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Doc#: 0411932007
Eugene "Gene" Moore Fee: \$40.50
Cook County Recorder of Deeds
Date: 04/28/2004 10:07 AM Pg: 1 of 9

This instrument prepared by,
And after recording,
Please return to:



Schwartz, Cooper,
Greenberger
& Krauss, Chartered
180 N. LaSalle Street
Suite 2700
Chicago, Illinois 60601
Attn: Ronald B. Grais, Esq.

This space reserved for Recorder's use only

Tax Parcel No. see attached

DECLARATION OF WAIVER OF CERTAIN DWELLING UNITS

THIS DECLARATION OF WAIVER (this "Declaration") is made by **THE WOODS OF SOUTH BARRINGTON, LLC** (the "Declarant") in favor of **THE VILLAGE OF SOUTH BARRINGTON**, an Illinois municipal corporation.

RECITALS:

WHEREAS, Declarant is the contract purchaser of that certain parcel of real estate which is legally described on Schedule I attached hereto (the "Declarant Parcel");

WHEREAS, on January 11, 2001, the Village of South Barrington (the "Village") enacted Ordinance Number 2001-620 (the "Execution Ordinance") which, among other things, authorized the Village to enter into that certain Annexation and Development Agreement (the "Annexation Agreement") with the Declarant, et al.; and

WHEREAS, on January 11, 2001, the Village executed and entered into the Annexation Agreement with the Declarant, et al., which was recorded with the Cook County Recorder on January 19, 2001 as document number 0010049341; and

WHEREAS, the Annexation Agreement, among other things, granted Declarant certain rights to develop and improve the real property (the "Property") described in the Execution Ordinance; and

WHEREAS, on January 11, 2001, the Village enacted Ordinance Number 2001-621 (the "Annexation Ordinance") which, among other things, annexed approximately 484 acres of the Property to the Village; and

WHEREAS, on January 11, 2001, the Village enacted Ordinance Number 2001-622 (the "Approvals Ordinance") which, among other things, rezoned the Property and approved the Declarant's Preliminary Plan of Planned Unit Development for the Property; and

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Handwritten signature

Vertical handwritten text: NNN 01040514

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WHEREAS, the Annexation Agreement and the Approvals Ordinance provide that the maximum number of dwelling units permitted on the Property shall be 495 (in addition to a single dwelling unit on the approximately 12 acre Klehm Estate, as set forth in the Annexation Agreement and Approvals Ordinance); and

WHEREAS, Declarant has determined not to construct certain dwelling units. Accordingly, Declarant hereby declares as follows:

1. Recitals. Each of the above recitals is hereby incorporated into this Declaration by this reference and shall constitute a part of this Declaration.

2. Waiver. Declarant shall not exercise, and hereby permanently and irrevocably waives, its rights under the Annexation Agreement and Approvals Ordinance to construct 40 dwelling unit(s) included in the Community Development Guidelines, as set forth in the Approvals Ordinance, which unit(s) shall be identified by Declarant's successor in interest prior to the issuance of any building permits for any homes on the Property.

3. Enforcement. The Village shall have the power to enforce the waiver contained in paragraph 2 hereof in an action at law or in equity, including an action for the enforcement of the Consent Decree entered on January 18, 2004 by the Circuit Court of Cook County, Illinois in case number 01 CH 14950.

4. Binding. The terms of this Declaration shall run with and bind Declarant's interest in the Declarant Parcel and shall inure to the benefit of the Village commencing on the date hereof. This Declaration may only be amended by a written instrument executed and delivered by the Village and the title holders of record of the Declarant Parcel.

Dated: April ²²__, 2004

DECLARANT:

THE WOODS OF SOUTH BARRINGTON, LLC

By: *Mestrow Skin Real Estate, Inc., Member*


By: *Michael Pichotulski*
Its: *Managing Director*

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STATE OF ILLINOIS)
)
COUNTY OF DuPage) SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MICHAEL SZKATOWSKI, ~~OFFICER & MEMBER~~ of THE WOODS OF SOUTH BARRINGTON, LLC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such OFFICER, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said MICHAEL SZKATOWSKI, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of APRIL, 2004.



Notary Public

My Commission Expires: 1-21-08



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SCHEDULE I

LEGAL DESCRIPTION OF DECLARANT PARCEL

(To be provided prior to the issuance of any building permits pursuant to paragraph 3D of the Consent Decree)

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THAT PART OF SECTION 28, AND 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE SOUTH 00°19'35" EAST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 2624.22 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 28; THENCE SOUTH 00°04'45" EAST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, A DISTANCE OF 643.38 FEET; THENCE SOUTH 89°40'35" WEST, A DISTANCE OF 1079.11 FEET TO A POINT ON LINE 1079.10 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SECTION 33; THENCE SOUTH 00°04'45" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 281.47 FEET; THENCE NORTH 89°40'35" EAST, A DISTANCE OF 1079.11 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 33; THENCE SOUTH 00°04'45" EAST ALONG SAID EAST LINE, A DISTANCE OF 1707.93 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH 89°58'22" WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 508.00 FEET; THENCE SOUTH 00°02'15" WEST, A DISTANCE OF 428.90 FEET; THENCE SOUTH 89°58'22" EAST, A DISTANCE OF 508.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 33; THENCE SOUTH 00°02'15" WEST ALONG SAID EAST LINE, A DISTANCE OF 351.59 FEET TO A POINT ON THE NORTH LINE OF HIGGINS ROAD DEDICATED PER DOCUMENT NUMBER 1208573; THENCE NORTH 69°18'19" WEST ALONG SAID NORTH LINE, A DISTANCE OF 2766.41 FEET TO A POINT ON THE EAST LINE OF ILLINOIS ROUTE 59 ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NUMBER 11194096; THENCE NORTH 00°11'17" WEST ALONG THE EAST LINE OF SAID ILLINOIS ROUTE 59, A DISTANCE OF 2421.01 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33. THENCE NORTH 00°11'05" WEST ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROUTE 59 RECORDED AS DOCUMENT 11190496, A DISTANCE OF 2637.83 FEET TO A POINT ON THE NORTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28; THENCE NORTH 00°12'10" WEST ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROUTE 59 RECORDED AS DOCUMENT NUMBER 11668686, A DISTANCE OF 485.70 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROUTE 59 RECORDED AS DOCUMENT NUMBER 11113029 FOR THE FOLLOWING THREE (3) COURSES; (1) THENCE NORTHERLY ALONG A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 4724.70 FEET AND A CHORD BEARING OF NORTH 06°32'11" EAST, AN ARC LENGTH OF 1111.22 FEET TO A POINT OF TANGENCY; (2) THENCE NORTH 13°16'19" EAST, A DISTANCE OF 303.90 FEET TO A POINT OF CURVATURE; (3) THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 1482.40 FEET AND A CHORD

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BEARING OF NORTH $01^{\circ}26'20''$ WEST, AN ARC LENGTH OF 761.22 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE SOUTH $89^{\circ}50'29''$ EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 276.87 FEET; THENCE SOUTH $00^{\circ}09'31''$ WEST, A DISTANCE OF 752.98 FEET; THENCE SOUTH $89^{\circ}50'29''$ EAST, A DISTANCE OF 394.43 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 107.00 FEET, AN ARC LENGTH OF 154.21 FEET TO A POINT OF TANGENCY; THENCE NORTH $07^{\circ}34'59''$ EAST, A DISTANCE OF 98.51 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 40.00 FEET, AN ARC LENGTH OF 51.33 FEET TO A POINT OF TANGENCY; THENCE NORTH $81^{\circ}06'19''$ EAST, A DISTANCE OF 287.58 FEET; THENCE NORTH $10^{\circ}14'25''$ EAST, A DISTANCE OF 66.11 FEET; THENCE NORTH $00^{\circ}34'33''$ EAST, A DISTANCE OF 384.46 FEET TO A POINT 33.00 FEET SOUTH OF AS MEASURED PERPENDICULAR TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE NORTH $89^{\circ}50'29''$ WEST ALONG A LINE 33 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 845.00 FEET; THENCE NORTH $00^{\circ}09'31''$ EAST, A DISTANCE OF 33.00 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE SOUTH $89^{\circ}50'29''$ EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 1989.06 FEET TO A POINT ON A LINE 123.76 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE SOUTH 00 DEGREES 27 MINUTES 50 SECONDS EAST ALONG SAID PARALLEL LINE; A DISTANCE OF 173.25 FEET TO A POINT ON A LINE 173.24 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 28; THENCE SOUTH 89 DEGREES 50 MINUTES 29 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 123.76 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 28; THENCE SOUTH $00^{\circ}27'50''$ EAST ALONG SAID EAST LINE, A DISTANCE OF 2454.80 FEET TO THE POINT OF BEGINNING; EXCEPT FOR THE FOLLOWING DESCRIBED PROPERTY:

THOSE PORTIONS OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH $89^{\circ} 58' 22''$ WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 508.00 FEET TO A LINE 508.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH $00^{\circ} 02' 15''$ WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 428.90 FEET TO A LINE 428.90 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH $89^{\circ} 58' 22''$ EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 508.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH $00^{\circ} 02' 15''$

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WEST ALONG SAID EAST LINE, A DISTANCE OF 351.59 FEET TO THE NORTH LINE OF ILLINOIS ROUTE 72 AS MONUMENTED AND OCCUPIED; THENCE NORTH 69° 18' 19" WEST ALONG SAID NORTH LINE, A DISTANCE OF 2766.41 FEET TO A POINT ON THE EAST LINE OF ILLINOIS ROUTE 59 ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NUMBER 11194096; THENCE NORTH 00° 11' 17" WEST ALONG THE EAST LINE OF SAID ILLINOIS ROUTE 59, A DISTANCE OF 1096.63 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 50.00 FEET WITH AN ARC LENGTH OF 80.49 FEET AND A CHORD BEARING OF SOUTH 46° 18' 23" EAST TO A POINT OF COMPOUND CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 457.00 FEET AND AN ARC LENGTH OF 68.92 FEET TO A POINT OF REVERSE CURVATURE THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 798.00 FEET AND AN ARC LENGTH OF 365.16 FEET TO A POINT OF REVERSE CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 552.00 FEET AND AN ARC LENGTH OF 125.61 FEET TO A POINT OF REVERSE CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 198.00 FEET AND AN ARC LENGTH OF 66.38 FEET TO A POINT OF REVERSE CURVATURE; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 30.00 FEET AND AN ARC LENGTH OF 35.16 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 196.00 FEET AND AN ARC LENGTH OF 39.98 FEET TO A POINT OF REVERSE CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 232.00 FEET AND AN ARC LENGTH OF 125.75 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 754.00 FEET WITH AN ARC LENGTH OF 60.64 FEET AND A CHORD BEARING OF NORTH 22° 40' 42" EAST TO A POINT OF NON-TANGENCY; THENCE SOUTH 51° 22' 16" EAST, A DISTANCE OF 822.83 FEET; THENCE SOUTH 65° 47' 33" EAST, A DISTANCE OF 381.45 FEET; THENCE SOUTH 00° 02' 39" EAST, A DISTANCE OF 557.45 FEET TO A LINE 160.00 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89° 58' 22" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.78 FEET TO THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE SOUTH 00° 04' 45" EAST ALONG SAID EAST LINE, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING, CONTAINING 62.179 ACRES OF LAND MORE OR LESS, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE

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NORTH 89°50'29" WEST ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 2389.69 FEET TO A POINT ON A CURVE, BEING A POINT ON THE EAST LINE OF ILLINOIS ROUTE 59 PER DOCUMENT NUMBER 11113029; THENCE NORTHERLY ALONG THE EAST LINE OF SAID ILLINOIS ROUTE 59 PER DOCUMENT NUMBERS 11113029 AND 11549027 FOR THE FOLLOWING THREE COURSES; (1) THENCE NORTHERLY ALONG A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 1482.40 FEET AND A CHORD BEARING OF NORTH 21°41'01" WEST WITH AN ARC LENGTH OF 286.34 FEET TO A POINT ON A CURVE; (2) THENCE NORTHERLY ALONG A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 2242.01 FEET AND A CHORD BEARING OF NORTH 20°03'26" EAST WITH AN ARC LENGTH OF 384.99 FEET TO A POINT OF TANGENCY; (3) THENCE NORTH 24°58'30" EAST, A DISTANCE OF 2212.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 21; THENCE SOUTH 89°51'08" EAST ALONG SAID NORTH LINE, A DISTANCE OF 533.41 FEET; THENCE NORTH 00°21'39" WEST, A DISTANCE OF 1131.30 FEET TO A POINT ON THE EAST LINE OF SAID ILLINOIS ROUTE 59 PER DOCUMENT NUMBER 11443738; THENCE NORTHERLY ALONG SAID EAST LINE FOR THE FOLLOWING THREE (3) COURSES; (1) THENCE NORTH 24°58'30" EAST, A DISTANCE OF 1195.93 FEET; (2) THENCE NORTH 27°49'55" EAST, A DISTANCE OF 200.22 FEET; (3) THENCE NORTH 24°58'12" EAST, A DISTANCE OF 257.37 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 21; THENCE NORTH 89°57'47" EAST ALONG SAID NORTH LINE, A DISTANCE OF 134.37 FEET; THENCE SOUTH 36°57'24" WEST, A DISTANCE OF 285.13 FEET; THENCE SOUTH 00°14'47" EAST, A DISTANCE OF 600.00 FEET; THENCE SOUTH 82°06'19" EAST, A DISTANCE OF 221.79 FEET TO A POINT ON A CURVE BEING THE WEST LINE OF BARTLETT ROAD PER DOCUMENT NUMBER 11113027; THENCE ALONG THE WEST LINE OF SAID BARTLETT ROAD PER DOCUMENT NUMBERS 11113027 AND 8026898 FOR THE FOLLOWING SEVEN (7) COURSES; (1) THENCE SOUTHERLY ALONG A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 5779.65 FEET AND A CHORD BEARING OF SOUTH 06°40'43" WEST WITH AN ARC LENGTH OF 182.71 FEET; (2) THENCE SOUTH 89°50'29" WEST, A DISTANCE OF 13.94 FEET; (3) THENCE SOUTH 00°09'31" EAST, A DISTANCE OF 154.30 FEET TO A POINT ON A CURVE; (4) THENCE SOUTHERLY ALONG A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 5779.65 FEET AND A CHORD BEARING OF SOUTH 02°02'21" WEST WITH AN ARC LENGTH OF 443.40 FEET; (5) THENCE NORTH 89°50'29" EAST, A DISTANCE OF 17.00 FEET; (6) THENCE SOUTH 00°09'31" EAST, A DISTANCE OF 991.17 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 21; (7) THENCE SOUTH 00°11'19" EAST, A DISTANCE OF 389.83 FEET; THENCE NORTH 89°48'41" EAST, A DISTANCE OF 33.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 21; THENCE SOUTH 00°11'19" EAST ALONG SAID EAST LINE, A DISTANCE OF 2245.24 FEET TO THE POINT OF BEGINNING, CONTAINING 158.419 ACRES OF LAND, MORE OR LESS, IN COOK COUNTY, ILLINOIS.

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Route 59 + Higgins Road
South Barrington, Illinois

PIN #S

- 01-21-202-003
- 01-21-204-004
- 01-21-400-002
- 01-28-200-005
- 01-28-200-006
- 01-28-200-008
- 01-28-400-001
- 01-28-401-001
- 01-28-402-001
- 01-33-200-009
- 01-33-200-011
- 01-33-200-012
- 01-33-200-014
- 01-33-200-015
- 01-33-200-016
- 01-33-200-017
- 01-33-200-018
- 01-33-200-019

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