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2002R064443



LAKE COUNTY OHIO
RECORDED ON
12-11-2002 9:57 AM
FRANK A SUPONCIC
LAKE COUNTY RECORDER
REC. FEE: 50.00
PAGES: 11

DECLARATION OF COVENANTS AND RESTRICTIONS

It shall be the responsibility of the developer to initiate and complete the formation of the Mountainside Farms Homeowners Association, at that point in time when not less than twenty (20) nor more than fifty (50) of the lots have been developed and sold.

The developer shall notify all owners of record and all persons residing on the property of a meeting to organize, incorporate and elect officers for the Mountainside Farms Homeowners Association.

ARTICLE I
MEMBERSHIP AND VOTING RIGHTS

Section 1. The owner or owners of record of each subplot in any phase of Mountainside Farms, shall automatically become a member of the Mountainside Farms Homeowners Association, an incorporated non-profit organization formed under the laws of the State of Ohio for purposes set forth in Article II and shall be entitled to participate in the operation of the Association and shall be bound by the regulations and restrictions set forth herein. Said regulations and restrictions shall be binding on all successors and assigns, occupants or renters. Membership in the Association shall lapse and terminate when an owner ceases to be the owner of record.

Section 2. Each lot shall have one vote, which shall be exercised by the owner or owners of record unless said owner or owners assigns the voting right to someone else and the assignment of voting rights is filed in writing with the Vice-President / Secretary of the Association. Renters shall not have voting rights unless duly assigned to them by the owner of the property.

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ARTICLE II
PURPOSE

The Association shall be formed for the following purposes:

1. To accept ownership or easements of the real estate along with any improvements or equipment located or to be located thereon; as shown on the Mountainside Farms plat.
2. To maintain such real estate for the use and benefit of the members of the Association, and further to provide for the perpetual maintenance of entrance plantings, subdivision signs, fences, and all facilities and structures erected thereon.
3. To represent and promote the welfare of the residents of all Mountainside Farms Subdivisions as aforesaid generally; and to cooperate with the officials of the township, county, state and other public authority for the promotion and betterment of the interests of the said Subdivisions as aforesaid, including, without limitation, the dedication of drainage ways for the purpose of carrying off storm water or granting easements thereto, to the appropriate township, county or state authority requesting said dedication or easement, in any part of the real estate located in the Subdivisions as aforesaid, in order to permit said requesting authority to properly maintain and regulate said drainage ways and easements. Nothing herein shall alleviate the need of the association from properly maintaining and regulating the drainage ways and easements contained within the Mountainside Farms Subdivisions.

ARTICLE III
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The declarant for each lot owned within the Properties, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges which shall be established and collected as hereinafter provided.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents of the subdivision and for the improvement and maintenance of the Mountainside Farms ponds, drainage ways, landscaping, subdivision signs, fences, and other items, which are the responsibility of the Association.

Section 3. Minimum Annual Assessment. The annual assessment for each lot shall be \$150.00. The annual assessment may be increased or decreased by a majority vote of the Board of Directors at the time the amount is fixed for the calendar year, provided that an increase may not exceed ten percent (10%) of the previous year's assessment. Increases in excess of ten percent (10%) for any one calendar year shall be made only if approved by two-thirds (2/3) vote of the voting members. Under no circumstances shall the annual assessment be decreased to an amount less than fifty percent (50%) of the original assessment.

Section 4. Uniform Rate of Assessment. Annual assessments must be fixed at a uniform rate for all lots and shall be collected at regular intervals. Said interval shall not be more frequent than monthly, not less frequent than annually provided, however, that nothing herein shall prohibit prepayment of assessments.

Section 5. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on a date to be determined by the Board of Directors, but not later than April 1, 2005. The Board of Directors shall fix the amount of the annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot has been paid. For purposes of this document, the annual assessment period shall be the calendar year.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum plus reasonable attorneys fees, if any. A certificate of lien for all or any part of the unpaid balance of that assessment, and interest, costs, and reasonable attorneys fees, may

be filed with the Recorder of Lake County, Ohio, pursuant to authorization given by the Board. The certificate shall contain a description of the lot against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments, and shall be signed by the president or other chief officer of the Association. The Association may take appropriate legal action to collect the delinquent liens, including but not limited to foreclosing the lien against the property of the owner obligated to pay the same. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due from the lien thereof.

Section 8. Major Improvements. All major improvements requiring expenditures over and above the regular maintenance and operating expenses shall be made only upon the affirmative vote of two thirds (2/3) of the total voting membership of the Association and the membership shall be assessed for the same.

Section 9. Exempt Property. The following property shall be exempt from assessments created herein:

1. All properties dedicated to and accepted by local public authorities.
2. Any vacant land owned by the Mountainside Farms Homeowners Association.
3. Vacant lots owned by builders, the first 24 months after transfer.
4. Vacant lots owned by Mountainside Farms.

ARTICLE IV BUILDING AND LAND USE RESTRICTIONS

1. As part of the consideration for the conveyance of the Premises by Seller to Purchasers, Purchasers for themselves, their heirs, executors, administrators and assigns, hereby covenant with and

for the benefit of the Seller, its successors and assigns, any present or future owners of sublots comprising all Mountainside Farms Subdivisions and their respective heirs, executors, administrators, successors and assigns of each of them, to hold and use the Premises, and any portion thereof, in accordance with, and subject to, the following covenants, rights, terms, reservations, limitations, agreements and restrictions which shall run with the land and are imposed for the uniform and orderly development of all Mountainside Farms Subdivisions.

2. All lots in Mountainside Farms Subdivisions shall be known as single-family residential lots and no building or structure shall be placed or constructed thereon unless it meets the following area requirements:

- (a) Two Thousand Five Hundred (2,500) square feet of living area for a one story ranch dwelling exclusive of garages, porches or basement area.
- (b) Two Thousand Eight Hundred (2,800) square feet of living area for a one and a half story dwelling exclusive of garages, porches, or basement area.
- (c) Three Thousand Two Hundred (3,200) square feet of living area for a two story colonial dwelling exclusive of garages, porches, or basement area.
- (d) Three Thousand Three Hundred Fifty (3,350) square feet of living area for a split level dwelling exclusive of garages, porches or basement area, but including the lower level living area, which does not have to be finished inside prior to occupancy. Lower level living area shall include closets, utility and laundry areas.
- (e) Three Thousand Five Hundred (3500) square feet of living area for a bi-level dwelling exclusive of garages, porches or basement area, but including the lower level living area, which does not have to be finished inside prior to occupancy. Lower level living area shall include closets, utility and laundry areas.

3. **Site plan and Surveys:** Due to the unique character of the Mountainside Farms Subdivisions, and in the interest of establishing the most appropriate grade and elevation of each home in Mountainside Farms, the developer will provide at developer's expense a survey, topographic survey and site plan prepared by the developer's engineer for the owner's home providing the owner submits

their house plans to Mountainside Farms and all other necessary information to the developer's engineer within twenty four (24) months of the date of this agreement. To maintain the proper continuity of planning and to take advantage of a volume pricing schedule, the developer recommends that the purchaser employ the developer's engineer for other related services including final house stake out and as-builts as required by Concord Township or Lake County. If the owner decides to use another engineer/surveyor, at owner's expense, the site plan must be approved by Mountainside Farms.

4. No building, fence, wall or other structures shall be commenced or erected in Mountainside Farms Subdivisions, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an authorized representative of Mountainside Farms. Drawings and information should be submitted to Mountainside Farms C/O Properties Development, 3659 Green Road, Suite 110, Beachwood, Ohio 44122. In the event Mountainside Farms fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted, approval will not be required and this Article will be deemed to have been fulfilled.

5. It is the responsibility of every owner to execute and file a NOTICE OF INTENT for their individual building lot with the Ohio Environmental Protection Agency prior to the commencement of any clearing or construction activity or within 90 days of transfer, whichever occurs first. The N.O.I. Form is attached. The owner assumes responsibility for storm water control and silt and erosion control with respect to each lot from the date of transfer of ownership. This provision shall apply to all owners of a vacant lot. Information regarding the N.O.I. Form, Grading Plan, and Storm Water Pollution Control Plan is available from the developer upon request by the owner.

6. Each dwelling will have a minimum of a three (3) car side load attached or integral garage.

7. Lawns and shrubbery between the roadway and dwelling shall be installed within six (6) months after the occupancy permit of the dwelling is issued, or twelve (12) months after the exterior of

the dwelling is substantially completed, whichever occurs first. Seeding of the building site must be accomplished in a timely manner to prevent erosion onto other lots or streets.

8. The square footage of the front elevation, exclusive of window and door openings shall be a minimum of 50% brick or stone. All exterior exposed foundations and chimneys shall be brick or stone. Brick pattern concrete is not acceptable.

9. All driveway aprons shall be constructed of concrete and completed before the dwelling is occupied.

10. No trailer, basement or tent or other outbuildings shall be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted. No garage or utility building shall be erected prior to the erection of the principal dwelling house. In no instance shall the construction on the exterior of a building or structure, extend beyond one year from the date construction commenced.

11. No trailer or permanent tent of any kind or description whatsoever shall be placed or suffered to remain in said Subdivision.

12. No owner shall damage any streets within the Subdivision or permit any contractor or materialmen to damage said street during the period of any home construction or said owner shall be personally liable for the cost of repairing such street, and shall hold Mountainside Farms or its successors and assigns harmless from any liability to any governmental entity for the cost of repairing such street.

13. No campers, trailers, boats, motor homes, commercial vehicles, or recreational vehicles of any kind shall be kept on the property if they are visible from the street.

14. No chain link fence with metal posts may be installed on lot lines surrounding a portion of a lot. However, chain link fencing (painted a dark color, not silver) may be used as backing to a split rail

or similar type wood fence. All fences must be in compliance with applicable ordinances of Concord Township and, if required, a permit must be obtained.

15. Every owner will install a mailbox post that is designated by Mountainside Farms.

16. No oil drilling, oil development, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot or house nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot or house. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot or house.

17. The "Tree Preserve" restriction delineated on Exhibit A is intended to preserve from removal or destruction the existing tree or forest growth located therein and to thereby preserve and protect the natural environment within the subdivision as a whole. Within the "Tree Preserve" delineated on Exhibit A, each lot owner shall not permit the removal or destruction of a tree, which is 10" or more in diameter. The foregoing to the contrary notwithstanding, a tree may be removed if it prevents the construction or use of an otherwise allowable accessory structure upon the involved subplot, or if said tree inhibits or prevents the preservation of more desirable growth. Trees or plants, which pose a threat to public health, safety or welfare, should be removed. This restriction is subject to the rights of Concord Township, Lake County, the Mountainside Farms Homeowners Association or a Public Utility Company to construct, place, operate, maintain, repair, reconstruct and relocate such underground conduits, manholes, pipes, surface or below ground improvements, drainage swales or facilities as may be required by Concord Township or Lake County as necessary to serve these subdivisions.

18. Mountainside Farms reserves the right for themselves their agents, employees, successors, and assigns to enter upon any lot for the purpose of carrying out and completing the development of the property, including but not limited to the completion of any filling, grading or installation of drainage facilities. Entry onto said property for such purposes shall not be deemed a trespass, whether during development or thereafter.

19. Mountainside Farms, LLC, its successors or assigns shall have the right to waive, cancel, alter or modify any or all of the restrictions contained herein. A copy of said modifications and

alterations shall be filed with the Lake County Recorder. This section shall apply as long as Mountainside Farms, LLC, owns property in the Mountainside Farms Subdivisions.

ARTICLE V GENERAL PROVISIONS

Section 1. Enforcement

Mountainside Farms or the Mountainside Farms Homeowners Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these deed restrictions. If, Mountainside Farms or the Mountainside Farms Homeowners Association chooses not to do so, then any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservation, liens and charges now or hereafter imposed by the provisions of these deed restrictions. Failure by Mountainside Farms or the Mountainside Farms Homeowners Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability

Invalidation of any one of these restrictions by judgment or court order shall in no way effect any of the provisions, which shall remain in full force and effect.

Section 3. Amendment

These deed restrictions shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owner of any lot, their respective legal representatives, heirs, successors and assigns. These deed restrictions may be amended by an instrument signed by not less than three-quarters (3/4) of the lot owners. Any amendment must be properly recorded.

IN WITNESS WHEREOF, said Limited Liability Company sets its hand and corporate seal by Irving B. Fine, its duly authorized agent this 3RD day of DECEMBER, 2002.

MOUNTAINSIDE FARMS, LLC

By: IBF Inc., Managing Member

Irving B. Fine
Irving B. Fine

By: [Signature]
Irving B. Fine, President

STATE OF OHIO)
) ss.
COUNTY OF CUYAHOGA)

BEFORE ME, a notary public in and for said County, personally appeared the above named Mountainside Farms, LLC, by Irving B. Fine, President of IBF, Inc., the Managing Member, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of such officer personally.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Wood, Ohio, this 3RD day of DECEMBER 2002.

[Signature]
NOTARY PUBLIC **VICKI S. MESTEK**
Notary Public, State of Ohio, Lake Cty.
My Commission Expires Aug. 14, 2004

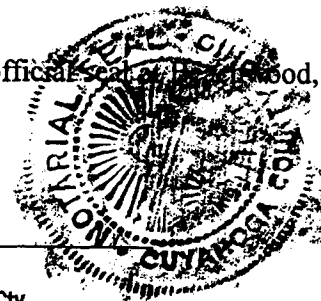
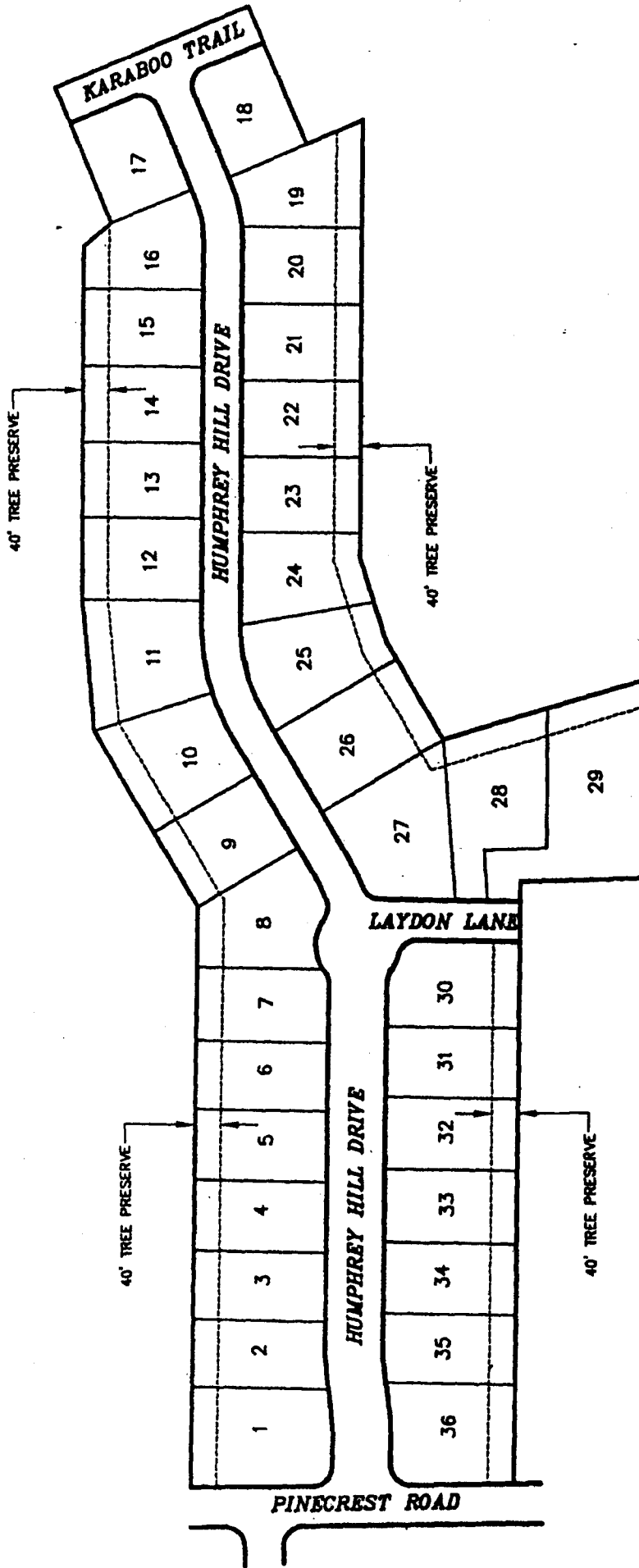


EXHIBIT "A"

MOUNTAINSIDE FARMS - PHASE I
TREE PRESERVE



COUNTY OF LAKE

2005R003512

LAKE COUNTY OHIO
RECORDED ON

01-28-2005 1:23 PM

FRANK A SUPONCIC
LAKE COUNTY RECORDER

REC. FEE: 28.00
PAGES: 2

FRANK A. SUPONCIC, CPA, CFE
RECORDER

EASTERN
LAKE COUNTY
(440) 350-2510

WESTERN
LAKE COUNTY
(440) 946-2829

FAX
(440) 350-5940



IMPORTANT RECORDING INFORMATION

This cover sheet is a permanent addition to the original document and ***MUST*** be retained with the document that was filed and/or recorded.

Reflected above is the pertinent recording information:

- File Number
- Date Filed
- Time Filed
- Recording Fee
- Number of Pages Recorded

Thank You

A handwritten signature in black ink that reads "Frank A. Suponic".



105 MAIN STREET • P.O. BOX 490 • PAINESVILLE, OHIO 44077
www.lakecountyrecorder.org • E-mail: recorder@lakecountyohio.org

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SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS

MOUNTAINSIDE FARMS DECLARATION OF COVENANTS AND RESTRICTIONS filed December 11, 2002 and recorded in Document No. 2002R064443 of Lake County Records shall be amended as follows:

The following restrictions shall be added to:

ARTICLE IV
BUILDING AND LAND USE RESTRICTIONS

- 20. The Developer of Mountainside Farms Subdivision No. 2 hereby provides notice that jurisdictional wetland areas are located on Sublots 56 and 57, and jurisdictional streams are located on Sublots 37, 39, 47, and 54. Vegetated buffers for existing streams and wetlands must be maintained on Sublots 18, 37, 38, 39, 47, 48, 49, 50, 51, 52, 53, 54, 56, and 57 (see Exhibit A).
21. All Mountainside Farms lot owners are hereby notified that the jurisdictional conservation areas, regardless of size, and jurisdictional stream, require a permit, if you intend to disturb the above stated areas in any way. The permit must be obtained from the United States Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York, 14207-3199 prior to commencing any work.

IN WITNESS WHEREOF, SAID Limited Liability Company sets its hand and Corporate seal by Irving B. Fine, its duly authorized agent this 21st day of September 2004.

Vicki S. Mestek (handwritten signature)

MOUNTAINSIDE FARMS, LLC
By: IBF, Inc., Managing Member

(handwritten signature)

Irving B. Fine, President (handwritten signature)

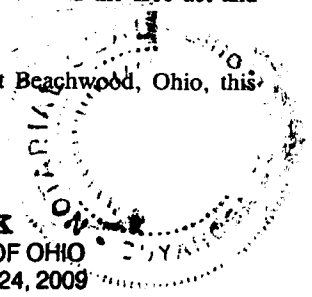
STATE OF OHIO)
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county, personally appeared the above name Mountainside Farms, LLC, by Irving B. Fine, President of IBF, Inc., the Managing Member, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of such officer personally.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Beachwood, Ohio, this 21st day of September 2004.

2005R003512

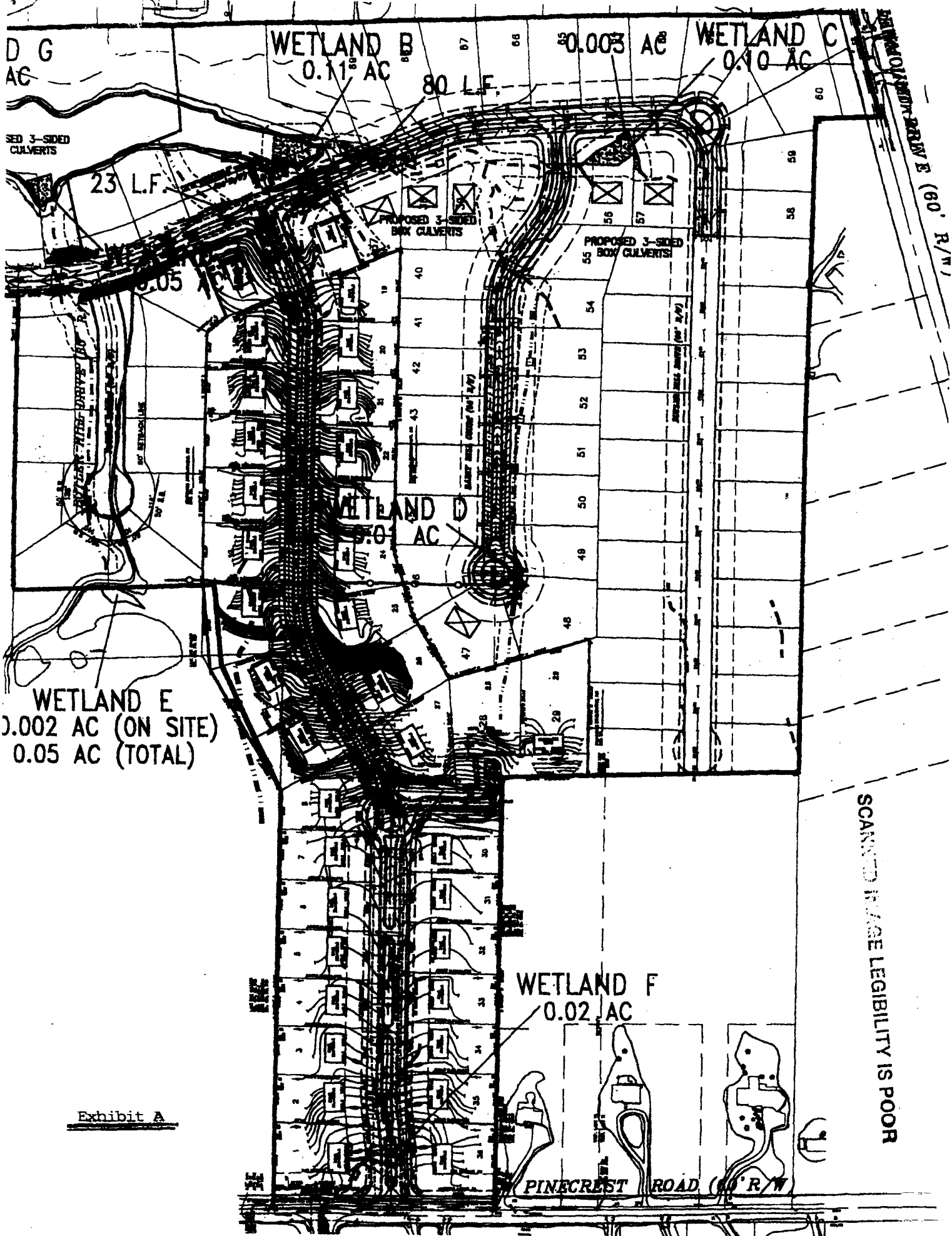
Vicki S. Mestek (handwritten signature)
Notary Public



ORIGINAL

VICKI S. MESTEK
NOTARY PUBLIC • STATE OF OHIO
My commission expires Aug. 24, 2009

Quality Title Agency
115-66640 ACCOM (RD)



SCANNED IMAGE LEGIBILITY IS POOR

Exhibit A

COUNTY OF LAKE

**FRANK A. SUPONCIC, CPA, CFE
RECORDER**

EASTERN
LAKE COUNTY
(440) 350-2510

WESTERN
LAKE COUNTY
(440) 946-2829

FAX
(440) 350-5940

2005R003513

LAKE COUNTY OHIO
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FRANK A SUPONCIC
LAKE COUNTY RECORDER

REC. FEE: 28.00
PAGES: 2



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Thank You

A handwritten signature in black ink that reads "Frank A. Suponic".



105 MAIN STREET • P.O. BOX 490 • PAINESVILLE, OHIO 44077
www.lakecountyrecorder.org • E-mail: recorder@lakecountyohio.org

EXHIBIT "B"

MOUNTAINSIDE FARMS - PHASE 2
TREE PRESERVE

