owner(s) of that Lot, the amount of the unpaid portion of the Assessment, and such other information as the laws of the State may require. The certificate may be signed by any officer, authorized agent or Manager of the Association. Upon the filing of the certificate, the subject Lot shall be encumbered by a continuing lien in favor of the Association. The Assessment lien shall remain valid for a period of five years from the date such certificate is duly filed, unless the lien is released earlier or satisfied in the same manner provided by the law of the State for the release and satisfaction of mortgages on real property, or unless the lien is discharged by the final judgment or order of any court having jurisdiction. Notwithstanding the foregoing, the lien for Assessments provided for in this Section shall be subordinate to the lien of any bona fide first mortgage on a Lot.

4. Vote on Association Matters; Use of Common Property. If any Assessment remains unpaid for 30 days after it becomes due, then the delinquent Owner's voting rights upon Association matters and privileges to use the Common Property, except for necessary ingress and egress to his/her Lot, shall be suspended until such Assessment is paid.

X. MAINTENANCE

A. Maintenance by Association. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and other flora, structures, and improvements situated upon the Common Property and all personal property used in connection with the operation of the Common Property.

B. Maintenance by Owner. Each Owner or occupant shall repair, replace, and maintain in good order and condition, at his/her expense, portions of, improvements to, structures on, and, equipment and components used in connection with, his/her Lot. This maintenance responsibility includes, without limitation, promptly furnishing all necessary materials and performing or causing to be performed at his/her own expense all maintenance, repairs and replacements within such Lot that, if omitted, would adversely affect the safety and usefulness of the Common Property. Each Owner shall maintain those portions of his/her Lot that are adjacent to any portion of the Common Property in accordance with the Rules and the requirements set forth in this Declaration.

C. Right of Association to Repair Lot. If any Owner fails to maintain his/her Lot in the manner required herein, and if the Board determines that any maintenance of that Lot is necessary to ensure public safety, to permit reasonable use or enjoyment of the Common Property by Owners, to prevent damage to or destruction of any other part of the Common Property or to comply with the Rules or the terms of this Declaration, then the Board may authorize its employees or agents to enter the Lot at any reasonable time to complete the necessary maintenance and the Board may levy a Lot Assessment for all reasonable expenses incurred.

D. Damage to Common Property By Owner or Occupant. If the Common Property is damaged by any Owner or occupant, his/her family, guests, or invitees, then the Board may levy a Lot Assessment against such Owner for the cost of repairing or replacing the damaged property. The Association shall be entitled to enter a Lot to repair or maintain any Common Property adjacent to such Lot.

MISCELLANEOUS TERMS

XI. MISCELLANEOUS

A. Term. This Declaration shall bind and run with the land for a term of 30 years from and after the date that this Declaration is filed for recording with the appropriate governmental office and thereafter shall automatically renew forever for successive periods of 10 years each, unless earlier terminated by a majority of the Members.

B. Enforcement; Waiver. This Declaration may be enforced by any proceeding at law or in equity by the Developer, any Owner, the Association, the Design Review Board, and their respective heirs, successors and assigns, against any person(s) violating, or attempting to violate, any covenant or restriction, to restrain and/or to enjoin violation, to obtain a decree for specific performance as to removal of any nonconforming Improvement, and to recover all damages, costs of enforcement and any other costs incurred (including without limitation reasonable attorneys' fees). ~~G~~Failure of Developer, the Association or any Owner to enforce any provision of this Declaration or the Rules in any manner shall not constitute a waiver of any right to enforce any violation of such provision. By accepting a deed to a Lot, each Owner is deemed to waive the defenses of laches and statute of limitations in connection with the enforcement of this Declaration or the Rules.

C. Amendments. Until the Turnover Date, Developer may, in its sole and absolute discretion, unilaterally amend this Declaration at any time and from time to time, without the consent of any other Owners. Any such amendment may impose covenants, conditions, restrictions and easements upon the Property in addition to those set forth herein including, without limitation, restrictions on use and covenants to pay additional charges with respect to the maintenance and improvement of the Property. After the Turnover Date, Developer may unilaterally amend this Declaration, without the consent of any other Owners, if such amendment is: (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial order, (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots, (c) necessary to conform to the requirements of United States Federal Housing Administration, or (d) necessary to correct errors; provided, however, any such amendment shall not materially adversely affect the title to any Lot unless the Owner thereof has consented to such amendment in writing. No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege. Developer shall have the right and power, but neither the duty nor the obligation, in its sole and absolute discretion and by its sole act, to subject additional property to this Declaration at any time and from time to time by executing and recording in the appropriate governmental office an amendment to this Declaration specifying that such additional property is part of the Property. An amendment to this Declaration shall not require the joinder or consent of the Association, other Owners, mortgagees or any other person. In addition, such amendments to the Declaration may contain such supplementary, additional, different, new, varied, revised or amended provisions and memberships as may be necessary or appropriate, as determined by Developer, to reflect and address the different character or intended development of any such additional property.

D. Developer's Rights to Complete Development. Developer shall have the right to: (a) complete the development, construction, promotion, marketing, sale, resale and leasing of properties; (b) construct or alter Improvements on any property owned by Developer; (c) maintain model homes, offices for construction, sales or leasing purposes, storage areas, construction yards or similar facilities on any property owned by Developer or the Association; or (d) post signs incidental to the development, construction, promotion, marketing, sale and leasing of property within the Property. Further, Developer shall have the right of ingress and egress through the streets, paths and walkways located in the Property for any purpose whatsoever, including, but not limited to, purposes related to the construction, maintenance and operation of Improvements.

Nothing contained in this Declaration shall limit the rights of Developer or require Developer to obtain approval to: (i) excavate, cut, fill or grade any property owned by Developer or to construct, alter, remodel, demolish or replace any Improvements on any Common Property or any property owned by Developer as a construction office, model home or real estate sales or leasing office in connection with the sale of any property; or (iii) require Developer to seek or obtain the approval of the Association or the Design Review Board for any such activity or Improvement on any Common Property or any property owned by Developer. Nothing in this Section shall limit or impair the reserved rights of Developer as elsewhere provided in this Declaration.

E. Developer's Rights to Replat Developer's Property. Developer reserves the right, at any time and from time to time, to amend, alter or replat any plat or development plan and to amend any zoning ordinance which affects all or any portion of the Property; provided, however, that only real property owned by Developer shall be the subject of any such amendment, alteration or replatting. Each Owner and Member and the Association, for themselves and their successors and assigns, hereby consents to and approves any such amendment, alteration or replatting and shall be deemed to have joined in the same.

~~F~~D. Mortgagee Rights. A holder or insurer of a first mortgage upon any Lot, upon written request to the Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of:

(a) any proposed amendment of this Declaration;

(b) any proposed termination of the Association; and

(c) any default under this Declaration which gives rise to a cause of action by the Association against the Owner of the Lot subject to the mortgage of such holder or insurer, where the default has not been cured in 60 days.

Each holder and insurer of a first mortgage on any Lot shall be entitled, upon request and at such mortgagee's expense, to inspect the books and records of the Association during normal business hours.

~~G~~E. Indemnification. The Association shall indemnify every Board member, officer and trustee of the Association against any and all claims, liabilities, expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or trustee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he/she may be a party by reason of being or having been an officer or trustee. The Board members, officers and trustees shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misconduct, bad faith or gross negligence. The Board members, officers and trustees of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such Board members, officers or trustees may also be Members of the Association), and the Association shall indemnify and forever hold each such Board member, officer and trustee free from and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided herein shall not be exclusive

of any other rights to which any Board member, officer or trustee, or former Board member, officer or trustee, may be entitled.

~~H~~F. Severability. If any article, section, paragraph, sentence, clause or word in this Declaration is held by a court of competent jurisdiction to be in conflict with any law of the State, then the requirements of such law shall prevail and the conflicting provision or language shall be deemed void in such circumstance; provided that the remaining provisions or language of this Declaration shall continue in full force and effect.

~~I~~H. Captions. The caption of each Article, section and paragraph of this Declaration is inserted only as a matter of reference and does not define, limit or describe the scope or intent of the provisions of this Declaration.

~~J~~I. Notices. Notices to an Owner shall be given in writing, by personal delivery, at the Lot, if a residence has been constructed on such Lot, or by depositing such notice in the United States Mail, first class, postage prepaid, to the address of the Owner of the Lot as shown by the records of the Association, or as otherwise designated in writing by the Owner.~~ Notices to the Developer and the Association shall be given in writing, by personal delivery, or by depositing such notice in the United States Mail, first class, postage prepaid, to the address set forth below, or as otherwise designated in writing. Notices shall be deemed given when personally delivered or two business days after being deposited in the United States Mail.~~

~~Association:~~
~~c/o M/I Schottenstein Homes, Inc.~~
~~41 South High Street~~
~~Columbus, Ohio 43215~~
~~Attn:~~ _____