

Barker Estates
Homeowners Association
Inc.

Declaration
& By-Laws

Managed By
Woodbridge Group Management
271 Marsh Road, Suite 3
P.O. Box 237
Pittsford, NY 14534

EXHIBIT I

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made the 28th day of March, 1978, by BARKER ESTATES, INC., hereinafter called "Declarant".

WHEREAS, Declarant is the owner of certain real property in the Town of Pittsford, Monroe County, New York, more particularly described as all that tract or parcel of land situate in the Town of Pittsford, Monroe County, New York, and being all of the premises shown on Schedule A attached hereto and made a part hereof.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property, and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Barker Estates Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to

any lot which is part of the Properties, including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or resubdivision map of the Properties, with the exception of the Common Area.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as all of the premises herein described as "Properties", excepting therefrom the building lots and the dedicated road as shown on the map of the Properties filed in Monroe County Clerk's Office as aforesaid.

Section 6. "Declarant" shall mean and refer to BARKER ESTATES, INC., its successors and assigns if such successors or assigns shall acquire more than one undeveloped lot from Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, including the rights of ingress and egress to owner's property over the Common Area, which easement shall be appurtenant to and shall

pass with the title to every lot, subject to the following provisions:

(a) the right of the Association, pursuant to its by-laws, to adopt rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

(b) the right of the Association to suspend the voting rights and right to the use of any facilities on the Common Area by an owner for any period during which any assessment against his lot remains unpaid, and for a period not to exceed 60 days for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members approving such transfer. No such dedication or transfer shall be effective unless an instrument signed by 75% of each class of members, and their mortgagees, agreeing to such dedication or transfer has been recorded.

(d) the right of individual members to the exclusive use of parking spaces and any sidewalks which may be provided for members upon the Common Area.

(e) the right of invitees and business visitors of any owner to ingress and egress over those portions of the Common Areas that lie within private roadways.

(f) the right of the Association to designate certain portions of the Common Area as parking lots for vehicles of owners, their invitees and business guests.

(g) the right of the Association to designate certain portions of the Common Area as sidewalks of owners, their invitees and business guests.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III

EASEMENTS

Section 1. Easements for Utilities. Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Properties.

Section 2. Easements for Encroachments. Each lot, and the property included in the Common Area, shall be subject to an easement for encroachments created by construction, settling and overhangs for all buildings constructed by Declarant. A valid easement for said encroachments, and for the maintenance of same, so long as such encroachments stand shall and does exist. In the event that any structure containing two or more living units is partially or totally destroyed and then rebuilt, or is in need of repair, the owners of the living units so affected agree that minor encroachments of parts of the adjacent living units on adjoining lots or on the Common Area due to such construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 3. Other Easements. There is hereby created a blanket

easement upon, across, over and under all of the properties, for ingress, egress, installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement it is expressly permissible to erect and maintain the necessary poles and other equipment on the properties, and to affix and maintain electrical or telephone wires and conduits, sewer and water lines on, above or below any residence or land owned by any owner. An easement is hereby granted to the Association, its officers, agents, employees, including employees of any management company having a contract with the Association over all of the Common Areas, and to enter any residence to perform the duties of maintenance and repair of the residences or Common Area, to maintain any utilities for which an easement has been granted and to prevent damage to any other residence. An easement is hereby reserved to Declarant to enter the Common Areas during the period of construction and sale of the properties, or any additions to the properties, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales office, storage area, construction yards, signs and model units, provided that this does not unreasonably obstruct access by members of the Association.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every owner of a lot which is subjected

by this Declaration to assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

Class A members shall be all owners with the exception of Declarant and any other person or entity which acquires title to all or a substantial portion of the properties for the purpose of developing thereon a residential community. Each Class A member shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B member shall be the Declarant or its successors or assigns, and shall be entitled to one vote for each lot owned. Class B membership shall cease and be converted to Class A membership on June 1, 1979. Prior to June 1, 1979, Class A members shall not be entitled to vote for members of the Board of Directors.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Beginning on October 1, 1977, the Declarant for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed for such lot,

whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual maintenance assessments or charges, including real estate tax charges for the Common Area, such assessments to be established and collected as hereinafter provided. The annual maintenance assessments, together with interest, costs and reasonable attorneys fees, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Rate of Assessment. Maintenance assessments must be fixed at a uniform rate for all lots.

Section 3. Due Dates for Annual Assessment. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every owner subject thereto. The due date shall be established by the Board of Directors, and, unless the Board otherwise provides one-twelfth of the annual maintenance assessment shall be due on the first day of each month. 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 have been paid.

Section 4. Effect of Nonpayment of Assessment and Remedies of the Association. Any assessment not paid within 30 days after the date shall become a lien against that lot, and shall bear interest from the due date at the legal rate. The Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property, and interest, costs and reasonable attorneys fees of any such action will be added to the amount of such assessment. Each such owner, by his acceptance of a deed to a lot, hereby expressly vests in the Association the right and power to bring all actions against such owner personally for the collection of each charge, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such owner hereby expressly grants to the Association the power of sale in connection with such lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all owners. The Association, acting on behalf of the owners shall have the power to bid for an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey 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 5. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate

to the lien of any first mortgage. Sale or transfer of any lot shall not effect the lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment 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 or from the lien thereon.

Section 6. Special Assessments may be levied upon a vote of two-thirds (2/3) of both Class A members, and a two-thirds (2/3) vote of the Class B members.

ARTICLE VI

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder as follows: Paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, and other exterior improvements including snow plowing of driveways and common walkways only. Such exterior maintenance shall not include glass surfaces or doors, screens, screendoors, patio fences, nor shall it include the maintenance or snow shoveling of individual sidewalks. In the event that the need for maintenance or repair is caused through the willful or negligent act of the owner, his family, guests or invitees, the cost of such maintenance and repairs shall be added to and become a part of the assessment to which such lot is subject. The above obligation does not include any maintenance or repairs caused by fire or other casualty to the premises owned individually by members of the Association.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the dwelling units upon the properties and placed on the dividing line between the lots shall constitute a party wall for the purposes of this Declaration only, and to the extent not inconsistent with the provisions of this Article the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty any owner who has used the wall may restore it, and if the other owner thereafter makes use of the wall he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole costs of furnishing the necessary protection against such elements.

Section 5. Right of Contribution Runs with the Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or under the provisions of this Article, except for disputes involving the Sponsor, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator and the decision shall be by a majority of all of the arbitrators and be binding upon the party. Judgment upon the award of the arbitrators may be taken in any court of law with jurisdiction thereof.

ARTICLE VIII

USE OF PROPERTY

No lot shall be used except for residential purposes. No commercial or business activities shall be permitted upon the properties. No building shall be erected, altered, placed or permitted to remain on any lot other than one attached single-family dwelling and a garage not exceeding one story in height. No motor vehicle other than a private passenger type, and no boat or trailer may be stored or parked on any portion of the properties, except in an enclosed garage, except for those vehicles making deliveries or providing services to the living units in the development. No advertising signs shall be placed or permitted to remain on the properties. No animals of any kind shall be raised, bred or kept in any dwelling or on any lot, except that dogs, cats or

other domesticated household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that no more than two pets in the aggregate may be kept in any such dwelling or lot. Garbage and rubbish shall not be dumped or allowed to remain on any lot except in accordance with the rules of the Association. Window air conditioners, laundry poles and lines outside of dwellings are prohibited. No radio, television or similar towers or antennae shall be erected on any lot or attached to the exterior of any dwelling except that one television antenna may be attached to the exterior of any dwelling in the event that the Association fails to maintain a master television antenna. There shall be no obstruction to the Common Areas nor shall anything be stored in the Common Areas without the prior consent of the Association. There shall be no unusual or objectionable noise or odors allowed to emanate from the dwelling units.

These restrictions shall not apply to the business activities of Declarant or its successors during construction by Declarant or its successors upon any portion of the properties, or any additions thereto, so long as there are no undue delays. Except in any individual patio area adjacent to a dwelling unit and fenced at the time of purchase, no permanent planting or gardening shall be done, and such planting as is done within the patio areas shall be kept trimmed so as not to encroach on neighboring property. Annuals may be planted directly next to the foundation of the home or patio, however, once planted the maintenance of these is the responsibility of the home owner. No fences, hedges or walls shall be erected or maintained upon the properties except those erected

at the time of the original construction of the buildings located thereon, or of a substantially similar nature. No alteration or addition to or re-painting of the exterior of any dwelling unit shall be made unless it shall conform in architecture, material and color to the dwelling as originally constructed by Declarant. No building, fence, wall or other structure or change in landscaping shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, height, materials, color and locations 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 the Board of Directors of the Association or by an architectural committee composed of three or more representatives appointed by the Board of Directors of the Association or by an architectural committee composed of three or more representatives appointed by the Board. In the event that said Board or its designated committee fails to approve or disapprove such design and location within 60 days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE IX

INSURANCE AND CASUALTY DAMAGE

The Homeowners Association will obtain and maintain in force and effect a policy of fire and other casualty insurance, in an amount, and with such coverage, as are acceptable to the Association,

and with coverage adequate to cover the full replacement cost of any repair or reconstruction work on the owner's property. An annual evaluation shall be made by the Board of Directors to determine the adequacy of the insurance. Each homeowner will be issued a certificate from the master policy which will indicate the amount of coverage on the owner's unit and will name the owner and the Association as the insured.

In the event of damage or destruction by fire or other casualty insured against to any real property of the owner, the Association shall receive the proceeds of such insurance, and make such proceeds available to the owner for repair or replacement of the owner's property. The owner shall, upon receipt of notification of the availability of insurance proceeds, repair or rebuild such damaged or destroyed portions of the exterior of the owner's property in a good workmanlike manner substantially the same as the original plans and specifications of said property. If the owner refuses or fails to repair or rebuild the exterior within 30 days, the Association may repair or rebuild such exterior paying for the same from the insurance proceeds, and shall deliver to the owner any excess insurance proceeds.

The owner is required to reimburse the Association for the cost of such repairs or reconstruction, and the Association has a lien on the owner's unit to secure such reimbursement. The lien is enforceable in the same manner as the lien for annual assessments.

ARTICLE X

ADDITIONAL PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Additions to the Property by Declarant. Declarant, its successors or assigns, shall have the right, without the consent of the members of the Association, within ten years of the date of this Instrument to bring within the scheme of this Declaration additional properties to be developed substantially as the properties contained herein provided that if the Federal Housing Administration has approved this development for the guarantee of mortgage loans and the Federal Housing Administration determines that the annexation is substantially in accord with the general plan approved by it such additional properties may be brought within this Declaration in various states, from time to time, during the limits contained herein. However, neither Declarant nor its successors and assigns shall be bound to make such additions. Such additions shall be made by filing in the Monroe County Clerk's Office a supplemental Declaration with respect to the additional properties, which shall extend the scheme of this Declaration to such properties. Such supplemental Declaration may contain additions and modifications to the covenants and restrictions contained in this Declaration which are not inconsistent with the scheme of this Declaration. In no event, however, shall such supplemental Declaration revoke or modify the covenants established by this Declaration.

Section 2. Additions to the Property by the Association. Annexation of additional property by other than Declarant shall require the assent of two-thirds of both classes of members at a meeting duly called for this purpose on the same notice, and in the same manner as is required for meetings and voting by the

By-Laws.

ARTICLE IX
GENERAL PROVISIONS

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Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, their respective heirs, successors and assigns for a period of 30 years from the date this Declaration is recorded, after which time the covenants and restrictions shall be automatically extended for successive periods of ten years each, unless an Instrument signed by the then owners of seventy-five percent (75%) of the lots has been recorded, agreeing to change said covenants and restrictions, in whole or in part. This Declaration may be amended during the first 30-year period by an Instrument signed by not less than 90 percent of the owners, and thereafter by an Instrument signed by not less than 75 percent of the owners. Any amendment must be recorded in Monroe County Clerk's Office to be effective.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions, which shall remain in full force and effect.

Section 3. Enforcement. The Association, or any owner, 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 this Declara-

tion. Failure by the 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 4. FHA or VA Approval. As long as there is a Class B membership, and approval of this Declaration has been granted by either the Federal Housing Administration or the Veterans Administration then annexation of additional properties, dedication of additional Common Areas, and amendment to this Declaration will require the prior approval of such agencies.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this _____ day of _____, 1978.

BARKER ESTATES, INC.

By _____

By _____

STATE OF NEW YORK)
COUNTY OF MONROE) SS.:
CITY OF ROCHESTER)

On this _____ day of _____, 1978, before me _____ personally came _____, to me personally known, who, being by me duly sworn, did depose and say that he resides in the _____

_____ ; that he is _____ of _____ the corporation described in, and which executed the within Instrument, that he knows the seal of said corporation; that the seal affixed to

said Instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Notary Public

SCHEDULE "A"

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Pittsford, Monroe County, New York, being Part of Lots 12 and 49, Township 12, Range 5 and more particularly bounded and described as follows:

PARCEL I (STAGE I)

BEGINNING at a point, said point being the intersection of the northerly street line of Barker Road and the easterly street line of Pittsford Mendon Center Road; (1) thence north $18^{\circ} 59' 50''$ east along the easterly street line of Pittsford Mendon Center Road, a distance of 200 feet to a point; (2) thence north $48^{\circ} 05' 20''$ east a distance of 173.00 feet to a point; thence (3) south $59^{\circ} 00' 00''$ east a distance of 118.00 feet to a point; (4) thence north $51^{\circ} 50' 00''$ east a distance of 229.79 feet to a point, said point being in the southerly street line of Greenwood Park; (5) thence easterly on a curve to the left whose radius is 643.88 feet a distance of 86.82 feet to a point; (6) thence south $28^{\circ} 40' 00''$ west a distance of 37.00 feet to a point; (7) thence south $47^{\circ} 00' 00''$ east a distance of 190 feet to a point; (8) thence south $43^{\circ} 00' 00''$ west a distance of 260.18 feet to a point, said point being in the northerly street line of Barker Road; (9) thence north $88^{\circ} 28' 41''$ west along the northerly street line of Barker Road a distance of 492.75 feet to the point of beginning, contains 3.800 acres.

Subject to the following easements:

1. 10.25' wide strip reserved for future highway purposes, northside of Barker Road and east side of Pittsford Mendon Center Road.
2. 20' wide permanent easement M.C.W.A., north side Barker Road.
3. 30' wide permanent easement M.C.W.A., east side Pittsford Mendon Center Road.
4. 5' reserved for future town sidewalks, north side Barker and east side Pittsford Mendon Center Road.
5. 50' x 50' x 59.15' triangle reserved for future highway purposes at the intersection of Barker Road and Pittsford Mendon Center Road.

All as shown on a map filed in the Monroe County Clerk's Office in Liber 203 of Maps, page 17.

SEE SCHEDULE "A" (Cont'd.)

SCHEDULE "A" (Cont'd.)

PARCEL II (STAGE II)

BEGINNING at a point, said point being the northwesterly corner of Lot 13 as filed in Liber 203 of Maps, page 17, Monroe County Clerk's Office; (1) thence southwesterly along the southerly line of Stonington Drive, whose radius is 122.39 feet a distance of 55.54 feet to a point; (2) thence south $84^{\circ} 59' 50''$ west a distance of 140.80 feet to a point; (3) thence in a southerly direction on a curve to the left whose radius is 62.39 feet, a distance of 71.87 feet to a point; (4) thence south $18^{\circ} 59' 50''$ west a distance of 198.49 feet to a point; (5) thence in a southwesterly direction on a curve to the right, whose radius is 279.25 feet, a distance of 78.78 feet to a point; (6) thence in a southeasterly direction on a curve to the left, whose radius is 30.00 feet a distance of 43.36 feet to a point, said point being on the northerly street line of Greenwood Park; (7) thence south $47^{\circ} 39' 00''$ east along the northerly street line of Greenwood Park a distance of 42.82 feet to a point; (8) thence in a southeasterly direction on a curve to the left, whose radius is 583.88 feet a distance of 105.58 feet to a point; (9) thence north $35^{\circ} 09' 50''$ east a distance of 303.88 feet to a point; (10) thence north $42^{\circ} 39' 50''$ east a distance of 160.00 feet to a point; (11) thence north $31^{\circ} 00' 10''$ west a distance of 110.42 feet to the point of beginning, contains 2.1928 acres.

Subject to a permanent easement to Monroe County Water Authority adjacent to Course Number 3.

All as shown on a map made by Lozier Engineers, Inc. with the drawing number 72-13-18.

EXHIBIT III

BY-LAWS

OF

BARKER ESTATES HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is Barker Estates Homeowners Association, Inc., hereinafter referred to as the "Association." The principal office of the corporation shall be located in the Town of Pittsford, Monroe County, New York, but meetings of members and directors may be held at such other places within the State of New York as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Barker Estates Homeowners Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Barker Estates, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Clerk of the County of Monroe.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meeting. The first annual meeting of the members shall be held in the month of April following the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held during the same month as the first annual meeting, at a date and time to be fixed by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members

may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and

shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of not less than three (3) directors nor more than nine (9) directors, who need not be members of the Association.

Section 2. Term of Office. Members shall elect three (3) directors each for a one-year term except that at the first annual meeting following June 1, 1979, the members shall elect three (3) directors for a term of one year, three (3) directors for a term of two years and three (3) directors for a term of three years; and at each annual meeting thereafter the members shall elect three directors for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors no less than three months prior to each annual meeting of the members, to serve until such annual meeting and such appointment shall be announced to all members. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes

shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct

of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after a notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations:

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration.

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association. The Board of Directors shall, on an annual basis, review the amount of insurance coverage in order to assure that the Association and the owners are fully protected.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of

the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained;

(h) cause the exterior of the dwellings to be maintained.

ARTICLE VIII
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the

members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of accountant; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and delivery a copy of each to the members.

ARTICLE IX

COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be

available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the legal rate of interest, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, the interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. 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.

ARTICLE XII
MEMBERSHIP AND VOTING

The Association shall have two classes of voting memberships. Class A members shall be all owners, with the exception of Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons

shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. Class B members shall be the Declarant, and shall be entitled to one vote for each lot owned. Class B membership shall cease and be converted to Class A membership on June 1, 1979. Until June 1, 1979, Class A members shall not be entitled to vote for members of the Board of Directors.

ARTICLE XIII
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Barker Estates Homeowners Association, Inc.

ARTICLE XIV
AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the Barker Estates Homeowners Association, Inc., a New York corporation, and

THAT the foregoing By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the _____ day of _____, 19 ____ .

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this _____ day of _____, 19 ____ .

Secretary

" ATTACHMENT A "

0 0 0 3 5 7 5 2 2 7 9

TR. NO. 85249104100
BOOK 6769 PAGE 279
REEL FR
NO. PAGES 8

EASEMENT AGREEMENT

09/06/85 AT 10:41:00

MONROE COUNTY CLERK

This Agreement made this 13th day of June, 1985,

by and between BARKER ESTATES HOMEOWNERS ASSOCIATION, INC., a New York not-for-profit corporation with its principal office at Stonington Drive, Pittsford, New York 14534 hereinafter "Barker Estates" and STONEFIELD COMMONS DEVELOPMENT CORP., a New York corporation with its principal offices at 47 South Fitzhugh Street, Rochester, New York 14614 hereinafter "Stonefield Commons".

RECEIVED
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REAL ESTATE
SEP 06 1985
TRANSFER TAX
MONROE
COUNTY

0-03069

W I T N E S S E T H :

WHEREAS, Barker Estates is the owner of certain lands in the Town of Pittsford adjoining lands acquired by Stonefield Commons and

WHEREAS, the said lands of each party are part of the Barker Estates Planned Unit Development (PUD) which was originally designed as one development with integrated phases and stages and

WHEREAS, the original developer of the Barker Estates PUD was unable to complete the PUD and

WHEREAS, Stonefield Commons has acquired that remaining portion of the PUD which was to have been integrated into the Barker Estates Homeowners Association, Inc., and

WHEREAS, the Stonefield Commons intends to develop those lands as a Homeowners Association in three phases and convey the

SEP 10 1985
15 101 41

Handwritten note: Barker Estates

common areas of each phase to Stonefield Commons Homeowners Association, Inc., which will be a separate entity from Barker Estates and

WHEREAS, there are certain areas of common concern, particularly two access driveways intended to be used by members of each homeowners association and

WHEREAS, the parties do hereby intend to set forth their understandings regarding those matters of common concern.

NOW THEREFORE, in consideration of the mutual promises herein set forth the parties do hereby agree as follows:

1. The parties do each grant, convey and quit claim unto the other reciprocal easements to the private drives as they exist and will be improved as shown as the shaded areas on Sear-Brown Associates, P.C. drawing 2579A-16 attached as Exhibit "A" and described on Exhibit "B"; one extending northerly from Greenwood Park along and across both sides of the common boundary of Phase II of the Stonefield Commons property and the Barker Estates property; and the other extending southerly from Greenwood Park along and across both sides of the common boundary of Phase III of the Stonefield Commons property and the Barker Estates property.

2. Said easements shall for the purpose of ingress and egress of members of each homeowners association, their guests and business invitees.

3. Within the area of said easement the existing private drive shall be widened to a width of 18 feet of pavement and the newly constructed areas shall be constructed in accordance with the specifications set forth on Sear-Brown Associates, P.C. site plan #2579A-2, a copy of a portion of which is attached as Exhibit "C".

4. The initial reconstruction and widening of the private drives shall be at the sole expense of Stonefield Commons, but thereafter the parties, their successors and assigns shall apportion the expenses of maintenance, repair, reconstruction and snow removal on such easements as hereinafter set forth.

5. Said reconstruction and improvement shall be undertaken in conjunction with the development by Stonefield Commons of homes served by such private drives. There shall be no obligation to undertake the said reconstruction and improvement at any earlier time.

6. Once construction is commenced it shall proceed in a workmanlike manner directly to completion which shall be accomplished within a reasonable time with as little inconvenience of users of the road as possible.

7. All snow removal, sealing, maintenance, reconstruction or repairs of the easement area extending southerly from Greenwood Park shall be undertaken at the sole expense of Barker Estates, its successors and assigns.

8. All snow removal, sealing, maintenance, reconstruction or repairs of the easement area extending northerly from Greenwood Park shall be undertaken at the sole expense of Stonefield Commons, its successors and assigns.

9. This Agreement shall be binding on the parties hereto, their successors and assigns.

STONEFIELD COMMONS DEVELOPMENT CORP.

BY Donald J. Lieber

BARKER ESTATES HOMEOWNERS ASSOCIATION, INC.

BY S. Henry Shaw

The undersigned executes this Agreement as contract vendee of the common areas of Stonefield Commons Phase II & Phase III and agrees to be bound by its terms.

STONEFIELD COMMONS HOMEOWNERS ASSOCIATION, INC.

BY David J. Seward

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On the 6th day of JUNE, 1985, before me came DONALD J LIEBER, to me known, who, being by me duly sworn, did depose and say that he resides in Monroe County and that he is the PRESIDENT of Stonefield Commons Development Corp., the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

William T. Lehman

WILLIAM T. LEHMAN
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1987

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On the 12 day of MAY, 1985, before me came Henry S Han, to me known, who, being by me duly sworn, did depose and say that he resides in Monroe County and that he is the President of Barker Estates Homeowners Association, Inc., the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Richard S. Zivot
Richard S. Zivot
Comm. Exp. 3/30/87

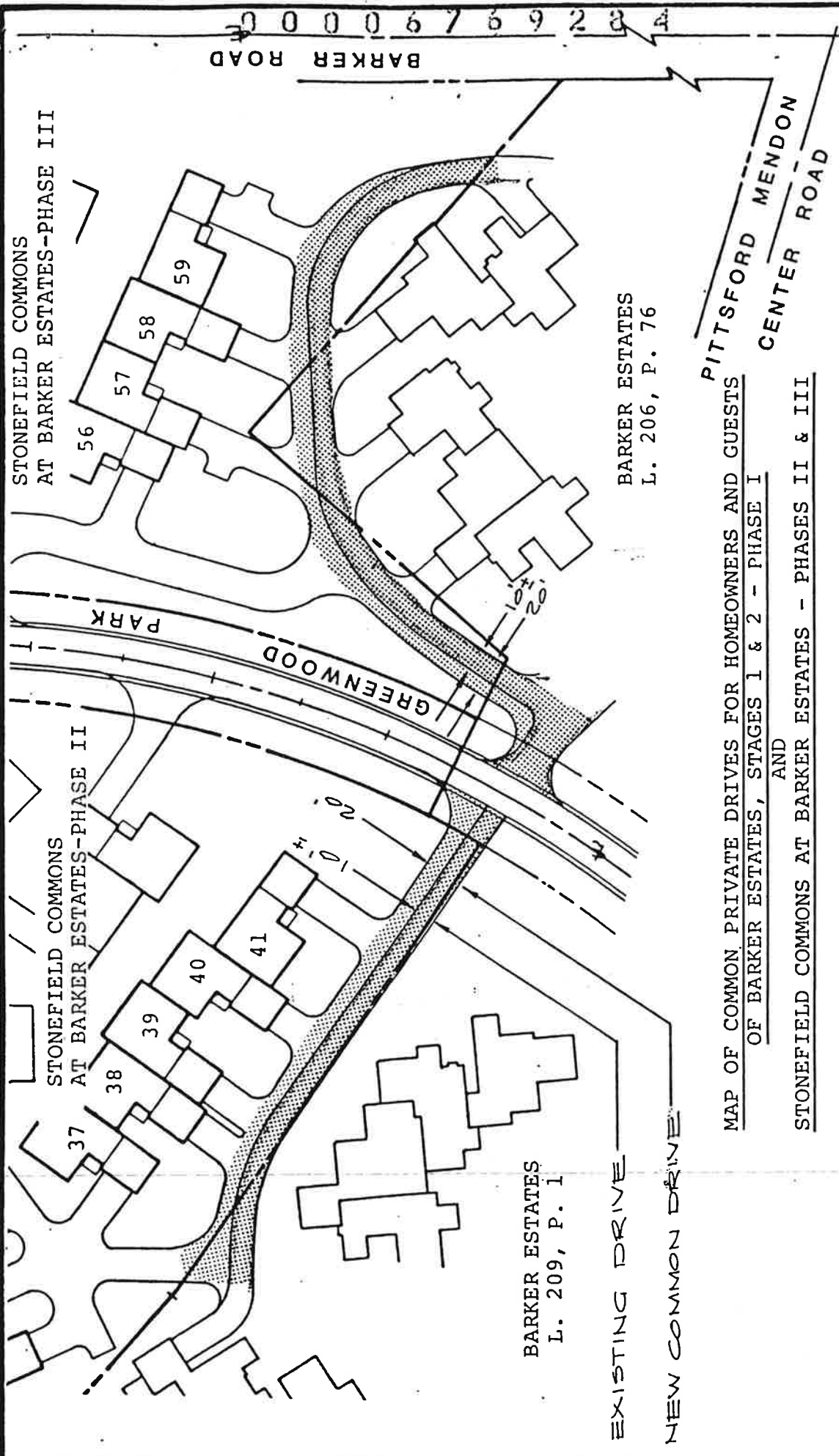
STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On the 13th day of JUNE, 1985, before me came DAVID J GARLAND, to me known, who, being by me duly sworn, did depose and say that he resides in Monroe County and that he is the PRESIDENT of Stonefield Commons Homeowners Association, Inc., the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

William T. Lehman

WILLIAM T. LEHMAN
Notary Public in the State of New York
MONROE COUNTY, N. Y.
Commission Expires March 30, 1987

EXHIBIT "A"



STONEFIELD COMMONS
AT BARKER ESTATES-PHASE III

STONEFIELD COMMONS
AT BARKER ESTATES-PHASE II

BARKER ESTATES
L. 209, P. 1

BARKER ESTATES
L. 206, P. 76

MAP OF COMMON PRIVATE DRIVES FOR HOMEOWNERS AND GUESTS
OF BARKER ESTATES, STAGES 1 & 2 - PHASE I
AND
STONEFIELD COMMONS AT BARKER ESTATES - PHASES II & III

SEAR-BROWN ASSOCIATES, P.C.
engineers/architects/surveyors/landscape architects

85 METRO PARK, ROCHESTER, NEW YORK 14623

Designing Your Tomorrow

SCALE: 1" = 80' APPROX.

DWG. NO. 2579A-16

JANUARY 3, 1984

EXHIBIT "B"

DESCRIPTION OF COMMON PRIVATE DRIVE EASEMENT
FOR PURPOSES OF
INGRESS AND EGRESS
FOR HOMEOWNERS AND GUESTS OF
BARKER ESTATES HOMEOWNERS ASSOCIATION, INC.
AND
STONEFIELD COMMONS HOMEOWNERS ASSOCIATION, INC.

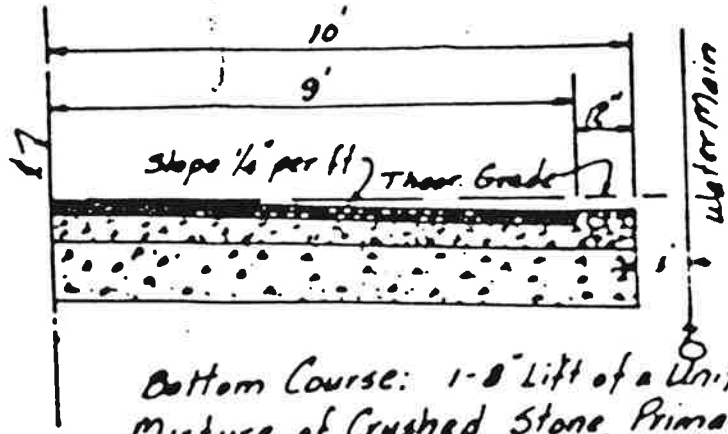
All that tract or parcel of land situate in part of Town Lots 12 and 49, Township 12, Range 5, in the Town of Pittsford, County of Monroe, State of New York, as shown on Drawing No. 2579A-16 entitled "Map of Common Private Drives for Homeowners and Guests of Barker Estates 1 & 2, Phase I and Stonefield Commons at Barker Estates, Phases II and III" dated January 3, 1984 as prepared by Sear-Brown Associates, P.C.

The common private drive easement shall completely encompass the existing paved surface, including any and all widening of the paved surface, which is used or intended for use by the owners and guests of Barker Estates Homeowners Association, Inc. as filed in the Monroe County Clerk's Office in Liber 206 of Maps at page 76 and in Liber 209 of Maps at Page 1 and the owners and guests of the proposed Stonefield Commons at Barker Estates, Phase II and Phase III.

Said easement shall include the shaded areas on the attached map which run the entire length of said paved surface including those surfaces intended for ingress and egress to dedicated public roadways, but excluding paved surfaces immediately adjacent to private garages which are intended solely for the use of the individual owner of the garage and his guests.

EXHIBIT "C"

Top course: 2" of Type 2A Binder & 1" of Type 1A Top According to sections 403-1 Thru 403-3 of the N.Y.S.D.O.T. Specifications



Bottom Course: 1-8" Lift of a Uniform Mixture of Crushed Stone, Primary size "3 or "4, According to Item 703-0201 of the N.Y.S.D.O.T. Specs., Followed by a 4" lift of Crusher Run Stone According to Section 304-2.02

TYPICAL HALF-SECTION PRIVATE DRIVE N.T.S.

STATE OF NEW YORK
 MONROE COUNTY, SS.

RECORDED ON 09/06/85
 TIME 10:41:00
 BOOK 6769 PAGE 279
 REEL FR OF

DEED
 AND EXAMINED
 PATRICIA B. ADDUCI
 MONROE COUNTY CLERK