

000480 DEC 198

2733594

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

12-19-2001 9:02 AM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 12.00
REC. FEE-CD: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 5

Recording Area

Name and Return Address:

Paul J. Hink Fuss
MTG. Commercial, LLC
13400 Bishop's Lane # 100
Brookfield, WI 53005

Pt of MV 0389.950

Parcel Identification Number

AA 166587

pl
19
/5



WC2733594-005

First Amendment
to
Protective Covenants for
Blackhawk Farms
Document Title

**FIRST AMENDMENT
TO
PROTECTIVE COVENANTS FOR BLACKHAWK FARMS**

This Amendment is made this 5th day of December, 2001 by MLG Real Estate 2000 LLC (hereinafter the "Developer").

WHEREAS, Developer subjected certain real property described on Exhibit A, attached hereto and incorporated herein (the "Phase 1 Land"), to the Protective Covenants for Blackhawk Farms ("Protective Covenants"), which are recorded in the office of the Register of Deeds for Waukesha County, Wisconsin on August 27, 2001 at Pages 1737-1765 as Document No. 2693525 (the "Original Protective Covenants"); and

WHEREAS, Section 6.2 of the Protective Covenants grants Developer and its assigns the right to amend the Protective Covenants by recording an amendment to the Protective Covenants; and

WHEREAS, Developer desires to amend the Protective Covenants.

NOW, THEREFORE, Developer hereby declares that the Protective Covenants shall be amended as follows:

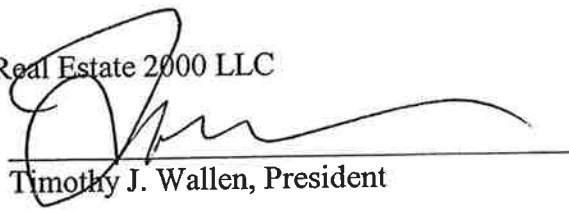
1. The last sentence of Section 3.5 is restated and amended to read as follows: "The minimum Lot size shall be 40,000 square feet."
2. In Section 5.7, the first sentence is restated and amended to read as follows: "Driveways shall be approved in advance by the Review Board and shall be located at least five (5) feet from all side and rear Lot lines."
3. Section 7.3 is restated and amended to read as follows: "Declarant, or its successors and assigns, including the Board of Directors of the Association, shall have the right to (i) grant easements upon, over, through and across (a) an Outlot controlled or owned by the Lot Owners in common with one another or (b) Common Areas as may be required for or by any type of utility services, including but not limited to, cable television or master antenna service, which easements may be granted to the Association or its nominee and as may be necessary for excavation and construction of any of the services to be provided by the easements; and (ii) grant easements, upon, over, through or across the Common Areas for ingress and egress to or from the Common Areas or for recreational purposes across the Common areas provided such proposed use would not have a material adverse impact on the Common Areas."

IN WITNESS WHEREOF, Developer has signed and sealed this instrument by its duly authorized representatives.

(Signature follows on next page)

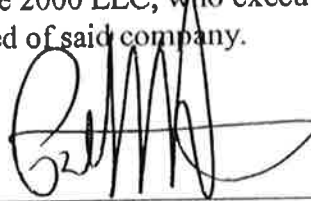
MLG Real Estate 2000 LLC

By:


Timothy J. Wallen, President

STATE OF WISCONSIN)
) ss
COUNTY OF WAUKESHA)

Personally came before me this 5th day of December, 2001, the above named Timothy J. Wallen, President of MLG Real Estate 2000 LLC, who executed the foregoing instrument and acknowledged the same as the act deed of said company.


Paul J. Hinkfuss
Notary Public, State of Wisconsin
My Commission is permanent

Drafted by Paul J. Hinkfuss

This document was drafted by and after recording should be returned to:
Paul J. Hinkfuss
MLG Commercial, LLC
13400 Bishop's Lane, Suite, Suite 100
Brookfield, WI 53005

k:\projects\blackhawkfarms\prcovamd.doc

EXHIBIT A

Legal Description

Phase 1 of Blackhawk Farms Subdivision

(Attached)

All that part of the Northwest $\frac{1}{4}$ of Section 25, and the Northeast $\frac{1}{4}$ of Section 26, Township 8 North, Range 18 East, that lies North of the center of the highway running East and West through said two $\frac{1}{4}$ Sections and that lies East of the centerline of County Trunk Highway "EF", in the Village of Merton, Waukesha County, Wisconsin.

EXCEPTING therefrom Certified Survey Map No. 5548, recorded as Document No. 1488705 and Certified Survey Map No. 6299, recorded as Document No. 1619466

Tax Key Number MV 0389.950



*Blackhawk
Farms*

PROTECTIVE COVENANTS



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7/18/01

100 27 01 0 0 1 7 3 7

2693525

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

08-27-2001 12:58 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 60.00
REC. FEE-CO: 4.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 29

PROTECTIVE COVENANTS

FOR

BLACKHAWK FARMS

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PROTECTIVE COVENANTS FOR BLACKHAWK FARMS

THESE PROTECTIVE COVENANTS made this 29 day of July, 2001, by MLG Real Estate 2000 LLC (hereinafter the "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the real property described herein, which property is located in the Village of Merton, Waukesha County, Wisconsin; and

WHEREAS, Developer desires to subject the property to the conditions, restrictions, covenants, and reservations contained herein for the benefit of the property and the benefit of each owner of any part of the property, and for the purpose of creating a desirable utilization of the land in an aesthetically pleasing residential environment;

NOW, THEREFORE, the Developer hereby declares that the real property herein described shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants and reservations hereinafter set forth:

ARTICLE 1. PROPERTY SUBJECT TO PROTECTIVE COVENANTS.

1.1 Existing Property. The real property subject to the provisions of these Protective Covenants is described on Exhibit A attached hereto (hereinafter the "Subdivision" or "Blackhawk Farms"). The Subdivision is composed of sixty-six (66) individual residential lots (hereinafter "Lots") for the entire subdivision. There shall be no additional lots created in the Subdivision at any time.

1.2 Additional Property. Developer reserves the right, at any time during the term of these Protective Covenants, to subject other real property (the "Additional Properties") to the provisions of these Protective Covenants and to add the Additional Properties to the Subdivision. The Additional Properties shall be located in Waukesha County, Wisconsin and, when added to the Subdivision, shall be adjacent to the Subdivision. Developer shall add Additional Properties to the Subdivision by recording with the Register of Deeds for Waukesha County one or more amendments to these Protective Covenants, with each amendment setting forth the legal description of the Additional Properties thereby added to the Subdivision.

ARTICLE 2. GENERAL. The intention of these Protective Covenants is to achieve the best use and most appropriate development and improvement of each Lot within the Subdivision; to preserve, as far as is practicable, the natural beauty of the Subdivision; to guard against haphazard and inharmonious improvement of the Lots and the erection thereon of unattractive or poorly designed or poorly proportioned structures; to obtain harmonious and attractive use of material and color schemes; to encourage and secure the construction within the Subdivision of attractive homes with appropriate locations thereof on the Lots; to secure and maintain proper setbacks from streets and adequate open spaces between structures; and in general to endeavor to provide for a quality development of the Subdivision.

2.1 **Disclaimer.** Although the Developer is implementing these Protective Covenants with the intentions set forth above, the Developer makes no assurances, representations or guaranty that the stated intentions of these Protective Covenants shall be achieved, or as to the ultimate value of Lots in Blackhawk Farms, or as to any stability or increase in value as a result of the imposition of these Protective Covenants.

ARTICLE 3. DEFINITIONS. The following terms as used in this document shall have the definitions set forth below:

3.1 **Association.** The term "Association" shall mean the non-profit corporation to be known as Blackhawk Farms Owners Association, Inc., which shall serve as an organization of all owners of Lots in the Subdivision, and collect assessments from Lot Owners for payment of Association obligations and maintenance of Association properties, as set forth herein.

3.2 **Common Area.** The term "Common Area" shall mean all areas of the real property as described on Exhibit A other than the Subdivision, public streets and any part of an Outlot which shall be deemed to be owned by the Village. Common Area shall also specifically include those areas throughout the Subdivision the Association is required to maintain as set forth in these Covenants.

3.3 **Developer.** The term "Developer" shall mean MLG Real Estate 2000 LLC.

3.4 Dwelling Unit. The term "dwelling unit" or "dwelling" shall mean a living unit within Blackhawk Farms which is intended to be occupied by one (1) family.

3.5 Lot. The term "Lot" shall mean an individual residential lot numbered from 1 to 66 inclusive in the Subdivision, as shown in Exhibit B attached hereto. No Lot may be further divided without the prior approval of the Village Board of the Village of Merton. The minimum Lot size shall be one and one-half acre.

3.6 Lot Owner. The term "Lot Owner" shall mean the current owner(s) of any Lot in the Subdivision, whose name(s) appear in the recorded deed of conveyance.

3.7 Outlot. The term "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 such Plat.

3.8 Plans and Specifications. The term "Plans and Specifications" shall mean complete written construction plans and detailed specifications as to materials and colors for construction of any building, wall, fence, sign, pool, deck, patio or other improvement in Blackhawk Farms, including a site plan showing location of all improvements, driveways, walks, elevation and grade of the Lot and improvements, as set forth in Section 4.1.

3.9 Review Board. The term "Review Board" shall mean that board composed of three members initially appointed by the Developer to review and approve or disapprove of Plans and Specifications for construction of dwelling units and any other structures or improvements in the Subdivision.

3.10 Subdivision. The term "Subdivision" shall mean Blackhawk Farms Subdivision, which means the residential lots numbered 1 - 66 inclusive as described in Exhibit A and as shown in Exhibit B attached hereto. The Subdivision Plat for Blackhawk Farms is recorded with the Register of Deeds for Waukesha County, Wisconsin. The terms "Subdivision" and "Blackhawk Farms" do not include the Outlots shown on Exhibit B attached hereto and also shown on the Subdivision Plat for Blackhawk Farms.

ARTICLE 4. DESIGN CONTROL.

4.1 **Plans and Specifications.** No building, sign, driveway, walkway, swimming pool, deck, patio, play equipment or other structure or improvement shall be erected, constructed or maintained upon any Lot, nor shall any change or alteration be made thereto, unless complete plans and specifications have been submitted in duplicate to, and approved in writing by, the Review Board. The plans and specifications submitted shall include, in addition to detailed construction plans, a site plan showing the exact size and location of each building or other structure, the elevation thereof, the grade of the Lot, grades adjacent to the Lot, the proposed finished grade and garage floor grade for the building, sump pump discharge locations, a building elevation or rendering of the building or structure to be constructed, a detailed landscaping plan, and detailed specifications as to materials, colors (including samples) and equipment to be installed in the structure (collectively the "Plans and Specifications"). The address and telephone number of the Lot Owner and other person designated to receive the response of the Review Board shall be included with any submission of Plans and Specifications. Each Lot owner must strictly adhere to and finish grade its lot in accordance with the Master Site Grading Plan or any amendment thereto approved by the Village Engineer on file at the office of the Village Clerk. The Developer and/or the Village and/or their agents, employees or independent contractors, upon written notice to the owner of a vacant lot, shall have the right to enter upon any Lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the Lot owner is responsible for the cost of the same.

4.2 **Review Board.** The decision of a majority of the members of the Review Board shall be the decision of the Review Board and shall be final and binding upon all interested parties. The Review Board shall meet in closed sessions. Members of the Review Board shall not be entitled to any compensation from Lot Owners for services performed pursuant to these Protective Covenants. In the event of death, resignation, or refusal to act by any member of the Review Board, or vacancy on the Review Board for any reason, while any Lot remains vacant without a dwelling unit in the Subdivision, the successor to such member shall be appointed to the Review Board by the Developer or by its successors or assigns. When all the Lots in the Subdivision have been sold by the Developer, or its successors or assigns, and houses have been built on all the Lots in the Subdivision

(or at such earlier time determined by the Developer) the Review Board shall thereafter consist of five (5) persons, who shall be the persons appointed or elected as directors of the Association as described in Section 8.3.

4.3 Submission of Plans. A Lot Owner shall submit Plans and Specifications to the Review Board at the earlier of (i) at least fifteen (15) days prior to the time that such Plans and Specifications are submitted to the Building Inspector of the Village of Merton for approval, or (ii) thirty (30) days prior to commencement of construction of the dwelling unit or any other improvement. Plans and Specifications must comply with the standards set forth in Section 5 herein and must be approved by the Review Board in writing prior to any application for a building permit to the Village of Merton, and before any construction or alteration of any improvement may be commenced on any Lot. Plans and Specifications shall be submitted in duplicate to the Review Board at the following address, which address may be changed by notice in writing to the purchaser of a Lot at the time of purchase:

MLG Limited Partnership
13400 Bishop's Lane, Suite 100
Brookfield, WI 53005
Attention: Blackhawk Farms Project Coordinator
(262) 797-9400

Upon request by a Lot Owner, the Review Board shall issue a written receipt for the Plans and Specifications submitted by or on behalf of the Lot Owner, showing the date of the submission.

4.4 Review. The Review Board shall review and approve such Plans or Specifications, or disapprove those which in its judgment are not in conformity with these Protective Covenants or are inconsistent with the purposes set forth in Article 2. The Review Board may require enhanced architectural treatment on all building elevations. In reviewing the Plans and Specifications, the Review Board may take into consideration, among other things, the following:

The suitability of the proposed home or other structure in the Subdivision;

The design, layout, elevation and the materials of which the home or improvement is to be constructed;

The location of the improvements upon the Lot and within the Subdivision;

The exterior appearance of the home including roofing materials and the color scheme; and

The compliance of the home or other structure with the standards set forth in these Protective Covenants.

4.5 Approval. The Review Board shall approve Plans and Specifications by letter sent to the Lot Owner at the address included in the Plans and Specifications.

4.6 Disapproval. If the Review Board disapproves of Plans and Specifications, the Review Board shall specify the reasons for such disapproval to the Lot Owner in writing. The Lot Owner shall then be entitled to submit revised Plans and Specifications for review by the Review Board, in which event another receipt shall be issued by the Review Board.

4.7 Waiver. The Review Board shall be entitled to waive or grant a variance from the requirements of these Protective Covenants and the standards set forth herein upon written application therefor to the Review Board as a part of a submission of Plans and Specifications to the Review Board, or otherwise, for reasons deemed adequate and reasonable to the Review Board, and in consideration of the purposes of these Protective Covenants as set forth in Article 2. The decision of the Review Board shall be final and binding with regard to any waiver or variance, whether or not such waiver or variance is specifically granted by the Review Board in writing, or is a part of or necessitated by Plans and Specifications approved by the Review Board; provided, however, that the waiver shall not be effective until written approval for the specific variance request is granted by the Village of Merton.

4.8 Erosion Control and Surface Drainage. During construction of a dwelling unit on a Lot, adequate measures shall be undertaken to comply with applicable Village erosion control ordinances. The topography and ground elevation of each Lot shall be finished as required by the Plans and Specifications approved by the Review Board for the efficient discharge and drainage of surface groundwater and sump pump discharge throughout the Subdivision. Final grading of a Lot shall be completed within two (2) months following the date of occupancy of a dwelling unit thereon, weather and seasonal considerations permitting.

4.9 Ground Fill on Building Site. Where ground fill is necessary on any Lot to obtain the proper topography and finished ground elevation, the ground fill shall be free of waste and noxious materials. All fill materials shall be leveled immediately upon completion of the dwelling unit and shall be graded and contoured consistent with the Master Grading Plan and any applicable municipal ordinance. Upon completion of the final grading, the Lot Owner shall submit to the Review Board a grading recertification prepared by a qualified land surveyor or professional engineer certifying that the finished ground elevation and drainage patterns of the Lot comply with this Section.

4.10 Building Materials. All exterior walls shall be constructed with Hardiplank or natural materials such as brick, stone or wood the Review Board approves. Windows may be vinyl or aluminum clad. Garage and service doors must have a raised panel or similar design. Any exposed basement or foundation walls must be covered with masonry veneer, plaster or siding materials used on exterior walls. All chimneys shall be constructed with masonry materials.

4.11 Masonry. Although there is no minimum masonry requirement, if masonry material is used on the exterior walls, it should terminate at an insider corner.

4.12 Construction. During construction of a dwelling unit or any other improvement, the construction site shall be kept free of refuse and litter. Rubbish and construction materials shall be stored on the site only as long as necessary under the circumstances. Any natural vegetation and tree debris removed during the stripping of the building pad shall be removed immediately. Construction sites shall remain as organized and neat in appearance as possible throughout the construction period.

4.13 Completion; Occupancy. Any dwelling unit construction on any Lot in the Subdivision shall be enclosed and under roof with the finished exterior material in place within twelve (12) months after the commencement of construction. No dwelling unit shall be occupied until the exterior surfacing of said dwelling unit is completed and the Lot is finished to rough grade.

ARTICLE 5. SUBDIVISION STANDARDS.

5.1 General. All Lots in the Subdivision shall be subject to the standards set forth herein. Dwellings that are too similar in appearance will not be permitted to be constructed in close proximity to one another.

5.2 Unit Size. The total minimum finished living area of one and two story dwelling units shall be 2800 square feet. The minimum first floor requirement for a second story dwelling unit shall be 1600 square feet.

5.3 Unit Measurement. The square footage of a dwelling unit shall be measured along the perimeter of the dwelling unit at and above the grade (measured along the exterior walls exclusive of garages, porches, patios, breezeways and similar additions). For purposes of calculating total area, the Review Board, in its sole discretion, shall determine what constitutes a one-story or multi-level dwelling unit.

5.4 Windows. When shutters, window grids and other trim features are used with windows on the front of a dwelling unit, they must also be used with appropriate windows on the sides and rear of the dwelling unit. Trim of at least four (4) inches in width must be used on all windows without shutters and on all doors, vents, and louvers. The Review Board may require the placement of windows in walls that would otherwise be blank or featureless and shall place more importance on an attractive, balanced exterior design than over concerns about the design or placement of interior features.

5.5 Roof Pitch. The roofs on all two (2) story and one and one-half (1 ½) story dwelling units must have a minimum pitch of eight (8) feet in height for each twelve (12) feet in length (8/12), except for rear dormers on one and one-half (1 ½) story dwelling units. All one (1) story dwelling unit roofs shall have a minimum pitch of ten feet in height for each twelve feet in length (10/12). All roofs must have 25-year textured dimensional shingles or wood shakes.

5.6 Setbacks. The required minimum building setbacks are as follows:

Front Yard	50 feet
Side Yard	25 feet
Corner Lot Side Yard	50 Feet
Rear Yard	50 Feet

5.7 Driveways. Driveways shall be approved in advance by the Review Board and shall be located at least three (3) feet from all side and rear Lot lines. In no event shall driveway flares or parking slabs be permitted. Within twelve (12) months from the issuance of an occupancy permit by the Village of Merton for any dwelling unit, all driveways on the Lot must be paved with concrete, asphalt, or other hard and impervious paving substance. All driveways shall be installed in accordance with the Village of Merton specifications.

5.8 Walkways. Within twelve (12) months of the issuance of an occupancy permit by the Village of Merton for any dwelling unit, all walkways on the Lot shall be paved with concrete, brick or other hard and impervious paving substance approved in advance by the Review Board.

5.9 Garage. Each dwelling unit shall have a side-entry garage for not more than four (4) nor less than two and one-half (2 1/2) cars. The maximum size of the garage must conform to the Village of Merton ordinances. Garage entrances must be on the side of the dwelling unit facing away from the street entrance. All garages must be constructed on the high side of the Lot unless otherwise approved in writing by the Developer.

5.10 Landscaping. All homeowners will be required to submit a landscaping plan for approval prior to landscaping. Before a Lot Owner builds a house and/or completes landscaping, the Lot Owner shall be responsible for maintaining the Lot by trimming weeds and grass to a height not exceeding twelve (12) inches.

5.11 Outbuildings and Temporary Structures. Other than dwelling units and other structures and improvements approved in advance by the Review Board pursuant to Section 4.1, no structure of any kind, including, but not limited to, any shed, gazebo, skateboard ramp, stable, barn or kennel shall be moved onto or constructed upon any Lot within the Subdivision.

5.12 Swimming Pools/Spas. Swimming pools, hot tubs or spas may be erected, altered or modified in Blackhawk Farms only with the prior written approval of the Review Board. No above ground swimming pools shall be permitted in Blackhawk Farms.

5.13 Fences and Walls. No fences or walls of any height or for any purpose shall be permitted on any Lot except in the case of in ground swimming pools. All fencing must be approved in advance by the Review Board. In the case of in-ground swimming pools, the fence shall be decorative and placed around the pool area.

5.14 Motorized Vehicles. Only automobiles and other four-wheel passenger vehicles may be parked on a Lot outside of a garage in the Subdivision, and they may be parked only on driveways that have been approved in advance by the Review Board pursuant to Article 4. The Review Board will not approve parking slabs. No lawn or farm vehicle or equipment, recreational vehicle, trailer, boat, boat trailer or similar vehicle or equipment shall be parked or stored on any Lot other than in a garage. No commercial vehicles, including semi-trailer tractors, dump trucks, delivery trucks, and similar vehicles, irrespective of ownership, may be parked or stored on a Lot other than temporarily for the delivery of materials or merchandise, and other than during temporary periods of construction or remodeling upon the Lot. Motorcycles, snowmobiles, trail bikes, dune buggys, off-street motorized vehicles and recreation vehicles of any kind shall not be operated on any Lot or parking area within the Subdivision.

5.15 Antennas/Microwave Dishes. External antennas, satellite or microwave dishes and solar panels of any type or for any purpose may be installed and maintained on a Lot in the Subdivision only with the prior written approval of the Review Board. In no event may any satellite or microwave dish be larger than two (2) feet in diameter. In no event may any antenna, satellite or microwave dish or solar panels be visible from the street in front of the dwelling. Any proposal for any such installation shall be submitted to the Review Board for approval, and shall show the size, location and appearance of such installation, prior to any such installation in the Subdivision.

5.16 Post lights. Uniform post lights specified by the Developer shall be purchased by each Lot Owner from the Developer at the time of closing. Each post light shall be installed on the Lot at the time of finished grading of the yard at a location specified by the Developer, but in any event, each post light shall be installed within nine (9) months from the date the residence is occupied. Each post light shall be connected to an electrical power source at the time of installation and shall be maintained in a clean and operating condition at all times thereafter. The post light

specified by the Developer is equipped with a photoelectric sensor; therefore, no Lot Owner may install a turn-off switch for the post light. Any replacement of such post lights shall be accomplished by the Lot Owner, and only with a post light of the same specifications, height, appearance and in the same location as the original post light.

5.17 Mailboxes. Uniform mail/paper boxes shall be purchased by each Lot Owner from the Developer at the time of closing. All mail/paper boxes will be installed by the Lot Owner in accordance with the requirements of the U.S. Post Office. Any replacement of such mail/paper box shall be accomplished by the Lot Owner, and only with a mail/paper box of the same specifications, height and appearance as the original mail/paper box at Lot Owner's expense. No other mailbox, paperbox or other receptacle of any kind for use in the delivery of mail, newspapers or magazines or similar materials shall be erected or installed by a Lot Owner.

5.18 Signs. No sign of any kind shall be displayed to the public view on any Lot except as follows:

(a) A sign placed on the Lot by a Lot Owner or the real estate agent of the Lot Owner advertising the property for sale. No such sign shall exceed six (6) square feet in size.

(b) A sign erected by a building/contractor of a dwelling unit in the Subdivision during the time the dwelling unit is under construction. No such sign shall exceed 6 square feet in size.

(c) Signs by an owner/contractor advertising a dwelling unit as a "model home." No such sign shall exceed twenty-four (24) square feet in size.

All of the foregoing signs shall be professional, unlit signs installed so that the bottom of the sign shall be no more than three (3) feet above the ground. All signs shall be removed promptly upon sale or occupancy of the dwelling unit on the Lot. Any signs other than those listed above must receive prior written approval of the Review Board before installation. Nothing contained in this Section 5.18 shall be deemed to prohibit the Developer from placing such signs as it may deem necessary or desirable within the Subdivision until all Lots within the Subdivision are sold.

5.19 Animals. No animals, livestock, poultry or pigs of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other small household pets may be kept in a manner which will not disturb the quality of life and the environment of the Subdivision, provided that no animals shall be kept, bred or maintained for any commercial purposes. No more than two dogs or two cats shall be maintained in any household. Lot owners shall be responsible for promptly cleaning up all pet refuse.

5.20 Garbage and Refuse Storage and Disposal. No Lot shall be used in whole or in part for the storage of rubbish in any form whatsoever, nor shall any portion of a Lot or dwelling unit thereon be used for the storage of any property or thing that will cause such Lot and dwelling unit to appear in an unclean or untidy condition or that will be offensive to community standards. All trash, garbage or waste materials shall be kept in sanitary containers either inside a garage or, when outside, in sanitary containers adjacent to the dwelling unit, suitably screened from view from streets and adjoining Lots. Outside incinerators are not permitted. No building or construction material shall be stored on any Lot outside of a dwelling unit or garage, other than during periods of actual construction or remodeling, and then only for as long as may be reasonably necessary. Each Lot Owner may store up to a maximum of one cord of wood behind and adjacent to the dwelling unit in a manner consistent with the other provisions of this Section 5.19.

5.21 Nuisances. No noxious or offensive odor, activities or conditions shall be created, conducted or permitted to exist in, on or about any dwelling or Lot, which may be, or may become, an annoyance or nuisance to the neighborhood or which may cause any noise which disturbs or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

ARTICLE 6. TERM AND AMENDMENT.

6.1 Term. These Protective Covenants shall be in full force and effect for a period of thirty (30) years from the date these Protective Covenants are recorded, after which time these Protective Covenants shall automatically be extended for successive periods of ten (10) years each; provided, however, that an instrument terminating these Protective Covenants, if signed by Lot

Owners possessing a majority of the votes available in the Association, shall be effective as of the end of the original term or ten (10) year extension within which it is recorded.

6.2 Amendment. These Protective Covenants may be amended at any time by the signature and recording of an amendment to these Protective Covenants by Lot Owners possessing 75% of the votes available in the Subdivision; provided, however, as long as the Developer owns a Lot, no amendment shall be effective unless such amendment is approved in writing by the Developer, and no amendment annulling, waiving, changing, modifying or amending the provisions of these Protective Covenants shall be effective unless such amendment is approved in writing by the Plan Commission of the Village of Merton. Such amendment shall take effect upon the date of the recording thereof. Notwithstanding anything in Section 6.2 to the contrary, these Protective Covenants may be amended by the Developer alone in accordance with Section 1.2, subject only to the written approval thereof by the Plan Commission of the Village of Merton, the Village Board of the Village and the Village Attorney.

ARTICLE 7. EASEMENTS.

7.1 Utility Easements. Developer hereby declares, creates and reserves easements over each Lot in the Subdivision for purposes of underground installation and maintenance of electric, gas, water, telephone, cable television lines, and such other utilities or lines and equipment as may be necessary or desirable to service Lots within the Subdivision ("Utility Easements"). The Utility Easements are shown on the Plat or on separate easement instruments recorded in the Waukesha County Register of Deeds. Developer further reserves the right to sign and record specific grants of easements to utilities or similar entities on standard terms and conditions, which easements shall in all cases be located as described or reserved on the recorded plat for the Subdivision or on a separate easement.

7.2 Storm Sewer Easement. Developer hereby declares, creates and reserves easements over Lots 2, 5, 6-10, 12-16, 18, 19, 25, 26, 31-33, 35, 36, 40, 44, 45 and 58 in the Subdivision for purposes of drainage to aid storm water runoff and drainage ("Storm Sewer Easements"). The Storm

Sewer Easements are shown on the Plat and are identified as "Storm Sewer Easement." The following restrictions and regulations shall apply to the Storm Sewer Easements:

- (a) The Association shall be responsible for maintenance of the stormwater management measures and the foregoing easements.
- (b) The Association shall maintain the stormwater management measures installed in the Subdivision in accordance with the approved stormwater management plan prepared by Losik and Associates dated March 7, 2001 and amended April 20, 2001 on file in the offices of the Village as required by the Village Site Erosion Control and Stormwater Management Ordinance.
- (c) The Village is authorized to access the foregoing easements to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
- (d) The Association, on an annual basis, shall provide maintenance of each stormwater management measure, including but not limited to, removal of debris, maintenance of vegetative area, maintenance of structural stormwater management measures and sediment removal.
- (e) The Village is authorized to perform the corrective actions if the Association does not make the required corrections within a reasonable time period. The costs and expenses for such corrections shall be entered on the tax roll as a special assessment or special charge against all Lots in the Subdivision and collected with any other taxes levied thereon for the year in which the work is completed.

7.3 Recreational or Other Easements. Declarant, or its successors and assigns, including the Board of Directors of the Association, shall have the right to (i) grant easements upon, over, through and across an Outlot controlled or owned by the Association or Common Areas as may be required for or by any type of utility services, including but not limited to, cable television or master antenna service, which easements may be granted to the Association or its nominee and as may be necessary for excavation and construction of any of the services to be provided by the easements; and (ii) grant easements, upon, over, through or across the Common Areas for ingress and egress to or from the Common Areas or for recreational purposes across the Common areas provided such proposed use would not have a material adverse impact on the Common Areas.

7.4 Vacant Lot Maintenance Easement. Declarant hereby declares, creates and reserves a vacant lot maintenance easement to the Village granting the Village the right (but not the obligation) to enter upon any vacant Lot in the Subdivision in order to inspect, repair or restore any part of the Lot the Village deems necessary so that the Lot is in compliance with all applicable provisions of the Village of Merton Municipal Code. A vacant Lot shall include any Lot that does not have an occupied principal dwelling unit that is used for single family purposes at the time of inspection, repair or restoration. All actual costs, including professional fees and all other fees as may be reimbursed pursuant to Section 3.11 or other applicable section of the Village of Merton Municipal Code, incurred by the Village in exercising its right to inspect, repair or restore the Lot, shall be borne by the owner of the Lot necessitating such inspection, repair or restoration and if not paid by such Lot owner within forty-five (45) days of receipt of any invoice therefore, may be placed against the tax roll for the Lot and collected as a special assessment or a special charge by the Village.

7.5 Landscape Easement and Monument and Landscaping Easements. Developer hereby declares, creates and reserves easements over those certain Lots in the Subdivision that are located along Rybeck Road for purposes of a forty foot (40') landscaping easement (the "Landscape Easements"). The Landscape Easements will be shown in a separate instrument to be recorded in the Register of Deeds Office for Waukesha County. Developer hereby declares, creates and reserves easements over a portion of Lot 39 and Outlots 1, 2 and 6 as shown on the Plat and identified as "Monument and Landscape Easement." The restrictions and regulations set forth in Section 7.2 (a) and 7.2(b) herein shall apply to the Monument and Landscape Easement.

7.6 Vision Corner Easement. Developer hereby declares, creates and reserves an easement over Lots 1, 5, 11, 12, 15, 17, 21, 22, 24, 28, 30, 33-35, 39, 42, 43, 49, 50, 55, 63 and Outlots 1, 2, 6 and 7 as shown on the Plat identified as "Vision Corner Easement" ("Vision Corner Easement"). The Vision Corner Easement shall be subject to the restrictions set forth on the Plat.

7.7 Temporary Turnaround Easement. Developer hereby declares, creates and reserves easements over Lots 16, 49, 50 and 66 to serve as temporary turnarounds as more fully set forth on the Plat and identified as "Temporary Turn-A-Round Easement" ("Temporary Turn-A-Round Easement"). The Temporary Turn-A-Round Easement on Lots 16 and 66 shall terminate at such

time as Blackhawk Drive is extended to the North onto the adjacent property. The Temporary Turn-A-Round on Lots 49 and 50 shall terminate at such time as Red Tail Lane is extended to the North onto the adjacent property.

ARTICLE 8. ASSOCIATION OF LOT OWNERS.

8.1 Home Owner's Association. The Developer shall create a non-profit Wisconsin corporation to be known as Blackhawk Farms Owners Association, Inc., referred to herein as the "Association," which corporation is to be formed for the purpose of maintaining any Subdivision entrance signs and landscaping and any other real estate for which the Association is responsible together with any other amenity that may be provided by the Developer or the Association from time to time. The Association shall assess the pro rata share of the costs of such maintenance and other expenses of operation of the Association against the individual Lot Owners, in accordance with terms set forth in the Articles of Incorporation and Bylaws of the Association.

8.2 Membership and Voting. Each Lot Owner, whether one or more, shall be a member of the Association, but each Lot shall represent one (1) vote only in the affairs of the Association, regardless of the number of owners of the Lot (if more than one (1) the vote of a majority of the owners shall represent the vote of such Lot). Person(s) owning more than one (1) Lot shall have one (1) vote for each such Lot owned. Membership in the Association by a Lot Owner shall terminate at such time as such Owner sells or otherwise conveys or transfers such Lot.

8.3 Directors and Officers of the Association. The Developer shall have the right to appoint an initial board of up to five (5) directors of the Association, which directors shall serve as provided in the By-Laws. After the Developer has sold the final Lot in the Subdivision, subsequent directors will be elected as provided in the By-Laws of the Association. The officers of the Association will be elected annually by the Board of Directors.

8.4 Operating Budget. Commencing with the calendar year 2002 and for each year thereafter, the Association shall prepare and adopt an operating budget covering the period January 1st through December 31st of such year. The budget shall be prepared and adopted by the Board of Directors before the beginning of the subsequent year, and shall be mailed to each Lot Owner at least

fourteen (14) calendar days prior to the annual meeting of the Association. In accordance with the financial needs of the Association, all of the Lots shall be subject to a general annual assessment, as contained in the annual budget, for the purposes of payment of costs and expenses of the Association and carrying out its stated purposes and functions. Such costs shall include, but not be limited to, payment for taxes on any Association property such as outlots, maintenance, repair, replacement and additions to subdivisions entrance monuments, landscaping, and storm water management areas and the cost of materials, management and supervision.

8.5 Tax Foreclosure. In the event Waukesha County or the Village acquires title to any Lot in the Subdivision through the foreclosure of a lien for delinquent taxes, the Association assessments pertaining to such Lot shall not be charged to Waukesha County or the Village of Merton, but shall be paid by all remaining Lot Owners through increased assessments by the Association.

8.6 Maintenance of Common Areas. The Association shall at its cost maintain in good condition and repair and replace and operate all Common Areas, including all island areas in the streets, any signage identifying common areas of the subdivision and all entrance areas or common areas of the subdivision. The Association shall also be responsible for the maintenance of the outlot detention pond areas. If the Association fails to maintain the Common Areas or signage as provided herein, the Village or its authorized agent may perform the necessary maintenance. The Village may add the cost thereof to the tax bill for each Lot in proportion to the total number of Lots in the Subdivision or may file a lien against each Lot for the proportional amount due with the Clerk of Courts for Waukesha County in the same manner as a Condominium lien under Wisconsin law.

8.7 Ownership of Outlots. Each Lot shall have an appurtenant undivided interest in the Outlots, the numerator of which shall be one and the denominator of which shall be the total number of Lots subject to these Protective Covenants, and each lot shall be responsible for its proportional share of taxes assessed against the Outlots if the Association taxes are not otherwise paid; provided, however, that no Lot shall have an ownership interest in any portion of an Outlot that the Village owns. All deeds and other conveyances of any Lot shall be deemed to include such undivided interest in the Outlots. The Outlots are part of a Planned Unit Development ("PUD") approved by the Village of Merton and shall forever be maintained as parks or open space pursuant to the zoning

code of the Village. The density of the PUD is contingent upon the perpetual care and maintenance of the Outlots by the appropriate persons or entities as set forth in these Protective Covenants.

ARTICLE 9. MISCELLANEOUS

9.1 No Reversion of Title. No violation or breach of any covenant, condition, restriction or other term of these Protective Covenants shall cause a Lot Owner to lose title to a Lot.

9.2 Enforcement. Enforcement of these Protective Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any provisions of these Protective Covenants, either to restrain violation or to recover damages, or both. Any such action may be brought by the Association, any Lot Owner possessing a vote in the Association, the Developer or the Village. Enforcement of rules and regulations of the Association may also be accomplished pursuant to terms of the Association By-Laws. The Village shall have no obligation to enforce all or any portion of these Protective Covenants.

9.3 Severability. Invalidation of any of the provisions of these Protective Covenants by judgment or court order shall in no way affect any other provisions herein, which other provisions shall remain in full force and effect.

9.4 Binding Effect. These Protective Covenants shall run with the land and shall be binding upon and inure to the benefit of the Developer, all Lot Owners and their heirs, successors, and assigns, and any party hereafter having any interest in any of the Lots in the Subdivision, for the full term of these Protective Covenants.

9.5 Applicable Laws. The Lot Owners are advised that they are subject to all rules, codes, regulations and ordinances of the Village, the County of Waukesha, the State of Wisconsin and the federal government and the same may be more restrictive than these Protective Covenants. In the event there is a conflict between the requirements of these restrictions and any provision of any Village, County, State or federal law or regulation, the more restrictive shall apply.

9.6 Controlling Document. If there is a conflict between any of the terms contained in these Protective Covenants, the Homeowners' documents, the Planned Unit Development conditions or Final Development Plan conditions, the more restrictive terms shall apply.

IN WITNESS WHEREOF, Developer has signed and sealed this instrument by its duly authorized representatives.

By: MLG Real Estate, LLC

By:

By:

Timothy J. Wallen, Treasurer

STATE OF WISCONSIN)

)ss

COUNTY OF WAUKESHA)

Personally came before be this 21 day of July, 2001, the above-named Timothy J. Wallen, the Treasurer of MLG Development, Inc., of MLG Real Estate 2000 LLC, who executed the foregoing instrument and acknowledged the same as the act and deed of said entity.

Notary Public, Waukesha County, State of Wisconsin

My Commission: is renewed

This was document drafted by and after recording should be returned to:

Paul J. Hinkfuss
MLG Commercial, LLC
13400 Bishop's Lane, Suite 100
Brookfield, WI 53005

EXHIBIT A

Legal Description

Blackhawk Farms Subdivision

LEGAL DESCRIPTION

UG 27 01 00 17 00

All that part of the Northwest $\frac{1}{4}$ of Section 25, and the Northeast $\frac{1}{4}$ of Section 26, Township 8 North, Range 18 East, that lies North of the center of the highway running East and West through said two $\frac{1}{4}$ Sections and that lies East of the centerline of County Trunk Highway "EF", in the Village of Merton, Waukesha County, Wisconsin.

EXCEPTING therefrom Certified Survey Map No. 5548, recorded as Document No. 1488705 and Certified Survey Map No. 6299, recorded as Document No. 1619466

Tax Key Number MV 0389.950

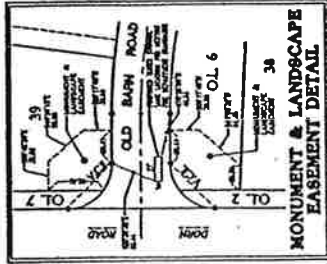
10UG 27 01 0 0 1 7 6 1

EXHIBIT B

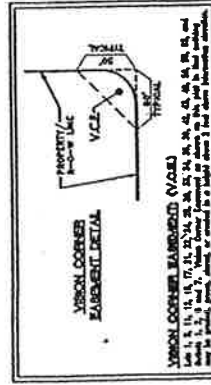
**Blackhawk Farms Subdivision
Plat
(Attached)**

BLACKHAWK FARMS

BEING A PART OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF SECTION 28 AND THE NORTHWEST 1/4 OF SECTION 29, TOWN 18 NORTH, RANGE 18 EAST, IN THE VILLAGE OF MERTON, WILKESHA COUNTY, WISCONSIN.



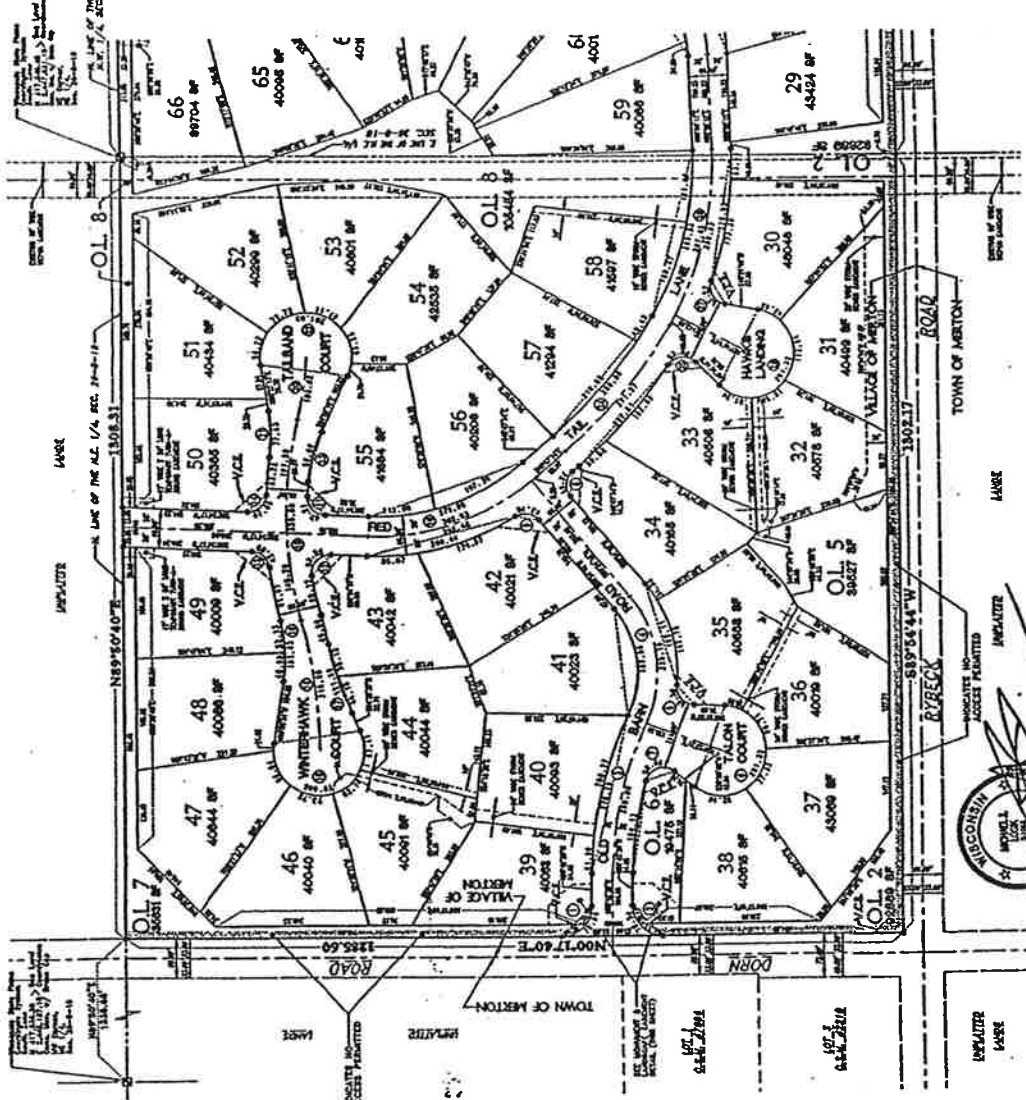
LOCALITY MAP
N.E. 1/4, SEC. 28 & N.W. 1/4 SEC. 25
T8N, R18E
SCALE: 1" = 1000'



THIS 4 SHEET DOCUMENT IS THE "FINAL PLAT"
OF "BLACKHAWK FARMS" SUBDIVISION

Loak
Michael J. Loak & Assoc., Inc.
31015 W. Capital Drive
Bend, OR 97701
503 784-1000
503 784-1001

NOTES:
1. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
2. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
3. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
4. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
5. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
6. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
7. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
8. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
9. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.
10. All lot area within the subdivision shall be as shown on this plat and shall not be subject to change by any subsequent survey or plat.



REVISED THIS 10TH DAY OF JULY, 2001
REVISED THIS 10TH DAY OF JULY, 2001
DATED THIS 10TH DAY OF JULY, 2001

THIS INSTRUMENT WAS DRAFTED BY MICHAEL J. LOAK B-1048

00-555-110-01



BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 28 AND THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 28, TOWN 8 NORTH, RANGE 18 EAST, IN THE VILLAGE OF MERTON, WAUKESHA COUNTY, WISCONSIN.

BEING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 28 AND THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 28, TOWN 8 NORTH, RANGE 18 EAST, IN THE VILLAGE OF MERTON, WAUKESHA COUNTY, WISCONSIN.

CURVE TABLE:

NO.	NAME	UNIT	ENR42	CONTR. AMT.	AGE	COOP.	COOP. BONUS	WAGER #	WAGER OUT
1	0.L 1	50.00	5307.00	78.54	70.71	544,426.00	5097.4879	5097.4200	
2	0.L 2	50.00	5307.44	44.36	44.72	537,111.43	5097.4578	5097.4200	
3	50.00	5307.00	32.18	31.42	571,141.42	555.0000	5097.4200	5097.4200	
4	50.00	5307.44	78.54	70.71	544,426.00	5097.4879	5097.4200	5097.4200	
5	0.L 3	50.00	5307.44	44.37	44.72	542,511.34	5097.4747	5097.4200	
6	0.L 4	50.00	5307.44	32.17	31.42	577,693.27	5097.4771	5097.4200	
7	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
8	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
9	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
10	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
11	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
12	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
13	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
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20	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
21	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
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32	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
33	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
34	50.00	5307.44	255.80	255.78	577,693.27	5097.4771	5097.4200	5097.4200	
35	50.00	5307.44	255.80	255.78	577,693				

[illegible][illegible]

THIS INSTRUMENT WAS DRAFTED BY MICHAEL J. LOREK 5-10-88

00-013-436-01



Lark Associates

SIDING A PART OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 32 AND THE NORTHEAST 1/4 OF SECTION 30, TOWN 8 NORTH, RANGE 18 EAST, IN THE VILLAGE OF MERTON, WAUKESHA COUNTY, WISCONSIN.

STATE OF WISCONSIN)

WALDOBURN COUNTY)

1. MICHAEL J. LORIC, registered land surveyor, do hereby certify:

[illegible]

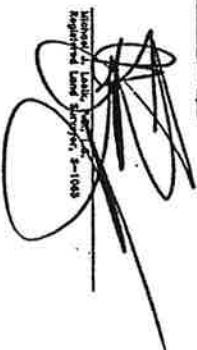
Sold parcel of land contains 8,701.01 sq. ft. (or 87,026 Acres) of land more or less.

That I have made such survey, land division and plot under the direction the H.L.D. Road Estate 2000, L.L.C., owner of said land.

That such plot is a correct representation of all exterior boundaries of the land surveyed and the subdivision thereof made.

That I have fully complied with the provisions of Chapter 226 of the Wisconsin Statutes and the Subdivision Control Ordinance of the Village of Horton in surveying, dividing and mapping the same.

Dated this 20th day of March 2001.



STATE OF WISCONSIN)
WASHINGTON COUNTY)

1. Thomas Nelson, being the duly qualified and acting Treasurer of the Village of Merion, do hereby certify that in accordance with the records in my office there are no unpaid taxes or special assessments as of _____ 20 _____ on any of the lands included in the plot of "Blackhawk Farms".

Data _____

Thomas A. Nelson, Village Treasurer



Michael J. Loolk & Assoc., Inc.
15275 W. Capitol Drive
Broomfield, WI 53005
DAD 790-1440
FAX 790-1441

Revised, that the plot of "Blackhawk Farms" in the Village of Weston, Will Noel Enterprises, LLC, owner, is hereby approved by the Village Board.

Part 1 _____

Robert W. Weber, Village President

I, hereby, certify that the foregoing is a copy of a Resolution adopted by the Village Board of the Village of Merton.

Part 1 _____

Thomas A. Nelson, Village Clerk

STATE OF WISCONSIN)
WAUKESHA COUNTY) ss.

1. Patricia C. Barrett, being duly elected, qualified and sworn Treasurer of the County of Wakefield do hereby certify that the records in my office show no unencumbered tax sales and no unpaid taxes or special assessments as of _____, 20____, on any of the land included in the List of "Blackhawk Farms".

Part 01 _____

Pernell J. Kerrea, County Treasurer

As errors we hereby certify that we have caused the land described on this plat to be surveyed, divided, mapped and delineated as represented on the plan. We also certify that this plat is required by S.D.S. 10 or S.D.S. 12 to be submitted to the following for approval or objection:

objectives

IMPROVING PRODUCTIVITY

1. Village of Norton

Department

Witness the hand and seal of said owner this _____ day of _____, 20__.

WLO Road Events 2000, L.L.C.

Withhold

Timothy J. Wallen, President & Treasurer

WAUKESHA COUNTY)

Personally seems before me this _____ day of _____, 20____, the above named Timothy J. Wallen, President and Treasurer, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, Waukegan, Wisconsin
My commission expires _____