

ORDINANCE 17 - 2021

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING ACCEPTANCE OF THE DEDICATION OF VARIOUS EASEMENTS, ACCESS, AND OTHER RIGHTS-OF-WAY IN THE TRAILWOOD SECTION OF THE SHADOW WOODS DEVELOPMENT TO THE BOROUGH OF MOUNT ARLINGTON PURSUANT TO AND IN ACCORDANCE WITH N.J.S.A. 40:67-1, ET SEQ.

WHEREAS, the Borough of Mount Arlington (hereafter the “**Borough**”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, pursuant to N.J.S.A. 40:67-1(a), the Borough may make, amend, repeal and enforce ordinances ascertaining and establishing the boundaries of, among others, all streets; and

WHEREAS, pursuant to N.J.S.A. 40:67-1(b), the Borough is authorized to accept the dedication of, among others, all streets; and

WHEREAS, the Borough wishes to accept, in connection with the Trailwood section of the Shadow Woods Development, Trailwood Associates, L.L.C.’s dedication of various easements, access and rights-of-way, including for roadway purposes, the following, which are as further set forth in Exhibit A herein and made a part hereof:

The following Easements and Rights-of-Way associated with the Trailwood section of the Shadow Woods Development, as depicted on the filed subdivision map for that project (Book 7, Page 50, Instrument Number 2008024107, as filed with the Morris County Clerk). See, Exhibit A.

The dedicated Lots are more particularly defined as:

1. The entirety of Block 83, Lot 9, being the lot containing the drainage basin being dedicated to the Borough (*same is depicted on the filed map - no record of deed*).
2. The entirety of Block 72.01, Lot 3 (*Book 23241, Page 807*, as filed with the Morris County Clerk).

The dedicated Road Right-of-Way (ROW) areas are more particularly defined as:

1. Trailwood Drive from the intersection at Orben Drive, to the shared sideline between Block 61, Lot 42.01 and Block 72.01, Lot 3, having a 66’ Right of Way and a 28’ cartway and 25’ radius corners at intersections with Orben Drive, Elizabeth Way and Dawes Way (*as depicted on filed map - no record of deed*).
2. A 10’ wide area that is parallel and connected to the Orben Drive ROW, along the westerly sidelines of Block 83, Lot 9 and Block 83.01, Lot 1. This 10’ wide area extends from the southwest corner of Block 83, Lot 9 to Maple Path (*as depicted on filed map - no record of deed*).
3. A 6’ wide area that is parallel and connected to the Maple Path ROW along the northerly

4. sidelines of Block 83.01, Lot 1 and northerly sideline of Block 82.01, Lot 1. This 6' wide area extends from Orben Drive to Dawes Way (*as depicted on filed map - no record of deed*).
5. A 10' wide area that is parallel and connected to the Dawes Way ROW along the easterly sideline of Block 82.01, Lot 1. This 10' wide area extends from Maple Path to Trailwood Drive (*as depicted on filed map - no record of deed*).
6. A 10' wide area on the western and eastern sides of the Elizabeth Way ROW, widening the Elizabeth Way ROW to 50' from Laurel Path to Maple Path (*as depicted on filed map - no record of deed*).
7. A 10' wide area on the western side of the Dawes Way ROW, widening the Dawes Way ROW by 10' on the western side from Laurel Path to Maple Path (*as depicted on filed map - no record of deed*).
8. A 10' wide area along the eastern side of the Dawes Way ROW, widening the Dawes Way ROW by 10' on the eastern side from Laurel Path up to the southern lot line of Block 72, Lot 2 (*as depicted on filed map - no record of deed*).
9. A 10' wide area along the eastern side of the Dawes Way ROW, widening the Dawes Way ROW by 10' on the eastern side from the southwest corner of Block 72, Lot 1.01 up to the common municipal boundary line between the Township of Roxbury and the Borough of Mount Arlington.
10. A 10' wide area along the northern side of the Laurel Path ROW, widening the Laurel Path ROW by 10' on the northern side from Dawes Way to the southwest property corner of Block 83, Lot 15.01 (*as depicted on filed map - no record of deed*).

The dedicated Drainage Easements are more particularly defined as:

1. A 20' Drainage Easement that extends between the easterly side of the Elizabeth Way ROW and terminates at the westerly side of the Dawes Way ROW, traversing through Block 82, Lots 1.01 and 1.02 (*Book 23087, Page 1935 & Book 23086, Page 874, as filed with Morris County Clerk*).
2. A 20' Drainage Easement that extends from the easterly side of the Dawes Way ROW, traverses to the northeast through Block 72.01, Lot 3 to the shared sideline between Block 61, Lot 42.01 and Block 72.01, Lot 3 (*as depicted on filed map - no record of deed*).

The dedicated Conservation Easements are more particularly defined as:

1. A 25' wide conservation easement that runs along the entirety of the westerly sideline of Block 83, Lot 15.01 and a portion of Block 83, Lot 15.02, up to the northeasterly corner of Block 83, Lot 8 (*Book 23151, Page 239 & Book 23151, Page 250, as filed with Morris County Clerk*).

2. A 25' wide conservation easement that runs along the entirety of the northerly sideline of Block 83.01, Lot 1 (*Book 23151, Page 262, as filed with Morris County Clerk*).
3. A 25' wide conservation easement that runs long the entirety of the northerly sideline of Block 82.01, Lot 1 and continues into a 50' wide easement that runs along the easterly sideline of Block 82.01, Lot 1 for approximately 90' (*Book 23097, Page 1, as filed with Morris County Clerk*).
4. A conservation easement that encompasses the entirety of Block 72, Lot 3 (*as depicted on filed map - no record of deed*).
5. A conservation easement on the southerly portion of Block 72, Lot 1.01, being about half of the lot and having an area of 38,085 square feet (*Book 23151, Page 227, as filed with Morris County Clerk*).
6. A conservation easement on the southerly portion of Block 61, Lot 42.03, which lies south of the access drive running through this lot, is a Conservation Easement (*no record of deed*).

The dedicated Access and Maintenance Easements are more particularly defined as:

1. A 15' wide easement that runs along the entirety of the northerly sideline of Block 82.01, Lot 1. (*Book 23086, Page 881, as filed with Morris County Clerk*); and

WHEREAS, pursuant to *N.J.S.A. 40:67-2*, a copy of any ordinance accepting the dedication of any street or portion thereof, with a map showing the location, bounds and dimensions thereof, shall be filed in the office where the conveyance of lands are recorded in the county in which the municipality is situated (*e.g., Office of the Morris County Clerk*); and

WHEREAS, as expressed above, the Borough wishes to accept, in connection with the Trailwood section of the Shadow Woods Development, Trailwood Associates, L.L.C.'s dedication of all of the forgoing, subject to review and approval of the dedication by the Borough Engineer, which is memorialized in the latter's December 3, 2021 letter to the Borough, which his also appended hereto with Exhibit A.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Borough of Mount Arlington, Morris County, State of New Jersey, as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. Subject to the review and approval by the Borough Engineer, as embodied in the latter's December 3, 2021 letter to the Borough (included with Exhibit A), the Borough accepts, in connection with the Trailwood section of the Shadow Woods Development, Trailwood Associates, L.L.C.'s dedication of all of the forgoing easements, access and rights-of-way, all as further set forth in Exhibit A, including, as applicable, all utilities and improvements installed therein, as part of the public road system of the Borough as may be applicable to the same.

3. The Borough Engineer be and hereby is authorized and directed, as may be necessary, to inspect the subject roadway and other dedicated conveyances, and to determine whether, as applicable, the same are constructed in conformance with all applicable Borough regulations.
4. The Mayor and Borough Clerk are hereby authorized and directed to execute and deliver any document and, together with the Borough's officials and consultants, to take any and all necessary steps as would be reasonable or necessary to effectuate said acceptance and to effectuate the purposes of this Ordinance.
5. The introduction of this Ordinance shall be advertised pursuant to *N.J.S.A. 40:49-2; provided, however*, that notice as to introduction and public hearing shall be made, pursuant to *N.J.S.A. 40:49-6*, at least ten (10) days prior to the public hearing and adoption hereof.
6. Notice of the introduction of this Ordinance and the time and place when and where this Ordinance will be further considered for public hearing and final passage, including a copy of this Ordinance, shall be mailed to every person whose lands may be affected by this Ordinance, so far as same may be ascertained, directed to the last known post-office address, in accordance with the provisions of *N.J.S.A. 40:49-6*.
7. Within sixty (60) days after adoption of this Ordinance, the Borough Clerk shall cause this Ordinance, certified by him, under the seal of the municipality, to be filed in the office wherein conveyances of lands are recorded in the County of Morris.
8. This Ordinance shall take effect as provided by law.

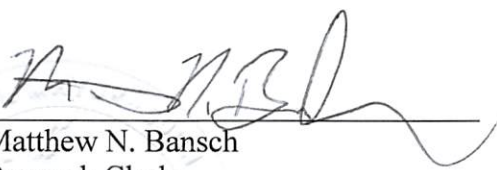
I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, introduced on December 7, 2021 and will be further considered after a Public Hearing held on December 21, 2021 at the Municipal Building at 7:00p.m.

INTRODUCED: December 7, 2021


ADOPTED: December 21, 2021

ATTEST:

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY



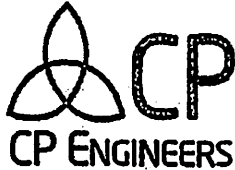
Matthew N. Bansch
Borough Clerk



Michael Stanzilis, Mayor
Borough of Mount Arlington

EXHIBIT A

**DESCRIPTION OF DEDICATED AND ACCEPTED CONVEYANCES AND THE
BOROUGH ENGINEER'S DESCRIPTION AND APPROVAL THEREOF**



11 Park Lake Road
Sparta, New Jersey 07871
Phone (973) 300-9003
Fax (973) 300-4003
www.cpengineers.com

December 3, 2021

VIA EMAIL: crinaldi@mtarlingtonboro.com

Carolyn Rinaldi – Administrator
Borough of Mt. Arlington
419 Howard Boulevard
Mt. Arlington, New Jersey 07856

Re: Easement and Right of Way Acceptance
Shadow Woods Development
CP File No. 576.005

Dear Ms. Rinaldi:

Trailwood Associates, L.L.C., the developer of the above referenced project, has obtained and dedicated all of the required easements associated with the Trailwood section of the Shadow Woods developments to the Borough of Mount Arlington.

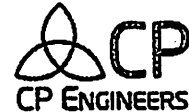
We recommend acceptance of the following Easements and Rights of Way associated with the Trailwood section of the Shadow Woods developments as depicted on the filed subdivision map for the project (Book 7, Page 50, Instrument Number 2008024107, as filed with the Morris County Clerk), attached to this correspondence.

The dedicated Lots are more particularly defined as:

1. The entirety of Block 83, Lot 9, being the lot containing the drainage basin being dedicated to the Borough (*depicted on filed map - no record of deed*).
2. The entirety of Block 72.01, Lot 3 (*Book 23241, Page 807*).

The dedicated Road Right of Way (ROW) areas are more particularly defined as:

1. Trailwood Drive from the intersection at Orben Drive to the shared sideline between Block 61, Lot 42.01 and Block 72.01, Lot 3, having a 66' Right of Way and a 28' cartway and 25' radius corners at intersections with Orben Drive, Elizabeth Way and Dawes Way (*depicted on filed map - no record of deed*).
2. A 10' wide area that is parallel and connected to the Orben Drive ROW, along the westerly sidelines of Block 83, Lot 9 and Block 83.01, Lot 1. This 10' wide area extends from the southwest corner of Block 83, Lot 9 to Maple Path (*depicted on filed map - no record of deed*).
3. A 6' wide area that is parallel and connected to the Maple Path ROW along the northerly sidelines of Block 83.01, Lot 1 and northerly sideline of Block 82.01, Lot 1. This 6' wide area extends from Orben Drive to Dawes Way (*depicted on filed map - no record of deed*).
4. A 10' wide area that is parallel and connected to the Dawes Way ROW along the easterly sideline



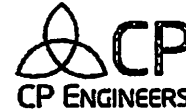
- of Block 82.01, Lot 1. This 10' wide area extends from Maple Path to Trailwood Drive (*depicted on filed map - no record of deed*).
5. A 10' wide area on the western and eastern sides of the Elizabeth Way ROW, widening the Elizabeth Way ROW to 50' from Laurel Path to Maple Path (*depicted on filed map - no record of deed*).
 6. A 10' wide area on the western side of the Dawes Way ROW, widening the Dawes Way ROW by 10' on the western side from Laurel Path to Maple Path (*depicted on filed map - no record of deed*).
 7. A 10' wide area along the eastern side of the Dawes Way ROW, widening the Dawes Way ROW by 10' on the eastern side from Laurel Path up to the southern lot line of Block 72, Lot 2 (*depicted on filed map - no record of deed*).
 8. A 10' wide area along the eastern side of the Dawes Way ROW, widening the Dawes Way ROW by 10' on the eastern side from the southwest corner of Block 72, Lot 1.01 up to the common municipal boundary line between the Township of Roxbury and the Borough of Mount Arlington.
 9. A 10' wide area along the northern side of the Laurel Path ROW, widening the Laurel Path ROW by 10' on the northern side from Dawes Way to the southwest property corner of Block 83, Lot 15.01 (*depicted on filed map - no record of deed*).

The dedicated Drainage Easements are more particularly defined as:

1. A 20' Drainage Easement that extends between the easterly side of the Elizabeth Way ROW and terminates at the westerly side of the Dawes Way ROW, traversing through Block 82, Lots 1.01 and 1.02 (*Book 23087, Page 1935 & Book 23086, Page 874 as filed with Morris County Clerk*).
2. A 20' Drainage Easement that extends from the easterly side of the Dawes Way ROW, traverses to the northeast through Block 72.01, Lot 3 to the shared sideline between Block 61, Lot 42.01 and Block 72.01, Lot 3 (*depicted on filed map - no record of deed*).

The dedicated Conservation Easements are more particularly defined as:

1. A 25' wide conservation easement that runs along the entirety of the westerly sideline of Block 83, Lot 15.01 and a portion of Block 83, Lot 15.02, up to the northeasterly corner of Block 83, Lot 8 (*Book 23151, Page 239 & Book 23151, Page 250 as filed with Morris County Clerk*).
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3. A 25' wide conservation easement that runs along the entirety of the northerly sideline of Block 82.01, Lot 1 and continues into a 50' wide easement that runs along the easterly sideline of Block 82.01, Lot 1 for approximately 90' (*Book 23097, Page 1 as filed with Morris County Clerk*).
4. A conservation easement that encompasses the entirety of Block 72, Lot 3 (*depicted on filed map - no record of deed*).
5. A conservation easement on the southerly portion of Block 72, Lot 1.01, being about half of the lot and having an area of 38,085 square feet (*Book 23151, Page 227 as filed with Morris County Clerk*).



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6. A conservation easement on the southerly portion of Block 61, Lot 42.03, which lies south of the access drive running through this lot, is a Conservation Easement (*no record of deed*).

The dedicated Access and Maintenance Easements are more particularly defined as:

1. A 15' wide easement that runs along the entirety of the northerly sideline of Block 82.01, Lot 1. (*Book 23086, Page 881 as filed with Morris County Clerk*)

The developer has provided a maintenance letter of credit for the development dated February 17, 2021 from Valley National Bank. The Borough is in possession of a maintenance bond that is valid until February 2, 2023.

Please do not hesitate to contact me with any questions or comments.

Very truly yours,
CP ENGINEERS, LLC

A handwritten signature in black ink, appearing to read 'D. Clark'.

David A. Clark, P.E., C.M.E.
Borough Engineer Representative

m:\clients\mt. arlington\576.005 - shadow woods\correspondence\2021-12-03 shadow woods - easement & row acceptance letter.docx

PREPARED BY:

Lawrence F. Rolly

DEED

This Deed is made on October 16, 2006

BETWEEN

ROBIN A LAHUE, Trustee of the Subtrust B under the Last Will and Testament of Anthony Pio Costa, II, Deceased, having a mailing address of 101 Route 46 East, Pine Brook, New Jersey 07058,

referred to as Grantor,

AND

TRAILWOOD ASSOCIATES, L.L.C., a New Jersey limited liability company, having a mailing address of c/o Robert Atkins, Atkins Companies, 101 Old Short Hills Road, Penthouse 1, West Orange, New Jersey 07052,

referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of EIGHT HUNDRED FIFTY THOUSAND DOLLARS AND 00/100 (\$850,000.00). The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-1.1) Borough of Mt. Arlington, County of Morris, State of New Jersey, Lot __, Block __, Account No. __, Block 72, Lots 1 & 3; Block 73, Lot 1; Block 83, Lots 9, 12 & 15; Block 82, Lot 1

☐ No property tax identification number is available on the date of this Deed. (Check box if applicable)

Property. The Property consists of the land and all the buildings and structures on the land in the Borough of Mt. Arlington, County of Morris and State of New Jersey. The legal description is:

SEE SCHEDULE A FOR LEGAL DESCRIPTION

BEING the same premises conveyed to the Grantor by the following deeds:

Anthony Pio Costa, III, as Trustee of the Residuary Trust under the Last Will and Testament of Anthony Pio Costa, II, Deceased dated February 14, 1992 and recorded November 23, 1993 in Deed Book 3878 Page 195, and by deed from

Rosalind Pio Costa and Anthony Pio Costa, III, as Executors under the Last Will and Testament of Anthony Pio Costa, II Deceased; and Rosalind Pio Costa and Anthony Pio Costa, III, as Trustees of Trust B created under Paragraph Fifth of the Last Will and Testament of Anthony Pio Costa II, Deceased dated February 22, 2005 and recorded in the Morris County Clerk's Office February 24, 2005.

MORRIS COUNTY, NJ
JOAN BRANNELL, COUNTY CLERK
DEED-OR BOOK 20664 PG 1221
RECORDED 11/09/2006 14:25:00
FILE NUMBER 2006106981
RPT #: 814077 REC BY: Jessica
RECORDING FEE \$120.00
FARMLAND REVENUE 0.00
TOTAL TAX 7.835.00

1432657A01101306

Book20664/Page1221

Rec 11.9.2006

SCHEDULE A

August 30, 2006
OEA Proj. 030502.1

**DESCRIPTION OF FOUR PARCEL OF LAND SITUATED IN THE BOROUGH OF
MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.**

Being Lots 9, 12 and 15, Block 83, Lot 1, Block 82, Lots 1 and 3, Block 72 and Lot 1, Block 73 as shown on a map entitled "Boundary Survey, Block 61, Lot 42.01, 42.02 and 42.03, Block 72, Lots 1 and 3, Block 73, Lot 1, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Township of Roxbury, Morris County, New Jersey" dated December 14, 2004 and revised to August 30, 2006, prepared by Omland Engineering Associates, Inc., more particularly described in the following four Parcels:

Parcel 1

Being Lots 9, 12 and 15, Block 83 as shown on the aforesaid map, more particularly described as follows:

BEGINNING at a point in the southeasterly sideline of Orben Drive, width varies, where the same is intersected by the southwesterly sideline of Maple Path, 10 feet wide, all as shown on said map; and running: Thence

- 1) Along said sideline of Maple Path, South $66^{\circ} 18' 59''$ East, 300.29 feet to a point where same is intersected by the northwesterly sideline of Elizabeth Way, 30 feet wide; Thence
- 2) Along said sideline, South $26^{\circ} 12' 31''$ West, 422.88 feet to an angle point in same; Thence
- 3) Still along said sideline, South $28^{\circ} 31' 31''$ West, 365.87 feet to a point where the same is intersected by the northeasterly sideline of Laurel Path, width varies; Thence
- 4) Along said sideline, North $49^{\circ} 05' 29''$ West, 153.57 feet to an angle point in same; Thence
- 5) Still along said sideline and then the division line between said Lot 15 and Lots 1, 3 and 6, Block 83, North $28^{\circ} 31' 31''$ East, 329.90 feet to an angle point in same; Thence

- 6) Still along said division line and then the division line between said Lot 15 and Lot 8, Block 83, North $26^{\circ} 12' 31''$ East, 103.03 feet to a point where same is intersected by the division line between said Lots 8 and 9, Block 83; thence
- 7) Along said division line, North $63^{\circ} 47' 29''$ West, 150.00 feet to a point where same is intersected by the aforesaid southeasterly sideline of Orben Drive; Thence
- 8) Along said sideline, North $26^{\circ} 12' 31''$ East, 303.59 feet to a point where the same is intersected by the aforesaid southwesterly sideline of Maple Path, and the place of BEGINNING.

Containing 160,925 Square Feet or 3.6943 acres more or less. Subject to easements and restrictions of record.

Parcel 2

Being Lot 1, Block 82 as shown on the aforesaid map, more particularly described as follows:

BEGINNING at a point in the southwesterly sideline of Maple Path, 10 feet wide, where the same is intersected by the southeasterly sideline of Elizabeth Way, 30 feet wide, all as shown on said map, and running; Thence

- 1) Along said sideline of Maple Path, South $66^{\circ} 18' 59''$ East, 300.29 feet to a point where same is intersected by the northwesterly sideline of Dawes Way, width varies; Thence
- 2) Along said sideline, South $26^{\circ} 12' 31''$ West, 368.39 feet to an angle point in same; Thence
- 3) Still along said sideline, South $45^{\circ} 41' 31''$ West, 509.66 feet to a point where the same is intersected by the northeasterly sideline of Laurel Path, width varies; Thence
- 4) Along said sideline, North $49^{\circ} 05' 29''$ West, 150.00 feet to a point where same is intersected by the aforesaid southeasterly sideline of Elizabeth Way; Thence
- 5) Along said sideline, North $28^{\circ} 31' 31''$ East, 373.06 feet to an angle point in same; Thence
- 6) Still along said sideline, North $26^{\circ} 12' 31''$ East, 424.82 feet to a point where the same is intersected by the aforesaid southwesterly sideline of Maple Path, and the place of BEGINNING.

Containing 212, 460 Square Feet or 4.8774 acres more or less. Subject to easements and restrictions of record.

Parcel 3

Being Lot 1, Block 72 as shown on the aforesaid map, more particularly described as follows:

BEGINNING at a point in the southeasterly sideline of Dawes Way, width varies, where the same is intersected by the division line between said Lot 1 and Lot 2, Block 72, all as shown on said map, and running; Thence

- 1) Along said sideline, North $21^{\circ} 09' 31''$ East, 131.03 feet to an angle point in same; Thence
- 2) Still along said sideline, North $29^{\circ} 24' 31''$ East, 134.76 feet to an angle point in same; Thence
- 3) Still along said sideline, North $39^{\circ} 54' 31''$ East, 60.72 feet to an angle point in same; Thence
- 4) Still along said sideline, North $44^{\circ} 52' 31''$ East, 198.53 feet to a point where same is intersected by the division line between said Lot 1 and Lot 3, Block 11201, Township of Roxbury; Thence
- 5) Along said division line, South $63^{\circ} 32' 28''$ East, 55.38 feet to a point where same is intersected by the division line between said Lot 1 and Lot 23.11, Block 61, Borough of Mt. Arlington; Thence
- 6) Along said division line, South $50^{\circ} 30' 54''$ East, 120.28 feet to a point where same is intersected by the division line between said Lot 1 and lands as shown on a map entitled "Final Plat, Block 61, Lot 42.01, Borough of Mt. Arlington, Township of Roxbury, Morris County, New Jersey" dated December 12, 2005 and filed in the Morris County Clerk's Office on January 11, 2006 as Map No. 5920; thence
- 7) Along said division line, South $29^{\circ} 11' 17''$ West, 465.28 feet to a point where same is intersected by the division line between said Lots 1 and 2, Block 72; Thence
- 8) Along said division line, North $68^{\circ} 50' 29''$ West, 223.03 feet to a point where the same is intersected by the aforementioned southeasterly sideline of Dawes Way, and the place of BEGINNING.

Containing 109,928 Square Feet or 2.5236 acres more or less. Subject to easements and restrictions of record.

Parcel 4

Being Lot 3, Block 72 and Lot 1, Block 73 as shown on the aforesaid map, more particularly described as follows:

BEGINNING at a point in the southeasterly sideline of Dawes Way, width varies, where the same is intersected by the division line between said Lot 3 and Lot 2, Block 72, all as shown on said map, and running; Thence

- 1) Along said division line, South $63^{\circ} 47' 29''$ East, 208.95 feet to a point where same is intersected by the division line between said Lot 3 and lands as shown on a map entitled "Final Plat, Block 61, Lot 42.01, Borough of Mt. Arlington, Township of Roxbury, Morris County, New Jersey" dated December 12, 2005 and filed in the Morris County Clerk's Office on January 11, 2006 as Map No. 5920; Thence
- 2) Along said division line, South $29^{\circ} 11' 17''$ West, 21.93 feet to an angle point in same; Thence
- 3) Still along said division line and then the division line between said Lot 1, Block 73 and lands shown on said Final Plat, South $45^{\circ} 20' 50''$ West, 1,063.81 feet to an angle point in same; Thence
- 4) Still along said division line, South $71^{\circ} 07' 11''$ West, 406.45 feet to a point where same is intersected by the division line between said Lot 1 and Lot 10, Block 73; Thence
- 5) Along said division line, North $29^{\circ} 44' 29''$ West, 23.50 feet to a point where same is intersected by the aforesaid southeasterly sideline of Dawes Way; Thence
- 6) Along said sideline, North $53^{\circ} 17' 31''$ East, 574.67 feet to an angle point in same; thence
- 7) Still along said sideline, South $49^{\circ} 05' 29''$ East, 5.01 feet to an angle point in same; Thence
- 8) Still along said sideline, North $45^{\circ} 41' 31''$ East, 542.41 feet to an angle point in same; Thence

Description of Four Parcels
Mt. Arlington, NJ
August 30, 2006
Page 5 of 5

- 9) Still along said sideline, North $26^{\circ} 12' 31''$ East, 279.87 feet to a point where the same is intersected by the said division line between Lots 2 and 3, and the place of BEGINNING.

Containing 170,034 Square Feet or 3.9034 acres more or less. Subject to easements and restrictions of record.

The Parcels described herein are all in accordance with map entitled "Boundary Survey, Block 61, Lot 42.01, 42.02 and 42.03, Block 72, Lots 1 and 3, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Township of Roxbury, Morris County, New Jersey" dated December 14, 2004 and revised to August 30, 2006, prepared by Omiland Engineering Associates, Inc.

This description prepared by:



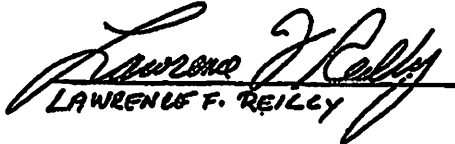
David B. Dixon, PLS Lic. 27282
Omland Engineering Associates, Inc.

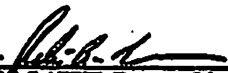
PA\Documents\OEA Projects\030502\01 Shadow Wood\Draw-4-tracks-overrid.doc

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the Property. This promise is called a "covenant as to Grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the Property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. This Deed is signed and attested to by the Grantor's proper corporate officers as of the date at the top of the first page.

WITNESS:



LAWRENCE F. REILLY

By 
ROBIN A. LAHUE, Trustee of the
Subtrust B under the Last Will and
Testament of Anthony Pio Costa, II, Deceased

STATE OF NEW JERSEY, COUNTY OF ESSEX SS.:

I CERTIFY that on October 16, 2006,

1. Robin A. Lahue personally appeared before me;
2. I was satisfied that this person is the person who executed the attached instrument as Trustee of the Subtrust B under the Last Will and Testament of Anthony Pio Costa, II, Deceased; and
3. This person stated that she was authorized to execute the instrument on behalf of the Subtrust B under the Last Will and Testament of Anthony Pio Costa, II, Deceased, and that she executed the instrument as the act of such Subtrust B.
4. The full and actual consideration paid or to be paid for the transfer of title is \$850,000.00. (Such consideration is defined in N.J.S.A. 46:15-5.)


LAWRENCE F. REILLY
Attorney at Law/Notary Public of New Jersey

DEED

Robin A. Lahue, Trustee of the Subtrust B under the
Last Will and Testament of Anthony Pio Costa, II,
Deceased

Grantor,

TO

Trailwood Associates, L.L.C., a New Jersey limited
liability company

Grantee.

Dated: October 16, 2006

Record and Return to:

Record and Return to:
EASTERSIDE TITLE AGENCY, INC.
283 Ridgeway Avenue
East Hanover, NJ 07933
File No. 2006-05-022-07



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

GIT/REP-3
(8-05)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, Page 2)

Name(s)

Robin A. Lahue, Trustee

Current Resident Address:

Street: 101 Route 46 East

City, Town, Post Office

Pine Brook

State

New Jersey

Zip Code

07058

PROPERTY INFORMATION (Brief Property Description)

Block 72 Lots 1 and 3
Block 83, Lots 9, 12 and 15
Block 73, Lot 1
Block 82, Lot 1
Qualifier

Street Address:

City, Town, Post Office

Mt. Arlington

State

New Jersey

Zip Code

Seller's Percentage of Ownership

100%

Consideration

\$850,000.00

Closing Date

October , 2006

SELLER ASSURANCES (Check the Appropriate Box)

1. ☒ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

SELLER(S) DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

10/19/06
Date

Signature
(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature
(Seller) Please indicate if Power of Attorney or Attorney in Fact

RECORD & RETURN TO:
Matthew J. O'Donnell, Esq.
O'DONNELL McCORD, PC
15 Mount Kemble Avenue
Morristown, New Jersey 07960

FIRST AMENDED DEVELOPER'S AGREEMENT

THIS FIRST AMENDED DEVELOPER'S AGREEMENT is made this 2nd day of July, 2013 by and between THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a municipal corporation of the State of New Jersey, having an address at 419 Howard Boulevard, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Borough") and SEASONS ASSOCIATES, LLC, a limited liability copy of the State of New Jersey with administrative offices c/o Atkins Companies, 101 Old Short Hills Road, West Orange, New Jersey 07052, and TRAILWOOD ASSOCIATES, LLC, a limited liability company of the State of New Jersey with administrative offices at c/o Atkins Companies, 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052 (hereinafter collectively referred to as the "Developer").

WITNESSETH:

WHEREAS, Developer heretofore received from the Mount Arlington Land Use Board (hereinafter referred to as the "Land Use Board") preliminary and final major site plan approval and preliminary and final major subdivision approval for the construction of 60 townhouse units and ten (10) single family homes (hereinafter referred to as the "Project") on property that had been identified as Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 (hereinafter referred to as the "Development Property") on the tax map of the Borough of Mount Arlington, County of Morris, State of New Jersey, which project is known as "Shadow Woods", with the approved final plans being prepared by Omiland Engineering Associates dated February 22, 2005, and revised through November 17, 2005 described in the resolution of the Land Use Board approved on January 11, 2006 and memorialized in a

MORRIS COUNTY, NJ: JOAN BRANHALL, COUNTY CLERK
DEVA-DR BOOK 22386 PG 1548 RECORDED 07/31/2013
FILE NUMBER 2013062766; RECORDING FEES \$450.00
RCPT #: 889945; RECD BY: ABEDKOWSKI
14:40:35

O'DONNELL McCORD, P.C.

ATTORNEYS AT LAW

15 MOUNT KEMBLE AVENUE
MORRISTOWN, NEW JERSEY 07960
(973) 538-1230
FAX: (973) 538-3301

WRITER'S E-MAIL: MODONNELL@OMLAWPC.COM

Matthew J. O'Donnell*++†
Donald S. McCord, Jr.
Maryann O'Donnell McCoy*
Elizabeth Anne Vahndingham*++

ESSEX COUNTY OFFICE
SEVEN HUTTON AVENUE
WEST ORANGE, NJ 07082

MONMOUTH COUNTY OFFICE
1725 HIGHWAY 35, SUITE C
WALL, NJ 07719

Jeanne M. Walsh*
David N. Heleniak
Levi J. Kool*
Jonathan Testa*

PLEASE REPLY TO MORRISTOWN OFFICE

* Member NJ and NY Bars
* Member NJ and PA Bars
+ Member U.S. Tax Court
* Diplomate NJ Local Government Law
† Certified Public Accountant (NJ & NY)

July 29, 2013

Morris County Clerk
Administrative and Records Building
P.O. Box 315
Morristown, New Jersey 07963-0315
Attention: Joan Bramhall

Re: **Recordation of the First Amended Developer's Agreement
Borough of Mount Arlington, Morris County
Season's Associates, LLC and Trailwood Associates, LLC for Shadow Woods
Property: Block 61, Lot 42.03; Block 72, Lots 1 & 3; Block 82, Lot 1; Block 83, Lots 9, 12 & 15**

Dear Ms. Bramhall:

Please be advised that the undersigned represents the Borough of Mount Arlington. In this regard, enclosed herein please find an original and one (1) copy of the First Amended Developer's Agreement, dated July 2, 2013; and a check for \$450.00, representing payment of recordation fees for same. Kindly record same and forward one (1) copy to the undersigned in the enclosed, postage-paid, self-addressed envelope.

Should you have any questions or require any additional information, please call me at (973)538-1230.

Thank you for your assistance and courtesies.

Very truly yours

O'DONNELL McCORD, P.C.

MATTHEW J. O'DONNELL

MOD:ce

Enclosure

cc: Linda DeSantis, RMC
Stanley G. Puszczyk, P.E.
Craig Zimmermann, P.E.
Carolyn Rinaldi, CFO/Municipal Administrator

O'DONNELL MCCORD, P.C.
ATTORNEY BUSINESS ACCOUNT
15 MOUNT KEMBLE AVE.
MORRISTOWN, NEW JERSEY 07960-8610
(973) 538-1230

CHASE
JPMorgan Chase Bank, N.A.
www.Chase.com
55-233-212

Check Fraud
Protection by Business

7/29/2013

PAY TO THE
ORDER OF Morris County Clerk

\$ 450.00

Four Hundred Fifty and 00/100 ***** DOLLARS

Morris County Clerk



VOID AFTER 60 DAYS
AUTHORIZED SIGNATURE

MEMO

⑈005635⑈ ⑆021202337⑆ 410564348⑈

O'DONNELL MCCORD, P.C.
ATTORNEY BUSINESS ACCOUNT
Morris County Clerk

5635

Date Type Reference
7/29/2013 Bill

Original Amt.
450.00

Balance Due
450.00

7/29/2013
Discount
Check Amount

Payment
450.00
450.00

Chase Bank - Operati

450.00

O'DONNELL MCCORD, P.C.
ATTORNEY BUSINESS ACCOUNT
Morris County Clerk

5635

Date Type Reference
7/29/2013 Bill

Original Amt.
450.00

Balance Due
450.00

7/29/2013
Discount
Check Amount

Payment
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450.00

Chase Bank - Operati

450.00

Matthew J. O'Donnell, Esq.
O'DONNELL McCORD, PC
15 Mount Kemble Avenue
Morristown, New Jersey 07960

FIRST AMENDED DEVELOPER'S AGREEMENT

THIS FIRST AMENDED DEVELOPER'S AGREEMENT is made this 2nd day of July, 2013 by and between THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a municipal corporation of the State of New Jersey, having an address at 419 Howard Boulevard, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Borough") and SEASONS ASSOCIATES, LLC, a limited liability company of the State of New Jersey with administrative offices c/o Atkins Companies, 101 Old Short Hills Road, West Orange, New Jersey 07052, and TRAILWOOD ASSOCIATES, LLC, a limited liability company of the State of New Jersey with administrative offices at c/o Atkins Companies, 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052 (hereinafter collectively referred to as the "Developer").

WITNESSETH:

WHEREAS, Developer heretofore received from the Mount Arlington Land Use Board (hereinafter referred to as the "Land Use Board") preliminary and final major site plan approval and preliminary and final major subdivision approval for the construction of 60 townhouse units and ten (10) single family homes (hereinafter referred to as the "Project") on property that had been identified as Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 (hereinafter referred to as the "Development Property") on the tax map of the Borough of Mount Arlington, County of Morris, State of New Jersey, which project is known as "Shadow Woods", with the approved final plans being prepared by Omland Engineering Associates dated February 22, 2005, and revised through November 17, 2005 described in the resolution of the Land Use Board approved on January 11, 2006 and memorialized in a

Resolution of Approval on February 8, 2006 (hereinafter referred to as the "Resolution"). A copy of the Resolution is annexed hereto as Exhibit A; and

WHEREAS, Seasons Associates, LLC is the owner and developer of the portion of the Development Property on which the 60 townhouse units are to be constructed, which portion of the Development Property is identified as Block 61, lot 42.03; and

WHEREAS, Trailwood Associates, LLC is the owner and developer for the portion of the Development Property on which the ten (10) single family homes will be constructed; which property was formerly identified as Block 72, Lots 1 and 3, Block 82, Lot 1, and Block 83, Lots 9, 12 & 15. As a result of the perfection and recording of the approved final subdivision plat, it is now known as Block 72, Lots 1.01, 1.02 and 3; Block 82, Lots 1.01, 1.02, 1.03 and 1.04; Block 82.01, Lot 1; Block 83, Lots 9, 15.01 and 15.02; and Block 83.01, Lot 1. Block 72.01, Lot 3 and Block 83, Lot 9 as shown on the final subdivision plat are to be dedicated to the Borough for open space purposes as noted thereon; and

WHEREAS, the Developer revised the final approved site plans for the Shadow Woods Project in 2011 to address all of the engineering comments; conditions of approval and conditions of outside agency approvals. Those changes were approved by the Borough Engineer, and the Borough executed the final approved site plans on or about April 27, 2011. The final approved site plans have been further amended and revised through November 1, 2011; and

WHEREAS, the approvals of the Land Use Board for the above-mentioned plans were conditioned upon, among other things, the Developer entering into a Developer's Agreement with the Borough; and

WHEREAS, the Borough and the Developer entered into a Developer's Agreement for the Project on or about March 13, 2007 (hereinafter the "Developer's Agreement"). A copy of the Developer's Agreement is annexed hereto as Exhibit B; and

WHEREAS, pursuant to the Developer's Agreement, the primary purpose for entering into same in 2007 was to allow "certain limited site work to proceed with respect to the implementation of the Project"; and

WHEREAS, Article I, Paragraph 7 of the Developer Agreement further provided that "[I]t is understood and agreed that an Amended Developer's Agreement will have to be agreed upon and executed by and between the Borough and the Developer before the start of construction, except as otherwise provided in Article II of this Agreement. The Amended Developer's Agreement shall include, among other things, the cost estimate for the Public Improvement Security, and shall address any other construction-related issues, items and agreements not otherwise covered by the terms of this Agreement";

WHEREAS, the Developer proceeded to undertake the limited tree removal and clearing permitted by Article II of the Developer's Agreement, and now desires to commence with the construction of the Project; and

WHEREAS, the Developer and the Borough desire to enter into this First Amended Developer's Agreement ("Amended Developer's Agreement") in order to satisfy the terms and conditions of the Developer's Land Use Board approvals and the terms and conditions of the Developer's Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties hereto, for themselves, their successors and assigns, hereby agree to the following:

I. DEVELOPER'S AGREEMENT BINDING. Except as otherwise provided herein, all terms and conditions of the March 13, 2007 Developer's Agreement by and between the Borough and the Developer shall be binding upon the Developer and shall remain in full force and effect.

II. PUBLIC IMPROVEMENT SECURITY.

1. In accordance with Article I, paragraph 6 of the Developer's Agreement, prior to the commencement of construction, the Developer shall post with the Borough a surety bond, letter of credit or other form of security acceptable to the Borough (in an amount that is reasonably estimated by the Borough)(the "Public Improvement Security") as a performance guarantee for the cost of the public and private site improvements to be placed upon the Development Property in accordance with a cost estimate to be prepared and submitted by the Developer's engineer and approved by the Borough Engineer. A copy of the cost estimate is annexed hereto as Exhibit C.

2. Upon the completion or installation of all or a portion of the bonded public improvements by the Developer, and upon the approval and certification by the Borough Engineer, the Developer may apply for a full or proportional reduction (as the case may be) in the original amount of such performance guarantee. A reduction or release of the performance or maintenance guaranty as hereinafter set forth, shall be in accordance with this Agreement and in accordance with the procedures established by the Municipal Land Use Law, N.J.S.A. 40:55D-53.

3. Developer agrees to provide the Borough with a maintenance bond or irrevocable letter of credit to run for a period of two (2) years from the date of completion of all site improvements required by this Agreement as permitted by N.J.S.A. 40:55D-53(a)(2). Said bond will be in an amount of fifteen (15%) percent of the cost of the site improvements and will be provided in form satisfactory to the Borough Attorney. Said bond or irrevocable letter of credit shall assure the maintenance of said site improvements and facilities by the Developer and provide for the reimbursement of all expenditures incurred by the Borough for their repair and maintenance and/or such other expenses as may be necessary to keep the same in good working order during the two (2) year period. The Borough shall provide the Developer with thirty (30) days' notice prior to incurring such expenses except for emergency repair. No provisions in this paragraph or in this Agreement, however, shall be construed to impose any duty or liability of maintenance, inspection or repair on the part of the Borough with respect to any private facilities or site improvements, whether bonded hereunder or otherwise.

III. Compliance with Conditions of Approval.

1. Prior to the commencement of construction, Applicant shall deed to the Borough as open space the portion of the Development Property identified as Block 72.01, Lot 3 and Block 83, Lot 9 as shown on the tax map of the Borough of Mount Arlington, County of Morris, State of New Jersey; in accordance with Condition 1 of the Resolution.

2. Prior to the commencement of construction, the Applicant shall prepare easements to be reviewed by the Board attorney in favor of the Borough to restrict any further improvement in the areas delineated in the plans as being in conservation easements in accordance with Condition 1 of the Resolution.

3. In addition to the foregoing, the Applicant shall be required to comply with all other remaining outstanding conditions of approval set forth in Resolution, as well as conditions set forth in any and all other outside agency approvals.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this instrument to be executed by their respective corporate officers and their proper corporate seals to be hereunto affixed the day and year first above written.


ATTEST:


Linda DeSantis, RMC, Borough Clerk

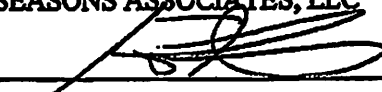
BOROUGH OF MOUNT ARLINGTON


Arthur R. Ondish, Mayor


WITNESS:


Linda DeSantis, RMC, Borough Clerk

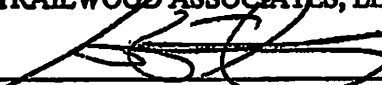
SEASONS ASSOCIATES, LLC


Seasons Associates, LLC

WITNESS:


Linda DeSantis, RMC, Borough Clerk

TRAILWOOD ASSOCIATES, LLC


Trailwood Associates, LLC

RESOLUTION 2013 - 86

**A RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF
THE BOROUGH OF MOUNT ARLINGTON, COUNTY OF MORRIS,
STATE OF NEW JERSEY, APPROVING AND AUTHORIZING
EXECUTION OF THE FIRST AMENDED DEVELOPERS
AGREEMENT WITH SEASONS ASSOCIATES, LLC
AND TRAILWOOD ASSOCIATES LLC
FOR SHADOW WOODS**

WHEREAS, on June 26, 2013, the Mount Arlington Land Use Board approved the First Amended Developer's Agreement with Seasons Associates, LLC, and Trailwoods Associates, LLC, for Shadow Woods, Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 ("Property"), as shown on the official tax map of the Borough of Mount Arlington; and

WHEREAS, the Mayor, Borough Clerk and Borough Attorney wish to execute the First Amended Developer's Agreement on file in the office of the Borough Clerk; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mount Arlington in the County of Morris and State of New Jersey as follows:

1. The First Amended Developer's Agreement on file in the office of the Borough Clerk with Seasons Associates, LLC, and Trailwoods Associates, LLC, for Shadow Woods, Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 ("Property") is approved and the Mayor, Borough Clerk and Borough Attorney are authorized to execute the same.
2. This Agreement shall be recorded in the office of the Morris County Clerk and is available for inspection in the Borough Clerk's office.
3. The First Amended Developer's Agreement is hereafter binding upon the Developer, its successors, heirs, assigns and/or transferees.

This resolution shall take effect immediately.

I HEREBY CERTIFY this to be a true and correct Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, and adopted on July 2, 2013.


Linda DeSantis, RMC, Municipal Clerk
Borough of Mount Arlington

Exhibit A

BOROUGH OF MOUNT ARLINGTON LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Approved: January 11, 2006
Memorialized: February 8, 2006

**IN THE MATTER OF SEASONS ASSOCIATES, L.L.C.
PRELIMINARY AND FINAL MAJOR SITE PLAN
AND PRELIMINARY MAJOR SUBDIVISION APPROVAL
LOT 42.03, BLOCK 61; LOTS 1 AND 3, BLOCK 72; LOT 1, BLOCK
82; LOTS 9, 12 AND 15, BLOCK 83**

WHEREAS, Valley Road Development, L.L.C. ("VRD") had previously submitted an application to the Borough of Mount Arlington Land Use Board ("Board") for preliminary and final site plan approval for the construction of two (2) commercial office buildings in the Borough of Mount Arlington on property described on the Borough's Tax Map as Block 61, Lot 42.01; and

WHEREAS, VRD also concurrently submitted a subdivision plan seeking approval for a subdivision on Lot 42 in Block 61; and

WHEREAS, the Board denied the aforesaid applications which prompted VRD to institute a lawsuit against, among others, the Board, the Borough, and Suburban Consulting Engineers, the Borough's civil engineers; and

WHEREAS, the aforesaid litigation was amicably resolved by and between the parties in accordance with terms set forth in a Consent Order which was accepted and filed by the Court on August 6, 2003; and

WHEREAS, the terms of the Consent Order provided, inter alia, that VRD could develop Lot 42.03 in Block 61 "for residential use of not more than 60 residential dwelling units, provided that the appropriate variance relief and residential site improvements standard relief [was] granted"; and

WHEREAS, the Consent Order further held that "no residential development shall take place [on Lot 42.03 in Block 61] until development

plans and applications are submitted and approved by the Land Use Board which show access for residential development of not more than 60 dwelling units. The approval of the subdivision for residential purposes shall not be construed as an agreement to approve any particular site plan application for the property, which approval can only be given in compliance with the application and hearing provision of the Municipal Land Use Law"; and

WHEREAS, VRD entered into an Agreement of Sale to sell Lot 42.03 in Block 61 (the VRD Property) to Seasons Associates, L.L.C. ("Seasons"); and

WHEREAS, Seasons further entered into an Agreement of Sale with Anthony Pio Costa, III Sub Trust B for the purchase of Lots 1 and 3 in Block 72; Lot 1 in Block 82; and Lots 9, 12 and 15 in Block 83 (hereinafter referred to as the "Pio Costa Property"); and

WHEREAS, Seasons applied to the Board for preliminary and final major site plan and preliminary major subdivision approval to construct sixty (60) townhomes on the VRD Property and create ten (10) building lots for the construction of single-family homes on the Pio Costa Property; and

WHEREAS, the aforesaid application was deemed complete by the Board on April 13, 2005; and

WHEREAS, public hearings were held before the Board on May 25, 2005; June 22, 2005; September 28, 2005; October 26, 2005; November 30, 2005; December 7, 2005; and January 11, 2006, notice being required and given, at which time the Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g). At all times Seasons was represented by John Inglesino, Esq. of the law firm of Stern and Kilcullen, Esqs.; and

WHEREAS, it has been determined by the Board that the applicant has complied with all of its rules, regulations and requirements and that all of the required provisions of compliance have been filed with the Board; and

WHEREAS, the Board received as part of the hearing process the following documentary and testimonial evidence submitted by Seasons, as well as comments received from the Board's staff and members of the public:

Robert Atkins, a principal member of Seasons, testified that Seasons was the contract purchaser from VRD for the VRD Property. He added that Seasons also had a contract to acquire the Pio Costa Property. He explained that if the requisite approvals were granted, Seasons would be responsible for developing the residential development project proposed on the VRD and Pio Costa Properties.

Mr. Atkins stated that prior to designing the project, Seasons examined possible access to the aforesaid Properties. He indicated that Seasons had two possible means of ingress and egress to the Properties. One possible approach required an extension of a road from Orben Drive, in the Lake Rogerene section of the Borough, into the Pio Costa and VRD Properties. Second, Seasons could possibly gain access by extending a private road from Mulberry Lane, a road located in the adjacent Seasons Glen condominium development.

Mr. Atkins explained that roads in the Seasons Glen condominium development were privately owned by the Seasons Glen homeowners association. He said that this meant that Seasons would need to secure an agreement with the homeowners association before extending any of its private roadways into the VRD and Pio Costa Properties.

Mr. Atkins stated that in the summer of 2003, representatives for Seasons entered into discussions with the Board of Trustees for the Seasons Glen homeowners association which eventually culminated in a formal written proposal being presented to the Seasons Glen Board by Seasons on or about February 27, 2004. Negotiations continued for several months thereafter, culminating in Seasons' final offer to pay the Seasons Glen homeowners association one million dollars to secure access from Mulberry Lane. Mr. Atkins testified that this final offer was rejected.

Mr. Atkins stated that it was only after Seasons was unsuccessful in obtaining access from the Seasons Glen homeowners association that it began negotiating with the owner of the Pio Costa Property. Mr. Atkins testified that the Pio Costa Property fronted along Orben Drive and would enable Seasons Associates to secure access to the VRD Property, Lot 42.03 in Block 61.

After Mr. Atkins completed his testimony, Seasons presented Stanley T. Omland, P.E., P.P. Mr. Omland and the company for which he is

employed, Omland Engineering Associates, prepared the site plan and subdivision plans. After being accepted by the Board as an expert in the area of civil engineering and professional planning, Mr. Omland testified about the property that was the subject of the application. In so doing, he described for the Board where the proposed ten (10) single-family lots would be located and where the sixty (60) townhouse units were to be built. Mr. Omland explained that Seasons intended to develop the Property in reliance upon the Borough's land development ordinances, the residential site improvement standards, and all applicable regulatory agencies. He also stated that the development proposal was consistent with the Borough's Master Plan. He stated that the project was designed using a cluster concept which would leave much of the property undisturbed as open space. Mr. Omland stated that the total acreage for all of the lots combined was 28.3 acres, which meant approximately 8 acres, or 28% of the tract, would be left as open space.

Mr. Omland indicated that the westerly portion of the property, which encompassed the Pio Costa property, was located in the Borough's RA-40 district. He stated that this zoning district would allow single-family individual lots consisting of 40,000 square feet which could be reduced to 30,000 square feet if public water were available. The total acreage for all of the lots in the Pio Costa Property was approximately 13 acres.

Mr. Omland also described the development proposal for the VRD Property. He stated that the proposed development was done in accordance with the Borough's PUD zoning district. It would consist of sixty (60) townhomes ranging in size from 2200 to 2700 square feet. Two hundred and forty-six (246) parking spaces would be made available, even though only 144 were required by RSIS in his opinion. The project would include a clubhouse with a pool.

Mr. Omland testified that access to the entire project would come from a boulevard entrance extending from Orben Drive through the single-family homes section and then into the townhome development. Originally, Mr. Omland indicated the width of each lane of the proposed boulevard at Orben Drive would be 18 feet wide. After receiving the Board's input, each lane was reduced to 12 feet, although it was widened back to an undivided width of 28 feet as the road approached Orben Drive from Elizabeth Way. The rest of the proposed roadways within the development would include extending and improving the paper street currently known as Elizabeth Way.

All dwelling units would have, according to Mr. Omland, public water available. He further explained that the proposed townhomes would have public sewer service available, because they were within the municipality's public sewer district. The ten (10) single-family homes, Mr. Omland opined, would have on-site septic systems installed.

Mr. Omland stated that the development proposal presented by Seasons complied with all applicable storm water management regulations. In his opinion, the storm water management plan was designed so that there would be less storm water runoff from all of the lots than there is currently in their undeveloped condition. Mr. Omland continued by claiming that the system was designed to remove eighty percent (80%) of the total suspended solids, thereby enhancing water quality. He believed that there would be no additional storm water runoff flowing into Lake Rogerene. In response to a question from the public, Mr. Omland indicated that only 2.5 acres currently drains from the property into Lake Rogerene. He stated that the plan was designed to divert approximately 1.8 acres of the area away from Lake Rogerene, although he did say that the water could be redirected to the lake, if it was necessary to maintain water levels in the lake. The stormwater facilities located within the townhome section of the project would be maintained by the future homeowners' association. The detention basin located on Lot 9 would be owned and maintained by the Borough, pursuant to the Board's recommendations.

Mr. Omland stated that the proposed townhouse development would include a 50-foot setback with a 25-foot wooded buffer to the rear of the properties located in the Seasons Glen development along Mulberry Lane. He believed that the buffer area would be sufficiently dense to maintain the quiet enjoyment for the residents in Seasons Glen. He also asserted that there would be a number of conservation easements established in the project to minimize future development of the Properties.

Numerous questions were raised by Board members and members of the public concerning the proposed access to the project from Orben Drive. Members of the Board and public questioned whether the project could be accessed by extending Valley Road, an existing road that provides access to a commercial project located on an adjacent lot. Mr. Omland stated that he examined this issue and believed that it would be impractical to design such a road that would comply with current standards. In support of his position, Mr. Omland stated that the VRD Property, where the proposed townhomes

would be located, was 170 feet higher in elevation than the present terminus of Valley Road. He maintained that this would require a very steep road that would exceed the 14% maximum allowable profile under the RSIS standards. He further claimed that there would be a significant amount of disturbance and loss of vegetation along the steep sloped area to incorporate a serpentine, winding banked road that would need to be built.

He testified as well that the Borough's ordinances limit the maximum grade of road to 12%. An extension of Valley Road would necessitate, in his opinion, an 18% grade. The Board's engineer, Paul VanGelder, P.E. agreed, adding that it would be extremely expensive and unsafe. In Mr. VanGelder's words, an extension of Valley Road would represent an "unreasonable route."

Finally, Mr. Omland opined that blasting would be required during the development process. He indicated that Seasons would comply with all state requirements regulating blasting. He further testified that construction would attempt to be balanced subject to blasting guidelines. In other words, any soils disturbed in one area could be used in another.

Given the concerns about access to the property and traffic impacts, Seasons offered Eric Keller as an expert in traffic matters. Mr. Keller stated that he performed a standard traffic impact study, examining site conditions and traffic counts along the existing roadway network.

Initially, Mr. Keller stated that the proposed internal roadway network complied with RSIS standards and the Borough's ordinances. He next considered whether the use of Orben Drive would be permitted. Mr. Keller testified that Orben Drive is presently the sole access for homes in the Lake Rogerene section of the Borough. Mr. Keller opined that Orben Drive would be considered a minor collector road in accordance with RSIS standards. A minor collector road is one that provides frontage for access to lots and other residential streets while not handling regional traffic.

Mr. Keller maintained that Orben Drive in Mt. Arlington was as wide as 20 feet with some areas being as narrow as 17 feet. Generally, there is no curbing or sidewalks along the road. He indicated that the vehicular capacity of a road of this classification is 2000 vehicles per hour based on the standards in the Highway Capacity Manual. Based upon his analysis, there were currently only about 100 vehicles using Orben Drive per hour.

Along the residential portion of Orben Drive, hourly traffic counts showed approximately 1200 daily trips, according to Mr. Keller.

Mr. Keller then applied a 2% growth factor for traffic along Orben Drive over the next two (2) years, which did not include traffic from the proposed project. Again, in his opinion, the additional 2% growth would not exceed the 2000 trips per hour permitted along Orben Drive. He claimed that based on his review of the Institute of Transportation Engineer's Trip Generation Manual, the proposed project would add an additional 500 two-way trips which when added to the existing traffic would total approximately 1100 two-way trips per day which is far below the allowable threshold.

Mr. Keller further opined that Orben Drive could handle the capacity even if it were to be reclassified. In his analysis, he admitted that if Orben Drive were to be reclassified as a residential access street under the RSIS, it would be limited to 1500 trips per day. Again, even applying this more conservative classification, if the project were to be constructed, the number of trips per day would be below the amount permitted under the RSIS for residential access streets. Therefore, he testified that the development would not change the functional classification of the existing roadways. He also stated that the proposed roadway network to be constructed within the proposed residential development would be adequate to handle the traffic generated by the project itself.

The Board's traffic consultant, Kenneth E. Fears, P.E., did not disagree with Mr. Keller's conclusions. Mr. Fears did raise an issue concerning the classification of Orben Drive vis-a vis the proposed project. Mr. Fears questioned whether Orben Drive should be classified as a cul-de-sac since it was the only means of direct access into the project. Based upon Mr. Fears concerns, Mr. Keller petitioned the Department of Community Affairs of the State of New Jersey, asking it to address this issue. The Department of Community Affairs ultimately agreed with Mr. Keller, concluding that Orben Drive would not constitute a residential cul-de-sac, which might have otherwise limited traffic volume.

Mr. Fears also raised issues concerning proposed sight triangles needed in the proposed project. Mr. Fears indicated that sight triangles should be established or the applicant could seek a de minimus exception from the sight triangle requirements. In response, Mr. Keller stated that the applicant try to secure the exception.

Members of the public questioned whether Orben Drive was wide enough to handle additional traffic from the proposed project. Mr. Fears responded that Orben Drive is capable of carrying the additional volume of traffic that is projected. He did admit that there are points along the road where widening or improvements might be desirable. He added, however, that these improvements are not necessitated by the additional traffic volume. In his words, "there is nothing about this project that rises to the threshold of calling for or mandating such improvements where they are not currently required."

Seasons also had an Environmental Impact Assessment prepared and submitted with its initial application. The Assessment was prepared by Laura Newgard of EcolSciences, Inc. Ms. Newgard generated an inventory of the existing natural resources. She analyzed the geology, the topography and the soils. She also described the ground water quality and the surface water quantity and quality.

Ms. Newgard indicated that she examined existing vegetation on the property. Essentially, she determined that the property was an upland forest area except for the extreme western portion which she called a palustrine forested wetland. Ms. Newgard also set forth her observations concerning wildlife and endangered species, not only on the property, but in the surrounding area. Ms. Newgard submitted a request to the Natural Heritage Program to determine if there were any documented sightings of threatened or endangered species. She was informed that there were none on the property, although there were records of sightings of barred owls, red-shouldered hawks, Jefferson salamanders, marbled salamanders and veery in nearby areas. Special concerned species are not threatened or endangered, but are simply being monitored by the Endangered and Nongame Species Program. Of these species, Ms. Newgard stated that the red-shouldered hawk and veery could possibly live on the property or simply pass through. The Jefferson salamander and the marbled salamander reside within a specific wetlands that, according to her, are necessary for breeding. Ms. Newgard found no such wetland habitat on the property that would lead her to believe that such species existed on the property.

The Board's environmental consultants, Dr. Sharon Ann Wander, Ph.D. and Wade Wander, N.Sc., analyzed the applicant's environmental assessment. Mr. and Dr. Wander did take issue with some of her

observations. They indicated that there were actual sightings of the worm-eating warbler and the Jefferson salamanders on the property. Mr. Wander also expressed a concern that while the Jefferson salamander does breed in vernal ponds, it spends the rest of the time in forested areas. Therefore, he stated that it is possible if the forest were to be destroyed, the habitat for the Jefferson salamander would be lost. Mr. Wander did agree, however, that there are currently no state or federal regulations offering enhanced protection for these salamanders.

Mr. and Dr. Wander also expressed concerns that although there may have been no barred owl or red-shouldered hawks sighted on the property, these species have very large home ranges that could include the property. Again, however, Mr. and Dr. Wander agreed that there was presently no regulations governing these species or offering enhanced protection for them. They also offered concerns about the federally endangered Indiana bat. Although not present on the property, their potential home range could include this property. Ms. Newgard indicated, however, that even if this bat were present on the property, the applicant may have to tailor its clearing activities so as to not interfere with this species' breeding. Ultimately, Mr. and Dr. Wander offered certain recommendations, but admitted that the applicant's proposal violated no state or federal law regarding the protection of threatened or endangered species.

After Seasons concluded its presentation, the matter was opened to the public. The Lake Rogerene Civic Association appeared by and through its attorney, Joel Murphy, Esq. The Association first presented testimony from Gary Anderson, P.E. from John Desch Associates, Inc. Mr. Anderson has experience in performing traffic studies in New Jersey.

Mr. Anderson indicated that his company performed a site inspection to observe traffic and roadway conditions. He also analyzed the reports prepared by Mr. Keller and Mr. Fears. Mr. Anderson concluded that Orben Drive is not sufficiently wide enough to manage the additional traffic safely. He stated that according to RSIS, the minimum width of the road should be 20 feet. He added that the minimum width should be 28 feet to accommodate the parking that is allowed along one side of the road.

Mr. Anderson also analyzed the accident history for Orben Drive and Elizabeth Way. He discovered that there was only one (1) accident which related directly to the substandard width of the roadway. He attributed the

low number of accidents to the fact that residents on Orben Drive are aware of the narrowness of the roadway and drive accordingly. He raised doubts about whether future residents moving into Seasons' project would be as careful thereby resulting in more accidents.

As a result of his analysis, Mr. Anderson believed that the project should not be built with access to Orben Drive unless appropriate measures were taken to improve and widen the roadway.

The Lake Rogerene Civic Association also presented testimony from Kevin O'Brien, a resident living in Lake Rogerene. Mr. O'Brien testified that he possesses an engineering degree, but was not qualified as an expert in civil engineering nor did he testify as an expert in such matters. Mr. O'Brien essentially offered a lay opinion regarding the feasibility of extending Valley Road to provide an alternative access to the property. However, he personally did not prepare any such plan and instead recommended that the Borough perform its own independent analysis.

In response to his testimony, Valerie Hrabal, P.E. of Clough, Harbour Associates, the Board's engineering consultant, stated that this issue had been examined and it was her opinion that it was not practical to extend this roadway given the steep slopes, the extensive cutting, stripping, clearing, and blasting that would be required.

The Lake Rogerene Civic Association also presented testimony from its president, Paula Danchuk. Ms. Danchuk testified that there were problems along Orben Drive, particularly when people park along the road.

After the Lake Rogerene Civic Association concluded its presentation, other interested parties appeared to offer comments and/or objections to Seasons' proposal. These comments focused upon environmental issues, landscaping and buffering, traffic, water quality, access, and traffic.

WHEREAS, the Board, during the hearing process, also received documentary evidence that were marked as the following Exhibits:

A-1 Shadow Woods subdivision plan of Block 1, Lot 42
 prepared by Omland Engineering.

- A-2 Consent Order regarding settlement agreement in the Valley Road Development v. Borough of Mount Arlington, et al, matter.
- A-3 Written proposals made by Atkins Development Corp. to the Seasons Glen Condominium Association regarding access through the Seasons Glen development.
- A-4 Opinion letter by Benjamin Lambert, Esq. regarding Seasons Glen's authority to enter into an access agreement without the consent from homeowners.
- A-5 Letter from Arnold Calabrese, Esq. on behalf of Seasons Glen rejecting the request by Atkins Development to gain access to its property from Seasons Glen.
- A-6. Letter from Dan Horgan, Esq. to Seasons Glen regarding access.
- A-7 Contours and aerial photo color rendering the property.
- A-8 Aerial photo of Block 61, Lot 42.
- A-9 Aerial photo entitled "Shadow Woods Overall Area."
- A-10 Aerial photo entitled "Shadow Woods Project Area."
- A-11 Letter dated July 22, 2005, from Eric Keller to Amy Fenwick Frank of the Department of Community Affairs regarding the road classification for Orben Drive.
- A-12 Letter dated July 25, 2005, from the Department of Community Affairs responding to Mr. Keller's July 22, 2005 letter.
- E-1 E-mail from Larry Torick of the New Jersey Department of Environmental Protection to Jacklyn Enfield.

WHEREAS, the Board also reviewed and considered reports from its own consultants; and

WHEREAS, the Board, in reviewing the testimony and documentary evidence submitted, made the following findings of fact and conclusions of law:

- 1. The Board finds that the applicant's, Season Associates, L.L.C., application for preliminary and final major site plan and preliminary major subdivision approval to construct sixty (60) townhomes on Lot 42.03 in Block 61 and create ten (10) building lots for the construction of single-family homes on Lots 1 and 3 in Block 72; Lot 1 in Block 82; and Lots 9, 12 and 15 in Block 83 comply with the Borough's land development ordinances, the New Jersey Municipal Land Use Law, and the Borough's Master Plan. The Board finds that the Pio Costa Property is located in the Borough's Zone RA-40 zoning district. Specifically, the Board find that ten (10) proposed lots satisfy the Borough's land development ordinances with respect to minimum lot area; minimum lot width; minimum front yard; minimum side yard; minimum total side of two side yards; minimum rear yard; maximum impervious lot coverage; maximum building height and minimum number of parking spaces. The Board finds that the ten (10) proposed single-family lots require no variance relief.**
- 2. Similarly, the Board finds that the townhouse development proposal for the VRD Property complies with the Borough's PUD zoning requirements. Specifically, the application satisfies the requirements for tract size; minimum exposures per unit; minimum number of parking spaces; minimum number of guest parking spaces; parking space size; minimum tract setback; maximum building height; maximum units per building; distance between buildings; and open space. The Board does note that the application does not comply with the distance required between the townhome units and the adjacent single-family residential zone. Specifically, 75 feet is required and not less than 20 feet is proposed. However, the Board believes that this**

waiver request is reasonable and no detriment will befall the adjacent residential homeowners, given the buffer area to be established by the applicant.

3. The Board finds that the application satisfactorily addresses all applicable standards relating to streets, traffic and parking, including RSIS. After hearing all testimony, the Board is satisfied that the applicant made a good faith effort to secure access through the Seasons Glen project and that an extension of Valley Road would not be practical from an engineering standpoint. The Board agrees with its traffic consultant's opinion that Orben Drive has adequate capacity to handle the additional traffic that is anticipated to result from the proposed project. The Board also finds that the roadway network proposed within the applicant's project is satisfactory. The Board also agrees that the applicant has provided adequate on-site parking.
4. The applicant is granted a de minimus exception from the sight triangle requirements at the stub street locations.
5. The applicant is granted a de minimus exception from the RSIS standards requiring sidewalks on both sides of the streets proposed for the proposed development. The Board agrees that the applicant shall only be obligated to install sidewalks on one side of the street as depicted upon the approved plans.
6. The Board agrees with the applicant's request for an agreement to exceed RSIS with respect to common parking spaces. The Board does not object to the applicant constructing 36 common parking spaces, whereas only 30 are required under RSIS. The Board agrees with the applicant's request for an agreement to exceed the number of fire hydrants required by RSIS. Four (4) hydrants are required and the applicant proposes eight (8) hydrants. The Board also agrees with the applicant's request for an agreement to exceed the right-

of-way width for the access boulevard. RSIS requires 50 feet and the applicant proposes 66 feet.

7. The applicant is granted a waiver to permit the wooded buffer between the townhouse development project and the single-family zone line to be not less than 20 feet.
8. The Board finds that the applicant's proposal adequately safeguards the Borough's water supply, as does its proposal for on-site septic systems for the ten (10) single-family homes. Further, the Board believes that the applicant's storm water management plan is consistent with the expectations of the New Jersey Department of Environmental Protection with respect to storm water management. The Board agrees that the amount of storm water runoff will be reduced after construction is completed on the property and that the proposed design should enhance water quality.
9. The Board finds that the development proposal will not be negatively impacted as a result of limestone or mines. The Board also finds that during construction, the applicant should attempt to achieve a balanced site, that is, that all soil disturbed will be able to be used elsewhere on the site.
10. The Board finds that the applicant's proposal will not threaten historical resources or threatened and endangered species. The application will also protect wetland areas on the property.

NOW, THEREFORE, BE IT RESOLVED that the Borough of Mount Arlington Land Use Board does hereby approve the preliminary and final major site plan and preliminary major subdivision application filed by Seasons Associates, L.L.C. to construct sixty (60) townhomes on Lot 42.03 in Block 61 and ten (10) individual building lots for the construction of single-family homes on Lots 1 and 3 in Block 72; Lot 1 in Block 82; and Lots 9, 12 and 15 in Block 83 as set forth on the Tax Map for the Borough of Mount Arlington as more particularly described in the preliminary major subdivision plans and preliminary and final site plans prepared by Omland

Engineering Associates, Inc. dated February 22, 2005 and revised through November 17, 2005, subject to the following terms and conditions:

1. The applicant shall prepare easements to be reviewed by the Board's attorney in favor of the Borough to restrict any further improvement in the areas delineated on the plans as being conservation easements. The applicant shall deed to the Borough as open space proposed lot 3 in Block 72.01 and proposed Lot 9 in Block 83.
2. The applicant is granted a deminimus exception from RSIS standards regulating sidewalks on both sides of the street. The RSIS requires sidewalks on both sides of the street for this project, but the applicant proposed a sidewalk only on one side. The Board grants this exception.
3. The applicant is granted deminimus exceptions from the RSIS sight triangle requirements for the three short stub street locations in the proposed multi-family access courts. The deminimus exceptions from the sight triangle requirements are at the intersections of Roads A and E; Roads E and F; and Roads D and F.
4. The Board consents to the applicant's request for an "agreement-to-exceed" with respect to the width of the entrance road. The RSIS requires that the entrance road from Orben Drive be no greater than 50 feet in width. The applicant proposes that the width be 66 feet. The Board takes no exception to this request.
5. The Board consents to the applicant's request for an "agreement-to-exceed" with respect to the number of fire hydrants in the proposed development. The RSIS requires that only four (4) hydrants be installed. The applicant proposes to install eight (8). The Board takes no exception to this request.
6. The Board consents to the applicant's request for an "agreement-to-exceed" with respect to the number of guest parking spaces in the development. The RSIS requires that only thirty (30) parking spaces be installed. The applicant

proposes to install thirty-six (36). The Board takes no exception to this request.

7. The applicant shall transmit a copy of this Resolution to the New Jersey Department of Community Affairs to satisfy the approved de minimus exceptions and agreements to exceed. A copy of this transmittal letter shall be forwarded to the Board,
8. The applicant shall revise its plans to reduce the cartway for each lane of the main boulevard into the project from Orben Drive from 18 feet to 12 feet.
9. The applicant shall relocate the cartway of Maple Path to eliminate an encroachment onto proposed Lot 1 or provide an easement as set forth in the November 30, 2005 technical report prepared by Clough, Harbour and Associates at Section III, A, 3.
10. The applicant shall construct a dry water main in Road A between Elizabeth Way and Orben Drive to allow for a future interconnection as permitted by the New Jersey Department of Environmental Protection.
11. The applicant shall provide a note to the plans indicating that all utilities shall be placed underground and the owner of all BPU-regulated public utilities will determine the final location of such facilities within the proposed rights-of-way.
12. The applicant shall confirm that the water purveyor, United Water, has physical and legal capacity and franchise areas to handle the additional flows proposed from the project. Additionally, the applicant shall provide documentation of compliance with all requirements of N.J.A.C. 5:21-5.3(1)(3) to maintain twenty (20) psi at street levels under all flow conditions prior to the issuance of any Certificate of Occupancy.
13. The applicant shall re-examine the sanitary sewer alignment at the intersection of proposed Roads A and D and secure the

consent of Clough, Harbour and Associates with respect to same.

14. The applicant shall provide written confirmation that the Valley Road treatment plant/pump station has physical and legal capacity to accept the additional flows to be generated from this project.
15. The applicant shall provide a copy of a "will serve" letter from the utility authority and approval of the treatment works permit prior to the issuance of a building permit.
16. The applicant shall provide a bedding detail on the plans in connection with the revisions needed to its storm water management plan.
17. The applicant shall be required to return to the Board if substantive changes to its storm water management plan are required by other outside agencies exercising jurisdiction over the application.
18. The applicant's monitoring maintenance plan for detention basins and other storm water management facilities shall be revised in accordance with technical comment III D, 14 as set forth in the November 30, 2005 report from Clough, Harbour and Associates, Inc.
19. The applicant shall submit to the Board any substantive revisions to the proposed scour holes that may be required following a review by the Morris County Soil Conservation District.
20. During the clearing and construction phase, the applicant shall attempt to maintain a balanced site to ensure that there is no excess material removed or brought in to the property.
21. The applicant shall comply with all recommendations for retaining walls as set forth by Clough, Harbour and Associates in its November 30, 2005 report at Section III L.

22. Prior to the issuance of building permits, the applicant shall provide written proof of approvals granted by the Mount Arlington Board of Health; the Morris County Planning Board; the Morris County Soil Conservation District; the New Jersey Department of Environmental Protection, water main extension/allocation permit and treatment works approval; the New Jersey Department of Environmental Protection Wastewater Management Plan, Service Area Amendment, if necessary; and the Borough of Mount Arlington franchise area amendments for sewer/water.
23. The applicant shall prepare easements to the satisfaction of the Board's engineer and attorneys with respect to lot grading across Lot 42.01 in Block 61, storm easements across Dawes Way, Road A and Elizabeth Way; an access easement for proposed Lots 1.01 and 1.02 in Block 82, drainage easements across proposed Lots 1.01 and 1.02 in Block 72; sanitary sewer easement for Lot 23.07 in Block 61; and water main easements. Prior to the issuance of building permits, the applicant shall provide easements for all public and private utilities and right-to-enter by the Borough of Mount Arlington for emergency access.
24. Prior to the issuance of building permits, the applicant shall enter into a Developer's Agreement with the Borough of Mount Arlington. The Developer's Agreement shall, among other things, address the ownership and maintenance of the stormwater management facilities.
25. Prior to the issuance of a building permit, the applicant shall present a copy of a Letter of Interpretation from the New Jersey Department of Environmental Protection for the Pio Costa Property.
26. Prior the issuance of a building permit, the applicant shall participate in a preconstruction meeting with Borough officials. The purpose of the preconstruction meeting shall be to address issues regarding use of existing roadways, including Orben Drive and Elizabeth Way; hours of construction; erosion control; possible blasting and any other matters Borough

officials believe germane to the construction and development of the property.

27. The applicant shall establish a homeowners' association in accordance with the laws of the State of New Jersey. All homeowners' association documents shall be submitted for review and approval by the Borough's attorney. The homeowners association documents shall address, among other things, access and use of the roads in the planned unit development by owners of the two (2) single-family lots to be known and designated as Lots 1.01 and 1.02 in Block 72.
28. The applicant shall be bound to comply with all outstanding recommendations as set forth in the report of Clough, Harbour and Associates dated November 30, 2005, as well as any further recommendations that may be made by Clough, Harbour and Associates subsequent to its review of the revised plans.
29. The applicant shall be bound to comply with representations made before by the Board by the applicant and the applicant's professionals and witnesses at the public hearings and the same are incorporated herein and are representations upon which this Board has relied in granting the approvals set forth herein and shall be enforceable as if those representations were made conditions of this approval.
30. To the extent applicable, the applicant shall seek and obtain all necessary and required permits from such state, federal, county and local entities that shall have jurisdiction over this application.
31. All fees required by the ordinances of the Borough of Mount Arlington shall be paid in connection with this application, including reimbursement for construction and inspection costs.
32. The applicant shall submit proof that all real estate taxes and assessments due on this property have been paid in full prior to the issuance of a building permit and a Certificate of Occupancy for any lot.

33. The applicant shall further comply with and adhere to any and all rules, regulations and ordinances of the Borough of Mount Arlington applicable to this development application.
34. The secretary for the Borough of Mount Arlington Land Use Board shall file a copy of this Resolution with all municipal governmental bodies as shall be necessary and appropriate.

**BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD**

Carolyn Rinaldi
Carolyn Rinaldi, Secretary

By: Robert van den Hende 02/08/06
Robert van den Hende,
Acting Chairperson

DATED: February 8th, 2006

THE VOTE: Approved

IN FAVOR: Salati, Hughes, van den Hende, Sndler, Duscill, Ondish
OPPOSED: Ø
ABSTENTIONS: Ø

CLERK'S CERTIFICATION

I, Carolyn Rinaldi, Secretary of the Land Use Board of the Borough of Mount Arlington, County of Morris, State of New Jersey, do hereby certify the foregoing as a true and exact copy of the Resolution adopted at a meeting of the Land Use Board of the Borough of Mount Arlington held on February 8, 2006;

Carolyn Rinaldi
Carolyn Rinaldi, Board Secretary

Exhibit B

Prepared by:

Nancy C. Gage, Esq.

DEVELOPER'S AGREEMENT

THIS AGREEMENT is made on March 13, 2007, by and between THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a municipal corporation of the State of New Jersey, having an address at 419 Howard Boulevard, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Borough,") and VALLEY ROAD DEVELOPMENT, L.L.C., a limited liability company of the State of New Jersey with administrative offices c/o William Myrtle, 400 Valley Road, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Developer.")

WITNESSETH:

WHEREAS, the Developer heretofore received from the Mount Arlington Land Use Board (hereinafter referred to as the "Land Use Board") preliminary and final major subdivision approval to subdivide an approximately 70 acre parcel of land property formerly identified as Block 61, Lot 42.01 into three individual lots. The three created lots were re-designated as Block 61, Lots 42.01, 42.02 and 42.03; and

WHEREAS, the Developer also received preliminary and final site plan approval to construct two commercial office buildings and associated improvements (hereinafter referred to as the "Project"), to be built on Lots 42.01 and 42.02 in Block 61 respectively (hereinafter referred to as the "Development Property"). The Development Property is known as 500 and 600 Valley Road,

Mt. Arlington, New Jersey; and

WHEREAS, among other things, the site plan approvals for the Project permitted the Developer to construct a road off of existing Valley Road through adjoining properties which are identified as Block 61, Lots 23.05 and 23.07, to provide access to the Project. This road, which shall be privately owned and maintained by the Developer, shall be considered an extension of Valley Road, and for the purposes of this Developer's Agreement, shall be referred to as the "Valley Road Extension."

WHEREAS, the specific terms and conditions of the aforementioned preliminary and final subdivision and site plan approvals are reflected in the Resolution of Approval approved by the Board on August 13, 2003, and memorialized by the Land Use Board on September 10, 2003 (hereinafter referred to as the "Resolution"). A copy of the Resolution is annexed hereto as Exhibit

A.

WHEREAS, the Developer perfected its subdivision approvals with the appropriate land development agencies, including the Land Use Board, the Mt. Arlington Board of Health, the Borough Engineer, and the Morris County Planning Board. The final plat creating the three lot subdivision was recorded with the Morris County Register's Office in 2006; and

WHEREAS, the approvals of the Board were conditioned upon, among other things, the Developer entering into a Developer's Agreement with the Borough; and

WHEREAS, it is understood and agreed that the primary purpose for entering into this Agreement at this time is to allow certain limited site work to proceed with respect to the implementation of the Project; and

WHEREAS, it is further understood and agreed that future amendments to this Agreement

will be necessary and required before actual construction of the Project may commence, except as otherwise provided herein; and

WHEREAS, the Developer and the Borough desire to enter into this Developer's Agreement (hereinafter referred to as the "Agreement") in order to satisfy the terms and conditions of Developer's Land Use Board approvals.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties hereto, for themselves, their successors and assigns, hereby agree to the following:

I. AGREEMENTS RELATING TO INSTALLATION OF GENRAL SITE IMPROVEMENTS

1. The Developer shall construct, at its own cost and expense, in a good, workmanlike and substantial manner, and in accordance with all present State and local laws, ordinances and regulations of the Borough, all proposed improvements described in the approved plans, and agrees to comply with all terms and conditions of the preliminary and final major site plan approval and preliminary and final major subdivision approval, as set forth in the Land Use Board's Resolution which is incorporated herein by reference.

2. All work shall be done in accordance with the applicable ordinances, rules, and regulations of the Borough. The Borough Engineer shall inspect and approve the work as installed in accordance with the approved plans and requirements of the Borough's ordinances and codes, and all other requirements of governmental bodies with jurisdiction over any aspect of the development or the improvements or facilities thereof, including all applicable regulations, statutes and requirements of the State of New Jersey, and all conditions of the Land Use Board approvals. Developer agrees

that, should it fail to comply with such ordinances, regulations, or statutes, and fail to cure such noncompliance within a reasonable time after written notice and demand, the Borough may have the right to suspend all building permits until it shall comply.

3. No construction shall be undertaken until all inspection fees, review fees, escrow deposits or other sums due on account of services provided by the Borough or its professionals in connection with the subject project have been paid, subject to the requirements of *N.J.S.A. 40:55D-53.h*.

4. Developer and Borough acknowledge that the Project covered by this Agreement is situated in the Borough of Mt. Arlington, County of Morris, State of New Jersey, and is more particularly depicted on preliminary and final site plans prepared by Thor Engineers, title 500 and 600 Valley Road, dated September 19, 2001, revised through July of 2005. All roads and other improvements within Development Property are to be privately owned and maintained at the sole cost and expense of Developer and its successors and assigns (provided that nothing herein shall constitute a waiver of any right to Municipal services that may be conferred by law upon Developer or its successors or assigns).

5. In regard to any curb cuts, driveway openings, or utility connections required within municipal streets, Developer shall obtain all necessary street opening permits from the Borough and shall provide bonds or other performance guarantees in accordance with Borough ordinances. In regard to any curb cuts, driveway openings, or utility connections required within any County road, Developer shall obtain all necessary road opening permits from the County of Morris, and shall provide bonds or other performance guarantees in accordance with County requirements.

6. Prior to the start of construction, Developer shall post with the Borough a surety

bond, letter of credit or other form of security acceptable to the Borough (in an amount that is reasonably estimated by the Borough) (the "Public Improvement Security") as a performance guarantee for the cost of the public improvements to be placed upon the Development Property in accordance with an cost estimate to be prepared and submitted by the Developer's engineer and approved by the Borough Engineer in the future. The Public Improvement Security will be returned to Developer upon completion of the Public Improvements.

7. It is understood and agreed that an Amended Developer's Agreement will have to be agreed upon and executed by and between the Borough and the Developer before the start of construction, except as otherwise provided in Articles II and III of this Agreement. The Amended Developer's Agreement shall include, among other things, the cost estimate for the Public Improvement Security, and shall address any other construction-related issues, items, and agreements not otherwise covered by the terms of the Agreement.

II. AGREEMENT RELATED TO THE IMMEDIATE CONSTRUCTION OF THE VALLEY ROAD EXTENSION.

1. It is agreed by and between the parties that it is in the best interest of both the Borough and the Developer that the Developer be permitted to immediately proceed with the implementation and construction of the Valley Road Extension across existing Lots 23.05 and 23.07 in Block 61, to provide access to Lots 42.01 and 42.02 in Block 61. Among other things, the implementation and construction of the Valley Road Extension will allow better access to the Borough's existing sewerage treatment plant located adjacent to the Project property, which provides an overall benefit to the Borough, and will benefit the implementation of the Project as a whole.

2. Notwithstanding anything contained in this Agreement to the contrary, the Developer

shall be entitled to immediately commence the construction of the Valley Road Extension, subject only to satisfaction of the terms and conditions of this Article II.

3. The Developer shall construct, at its own cost and expense, and in a good, workmanlike and substantial manner, and in accordance with all present State and local laws, ordinances and regulations of the Borough, all proposed improvements described in the approved plans for the Valley Road Extension, prepared by Thor Engineers, dated September 19, 2001, revised through November 9, 2006.

4. All work with respect to the implementation and construction of the Valley Road Extension shall be done in accordance with the applicable ordinances, rules, and regulations of the Borough. The Borough Engineer shall inspect and approve the work as installed in accordance with the approved plans and requirements of the Borough's ordinances and codes, and all other requirements of governmental bodies with jurisdiction over any aspect of the development or the improvements or facilities thereof, including all applicable regulations, statutes and requirements of the State of New Jersey, and all conditions of the Land Use Board approvals. Developer agrees that, should it fail to comply with such ordinances, regulations, or statutes, and fail to cure such noncompliance within a reasonable time after written notice and demand, the Borough may have the right to suspend all building permits until it shall comply.

5. No construction in this regard shall be undertaken until all inspection fees, review fees, escrow deposits or other sums due on account of services provided by the Borough or its professionals in connection with the Project, if any, have been paid subject to the requirements of N.J.S.A. 40:55D-53.h.

6. The Developer and Borough acknowledge that the Valley Road Extension will be

privately owned and maintained at the sole cost and expense of Developer and its successors and assigns (provided that nothing herein shall constitute a waiver of any right to Municipal services that may be conferred by law upon Developer or its successors or assigns).

7. Prior to the start of construction of the Valley Road Extension, Developer shall post with the Borough a surety bond, irrevocable letter of credit or other performance guaranty or security acceptable to the Borough (the "Valley Road Extension Improvement Security") in an amount equal to the cost estimate annexed hereto as Exhibit B. The Valley Road Extension Improvement Security shall guarantee all workmanship, materials and the installation of the requisite improvements. The Valley Road Extension Improvement Security will be returned and released to the Developer upon the completion of the Valley Road Extension to the satisfaction of the Borough and the Borough Engineer. The reduction and/or release of the Valley Road Extension Improvement Security shall be in accordance with this Agreement and the procedures established by the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-53.

III. AGREEMENTS RELATED TO LIMITED TREE REMOVAL AND CLEARING

1. It is further agreed by and between the Borough and the Developer that it is in the best interest of the parties and the Project in general that the Developer be entitled to immediately undertake certain limited tree clearing and removal on the Development Property to prepare the area for the future installation of detention basins and other applicable utilities. The preparation of the detention basin areas intended to serve the Project is particularly important for stormwater management purposes.

2. Notwithstanding anything contained in this Agreement to the contrary, the Developer

shall be entitled to immediately undertake limited tree clearing in accordance with the tree removal plan annexed hereto as Exhibit C, subject only to satisfaction of the terms and conditions of this Article III of the Agreement.

3. Prior to the commencement of any tree removal and clearing as contemplated by this Article III, the Developer shall post with the Borough a restoration bond or other form of security acceptable to the Borough (the "Tree Removal Restoration Security") in an amount equal to the cost estimate annexed hereto as Exhibit D as a performance guarantee for the cost of restoration of the portions of the Development Property that will be cleared in accordance this Article III of this Agreement, in the event that the Developer does not proceed with the construction of the Project. The Tree Removal Restoration Security will be returned to Developer upon completion of the Public Improvements as contemplated herein.

IV. GENERAL REQUIREMENTS.

1. It is agreed that all site work shall be substantially completed within twenty-four (24) months from the date of the posting of the Public Improvement Security in accordance with Article I, Section 6 of this Agreement, unless said time is extended by the Borough, which extension shall not be unreasonably withheld.

2. This agreement shall run with the land, as shall also the covenants herein contained, and shall be to the benefit of the Borough and its successors and assigns, and shall be recorded in the office of the Morris County Clerk. Developer may assign this Agreement to a legal entity organized under the laws of the State of New Jersey.

3. In the event of a default by the Developer hereunder, the Borough shall have the right to withhold all permits and approvals for Developer's Project, and the right to all other remedies

provided to it herein or by law. Such remedies as the Borough may have hereunder are cumulative, and may be exercised by the Borough jointly or in the alternative. A "default", "breach" or "violation" of this agreement, as used herein, shall be deemed to occur if the Developer, (a) after receipt of all necessary federal, state, county and municipal government approvals delays the completion of the work hereunder beyond the time limits set forth in paragraph 1 of this Article IV, (b) fails to diligently pursue and continue construction of the project improvements, and fails to cure such deficiency within 30 days after notice, (c) materially departs from the requirements of the various plans, specifications, rules, regulations, statutes, and/or ordinances herein and referred to without the consent of the Borough, and fails to cure such deviation within 30 days after notice, or (d) files a petition for bankruptcy relief, or seeks the appointment of a receiver for its property.

4. Prior to proceeding with any construction, Developer shall apply for and obtain construction permits as required by the Borough's site plan ordinances, and shall receive authorization to proceed with construction from the Borough Engineer.

5. The Developer hereby agrees to procure, at its expense, the necessary permits and furnish any bond required for the opening of any state, municipal or county roads.

6. The Developer's application, all maps on file, construction plans, detail maps and state laws, present municipal ordinances, Land Use Board rules, regulations and official acts with respect to this site and all the terms and conditions of approval are incorporated herein by reference as if set forth at length herein.

7. If the Borough determines that there is a continuing violation of present state law, municipal ordinances, Land Use Board rules, regulations and requirements, and/or the terms and provisions of this Agreement, it may issue a cease and desist order. Thereafter the Developer

acknowledges irreparable harm and injury to the Borough for the purpose of an application by the Borough to the courts for a restraint hereunder. If in the Developers' opinion it has not violated state laws, present municipal ordinances, Land Use Board rules, regulations and requirements and/or the terms and conditions of this Agreement, nothing herein shall be construed as the Developer's consent to cease and desist from its work without a court order.

8. In consideration of the execution of the Agreement, the Borough agrees that the Developer shall be entitled to building permits for the structures shown on the approved site plans on proper application to the Building Inspector, provided, however, that no Certificate of Occupancy shall be issued for any building until all improvements needed to safely occupy that building, in the judgment of the Borough Engineer, have been installed and approved by the Borough Engineer. Installation of all other improvements intended to serve any building for which a certificate of occupancy has been, or is about to be, issued shall be secured by a performance guarantee acceptable to the Borough Engineer, and such items shall be completed within such reasonable time as shall be fixed by the Borough Engineer.

9. Irrespective of the covenants and agreements contained in Paragraphs 1 through 3 above, the Developer acknowledges that plans, specifications and drawings approved by the Land Use Board subsequent to the execution of this Agreement shall be made a part of this Agreement and the Developer further agrees to be bound by those plans, specifications and drawings, and they shall also be covered by any surety or performance provided by the Developer.

10. Developer agrees that this Agreement shall be binding on it and its successors and assigns, notwithstanding that Developer may sell, transfer, encumber or otherwise dispose of the premises.

11. Developer agrees to indemnify and hold harmless the Borough from any and all claims arising from the installation of improvements required by this agreement, unless due to the negligence or other wrongdoing of the Borough, its agents, servants, or independent contractors. Developer shall submit a certificate of insurance evidencing public liability insurance of not less than \$1,000,000.00 for bodily injury to one person and \$300,000.00 for property damage, and excess umbrella coverage of at least \$2,000,000.00. The certificate shall further show the Borough as an additional insured in regard to occurrences arising out of Developer's installation of improvements pursuant to this Agreement.

12. If a municipal endorsement is required in connection with developer's application to other governmental agencies for necessary approvals for the project, the Borough agrees, in consideration for the mutual promises and agreements herein, to promptly execute such endorsements provided that the application for which endorsement is sought is in conformance with all applicable legal requirements.

13. If during the course of construction and installation of improvements revisions to the plans are necessary on account of unforeseen conditions, the Borough Engineer shall have authority to approve all necessary revisions as "field changes" provided that such changes do not create any need for variances or design waivers, or create any adverse impact upon any adjoining property or municipal facility. Such changes shall not be deemed to constitute a substantial amendment of Developer's approved site plan; and shall not require Developer to seek amended preliminary or final site plan approval. Such changes, if any, shall be confined to the premises owned by the Developer.

14. All cash deposits in excess of \$5,000.00 shall be maintained in an interest bearing account in accordance with N.J.S.A. 40:55D-53.1.

15. Prior to commencement of any tree removal and clearing as contemplated by Article II of this Agreement, Developer shall grant to the Borough such easement(s) for municipal utilities as are necessary to extend municipal utility lines from the Valley Road cul-de-sac to connect either to Borough owned property or to a Borough right-of-way, and which shall be approved by the Borough Attorney as to form and the Borough Engineer as to the description.

16. During construction of the project, the Developer shall provide temporary potable water service to any resident of the Borough whose water supply is disrupted as a result of the construction of the project. This temporary service shall be made functional during the winter months by whatever means are deemed necessary by the Borough Engineer.

17. A cut and fill plan together with associated soil movement details and information will be provided by the Developer to the Borough prior to any construction activities. No construction shall commence until such information has been provided and approved by the Borough Engineer. Such information shall be provided for each phase of the project prior to the construction of each phase.

18. The stormwater facilities shall be owned and maintained by the Developer.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this instrument to be executed by their respective corporate officers and their proper corporate seals to be hereunto affixed the day and year first above written.

ATTEST:


Linda DeSantis, Borough Clerk

BOROUGH OF MOUNT ARLINGTON

By:


Arthur R. Ondish, Mayor

WITNESS:

VALLEY ROAD DEVELOPMENT, L.L.C

Mary Ann... ..

By: [Signature]

STATE OF NEW JERSEY)

SS:

COUNTY OF MORRIS)

I CERTIFY that on 3-15, 2007, LINDA DESANTIS personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the BOROUGH OF MOUNT ARLINGTON (the "Borough");
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Arthur R. Ondish, Mayor of the Borough;
- (c) this document was signed and delivered by the Borough as its voluntary act duly authorized by a proper resolution of the governing body;
- (d) this person knows the proper seal of the Borough which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

[Signature]

Signed and sworn to before
me on 15 March, 2007.

[Signature]

Notary Public of the State of New Jersey

JUDITH A. BAUER
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 12/15/2009

STATE OF NEW JERSEY)

COUNTY OF MORRIS)

I CERTIFY that on March 15, 2007, William M. Kelly personally came before me and this person acknowledged under oath, to my satisfaction, that he/she:

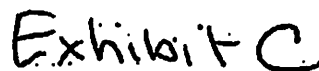
- (a) is named in and personally signed the attached document; and
- (b) signed, sealed and delivered this document as his or her act and deed as a Manager/Member of Valley Road Development, LLC, a limited liability company of the State of New Jersey.

William M. Kelly

Signed and sworn to before me
this 15 day of March, 2007

Mary Saunders
Notary Public of New Jersey

MARY SAUNDERS
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 9/22/2011



<u>ITEM No.</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT COST</u>	<u>ITEM TOTAL</u>	<u>SUB TOTALS</u>
1. EARTHWORK						
1.1	SITE CLEARING	ACRE	18.9	\$3,000.00	\$56,700.00	
						\$56,700.00
2. PAVEMENT						
2.1	2" THK. HMA SURFACE COURSE, 9.5M84	TON	1211	\$75.00	\$90,825.00	
2.2	4" THK. HMA BASE COURSE, 12.5M84	TON	2514	\$75.00	\$188,550.00	
2.3	6" THK. COMP. D.G.A. SUBBASE	TON	3538	\$25.00	\$88,450.00	
						\$367,825.00
3. STORM DRAINAGE						
3.1	16" HDPE	L.F.	3285	\$30.00	\$98,550.00	
3.2	18" HDPE	L.F.	608	\$45.00	\$27,270.00	
3.3	24" HDPE	L.F.	1848	\$60.00	\$110,760.00	
3.4	36" HDPE	L.F.	453	\$70.00	\$31,710.00	
3.5	12" RCP	L.F.	99	\$80.00	\$5,940.00	
3.6	16" RCP	L.F.	35	\$85.00	\$2,275.00	
3.7	TYPE "B" INLET	EACH	27	\$1,800.00	\$48,600.00	
3.8	TYPE "E" INLET	EACH	8	\$2,000.00	\$16,000.00	
3.9	CONCRETE FLARED END SECTION	EACH	4	\$1,800.00	\$7,200.00	
3.10	STORM MANHOLES	EACH	24	\$2,200.00	\$52,800.00	
3.11	OUTLET STRUCTURE	EACH	2	\$4,000.00	\$8,000.00	
3.12	HEADWALL	EACH	1	\$2,000.00	\$2,000.00	
3.13	SCOUR HOLE	EACH	2	\$500.00	\$1,000.00	
3.14	STORMCEPTOR	EACH	1	\$30,000.00	\$30,000.00	
3.15	RIP RAP APRON	EACH	2	\$2,000.00	\$4,000.00	
						\$412,105.00
4. SANITARY SEWER						
4.1	8" PVC GRAVITY MAIN	L.F.	1811	\$50.00	\$90,550.00	
4.2	SANITARY MANHOLES	EACH	19	\$2,500.00	\$47,500.00	
						\$90,550.00
5. POTABLE WATER MAIN						
5.1	8" DIP	L.F.	6000	\$75.00	\$450,000.00	
5.2	FIRE HYDRANT w/ VALVE ASSEMBLY	EACH	8	\$3,000.00	\$24,000.00	
						\$474,000.00
6. CONCRETE						
6.1	GRANITE BLOCK CURB	L.F.	7200	\$18.50	\$133,200.00	
6.2	4" THICK CONCRETE SIDEWALK	S.Y.	1848	\$40.00	\$85,800.00	
6.3	6" THICK CONCRETE DRIVEWAY APRON	S.Y.	228	\$80.00	\$13,660.00	
						\$212,560.00
7. LANDSCAPE AND LIGHTING						
7.1	POLE SINGLE MOUNTED LIGHT	EACH	22	\$2,800.00	\$61,600.00	
						\$61,600.00
8. MISCELLANEOUS						
8.1	SOIL EROSION/SEDIMENT CONTROL	L.S.	1	\$7,500.00	\$7,500.00	
8.2	STRIPING	L.S.	1	\$2,000.00	\$2,000.00	
						\$9,500.00
					TOTAL=	\$1,684,840.00

MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUHEAS-OR BOOK 23097 PG 1
RECORDED 03/21/2017 11:33:08
FILE NUMBER 2017016914
RCPT #: 12636991 RECD BY: TCole
RECORDING FEES \$8.00

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT CONSERVATION EASEMENT

This Permanent Conservation Easement (the "Easement") granted this 10th day of February 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor,

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion of Lot 1, Block 82.01 as shown on the tax map of the Borough of Mount Arlington, Morris County, New Jersey (the "Grantor Property"), commonly referred to as Maple Path;

WHEREAS, Grantor desires to grant to Grantee a Permanent Conservation Easement over a portion of Grantor Property within the easement limits described herein, the Easement Area (as hereinafter defined). The intent of the Conservation Easement is to preserve the area in its natural and existing state in perpetuity except as specifically noted herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. GRANT OF AND PURPOSE FOR THE EASEMENT. The Grantor grants and conveys to the Grantee and its successors and assigns a Permanent Conservation Easement as shown on the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1,

Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc. filed in the Morris County Clerk's office at Map Book 7, Page 50 containing residential, infrastructure and improvements from the public right-of-way over a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

2. **DESCRIPTION OF THE EASEMENT.** The Easement shall be located as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated November 30, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A" attached hereto and made a part hereof (the "Easement Area"); and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement hereupon the land described herein which is a portion of the land warranted to be owned by them.

3. **TERMS AND CONDITIONS.** Within the Conservation Easement Area, the following terms and conditions shall apply, it being the intention of the parties that the Conservation Easement Area shall be preserved in its natural and existing state in perpetuity except as specifically noted herein:

(A) Grantor may convey, mortgage, lease or otherwise transfer title or interest in the Grantor's Property subject to this Conservation Easement; provided, however, that the covenants and conditions herein remain superior to such conveyance, mortgage, lease, or transfer, it being the intention of the parties that this Conservation Easement and its terms and conditions shall become a part of the chain of title and shall run with the land in perpetuity.

(B) This Conservation Easement and all provisions herein are subordinate to the right of Grantor, expressly reserved, to (i) construct, maintain, and repair on and within the Conservation Easement Area those existing and/or future improvements depicted on the Plans, if any; and (ii) clear, grade, excavate and fill in order to construct such existing and/or future improvements within the Conservation Easement Area as specifically shown on the Plans, if any.

(C) This Conservation Easement and all provisions herein are further subordinate to the Grantor's right to construct, maintain and repair utility connections or drainage facilities on, over and under the Conservation Easement Area and to clear, grade, excavate, and fill as necessary to

construct and maintain such utility connections or drainage facilities as are shown on the Plans, if any.

(D) Grantor shall not change any features of the natural landscape or general topography of the Conservation Easement Area nor remove any trees, shrubs, or other vegetation except as necessary for the construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without providing the Grantee with written notice and obtaining the prior written approval of the Grantee; provided, however, that Grantor may, without such written approval, remove dead or diseased foliage and plantings that may reasonably be expected to threaten the surrounding foliage and/or any existing and/or future improvements as depicted on the Plans in accordance with any Borough Ordinances.

(E) Grantor shall not make any changes within the Conservation Easement Area that will affect existing drainage, flood control, erosion control or soil conservation, except as necessary to construct, maintain and repair the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without the prior written consent of the Grantee.

(F) No topsoil, sand, gravel, loam, rock, minerals or other materials shall be excavated within or removed from the Conservation Easement Area nor shall any fill be deposited, except as necessary for construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage herein permitted, unless the prior written consent of the Grantee is secured.

(G) Grantor shall not deposit, or allow to be deposited, any trash, waste or any other materials within the Conservation Easement Area and shall not use the Conservation Easement Area for the storage of materials whatsoever.

(H) No advertising signs or structures shall be located within the Conservation Easement Area.

(I) No buildings or other structures, other than the existing and/or future improvements shown on the referenced Plans and utilities or drainage facilities and structures necessary therefor herein permitted, shall be erected in the Conservation Easement Area unless application therefore, with plans and specifications have been filed with and approved by the Grantee and the Borough of Mt. Arlington.

(J) It is understood and agreed that this Conservation Easement confers upon the Grantee no rights of title or use of the Conservation Easement Area, and nothing herein shall be construed to permit public access to or use of that area nor require the Grantee to maintain such area. Nothing herein shall be construed to limit the Grantor's right of access to and use of that area except as herein provided.

(K) Grantee, its employees and agents, are permitted to enter the Conservation Easement Area for the purpose of ascertaining compliance with the terms of this Conservation Easement.

(L) No roadways or other rights of way or parking of motor vehicles or equipment shall be allowed within the Conservation Easement Area unless shown on the Plans.

(M) This Conservation Easement shall be subject to, and read in conjunction with any other easements depicted on the Plat and entered into by the parties hereto simultaneously or in connection herewith.

(N) It is the intention of the parties hereto that the Conservation Easement Area will remain undisturbed and forever wild except as specifically provided herein.

(O) Despite anything contained in the preceding paragraphs (A) through (N), Grantor (and all who succeed in title to Grantor) shall have the right (a) to conduct prudent forest management activities subject to the approval of the Grantee and (b) to otherwise use the Conservation Easement Area provided that such use is not materially detrimental to the preservation of the Conservation Easement Area or contrary to the terms and conditions of this Conservation Easement.

4. PRONOUNS. Wherever in this Conservation Easement any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators personal or legal representatives, successors and assigns" had been inserted after each and every such designation. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind, the respective parties hereto, and their heirs executors, administrators, personal or legal representatives, successors and assigns, respectively. In all references herein to any party, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within Conservation Easement may require.

5. OBLIGATIONS OF PARTIES. This Conservation Easement shall in all respects to be governed by and construed in accordance with the laws of the State of New Jersey. The terms

and conditions of this Conservation Easement are not intended in any way to diminish the obligations of the parties or their successors and assigns to comply with any Federal or State statute, rule or resolution (including, but not limited to, the freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1, and the rules and regulations promulgated thereunder which may control and regulate the use of the Conservation Easement Area or any portion of the Conservation Easement Area. In the event that such obligations are stricter than the terms and conditions of this Conservation Easement, then such obligation shall be fully met and satisfied.

6. RIGHTS. In the event of any violation of the covenants and conditions contained in this Conservation Easement, the Borough of Mt. Arlington or its designee shall be entitled to recover, in any action to enforce the terms hereof, , including any and all costs and reasonable attorney's fees. If the Grantee determines that the Grantor is in violation of the terms of this easement or that a violation is threatened, the Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days and receipt of the notice thereof from the Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, failure to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If the Grantee, in its sole discretion, determines the circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or

threatened violations of the terms of this Conservation Easement, and the Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. **ENFORCEMENT.** Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Conservation Easement or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy will be construed as a waiver.

8. **AMENDMENTS.** The provisions of this Agreement may not be amended, modified or terminated without the express written consent of the Borough of Mt. Arlington, and no such amendment, modification or termination shall be effective for any purpose unless set forth in writing and signed by the appropriate municipal officials.

9. **EASEMENT TO BE PERMANENT.** The terms, provisions and covenants contained in this Easement shall run in perpetuity.

10. **TERMINATION OF RIGHTS.** The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. **SIGNATURES.** The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:

TRAILWOOD WOODMONT JV, LLC


ATTORNEY AT LAW STATE OF NJ


BY: Eric Witmark

STATE OF NEW JERSEY)

) ss:

COUNTY OF MORRIS)

I CERTIFY that on February 10, 2017, Eric Witmundt, personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is the Manager of Trailwood Woodmont JV, LLC, the limited liability corporation named in this document, the Grantor named in this easement; and
(b) this easement was signed on behalf of Trailwood Woodmont JV, LLC as the Manager of the limited liability corporation named in this document, the Grantor named in this easement as this person's/its voluntary act, and was duly authorized to do so; and
(c) that this person's signature is proof to attest to the truth of these facts.

WITNESS:

Linda DeSantis, Borough Clerk

ATTORNEY AT LAW STATE OF NJ

STEPHEN A. SANTORA

BOROUGH OF MOUNT ARLINGTON

Michael Stanzilis, Mayor

STATE OF NEW JERSEY)

) ss:

COUNTY OF MORRIS)

I CERTIFY that on 2/10, 2017, Michael Stanzilis, Mayor personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement; and
(b) this easement was signed by him as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement as his/its voluntary act, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
(c) that he signed this proof to attest to the truth of these facts.

Linda DeSantis, Borough Clerk

SCHEDULE A



54 Horsehill Road
Cedar Knolls, New Jersey 07927
Phone: 973-359-8400
Fax: 973-359-8455

November 30, 2016
OEA Proj. 030502

DESCRIPTION OF A CONSERVATION EASEMENT SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

Being a portion of Lot 1, Block 82.01 as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, filed in the Morris County Clerk's Office April 2, 2008 in Book 7, Page 50, more particularly described as follows:

BEGINNING at a point in the proposed southeasterly sideline of Elizabeth Way, 50 feet wide, where the same is intersected by a curve leading into the proposed southwesterly sideline of Maple Path, 16 feet wide, all as shown on said map, and running; Thence

- 1) Along said curve, along a curve to the right having a radius of 25.00 feet, an arc length of 9.19 feet, the chord of which bears North 36° 43' 46" East, 9.14 feet to a point in same; Thence
- 2) By a new line through said Lot 1, South 66° 19' 20" East, 276.05 feet to a point in the proposed northwesterly sideline of Dawes Way, 50 feet wide; Thence
- 3) Along said sideline, along a curve to the right having a radius of 25.00 feet, an arc length of 11.39 feet, the chord of which bears South 43° 09' 05" West, 11.29 feet to a point of tangency in the said northwesterly sideline of Dawes Way; Thence
- 4) Along said sideline, South 26° 12' 31" West, 90.49 feet to a point in same; Thence
- 5) By a new line through said Lot 1, Block 82.01, North 66° 18' 59" West, 50.05 feet to an angle point in same; Thence
- 6) Still by a new line, North 26° 12' 31" East, 91.59 feet to an angle point in same; Thence
- 7) Still by a new line, North 66° 18' 59" West, 230.22 feet to a point in the aforesaid southeasterly sideline of Elizabeth Way; Thence
- 8) Along said sideline, North 26° 12' 31" East, 1.10 feet to the aforesaid point of curve leading into the proposed southwesterly sideline of Maple Path and the place of **BEGINNING**.

Containing 7,368 Square Feet or 0.1691 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris

Description of Conservation Easement
November 30, 2016
Page 2 of 2

County, New Jersey^o dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office

This description prepared by:


David B. Dixon, PLS Lic. 27282
Omland Engineering Associates, Inc.

H:\Projects\Documents\OE Projects\030502.1 Shadow Wood\DESCRIPTIONS\Deso-Revised Conservation Easmt Lot 1 Blk 82.01.docx

OMLAND

RESOLUTION 2017-53

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF
MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY,
AUTHORIZING THE EXECUTION AND RECORDATION OF THE PERMANENT
CONSERVATION EASEMENT LOCATED OVER A PORTION OF LOT 1, BLOCK 82.01**

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Conservation Easement on certain land described as: "Basement Area" over a portion of Lot 1, Block 82.01 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated November 30, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Basement Area"); a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer and the Borough Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Conservation Easement is approved and that the recordation of the conveyance documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on March 7, 2017.


Linda DeSantis, R.M.C.
Borough Clerk.

O'DONNELL MCCORD, P.C.

ATTORNEYS AT LAW

15 MOUNT KEMBLE AVENUE
MORRISTOWN, NEW JERSEY 07960

T: (973) 538-1230

F: (973) 538-3301

Matthew J. O'Donnell*+†
MODONNELL@OMLAWPC.COM

Attorney ID: 028261994

* Member NJ and NY Bars

+ Member U.S. Tax Court

• Diplomate NJ Local Government Law

† Certified Public Accountant (NJ & NY)

PLEASE REPLY TO MORRISTOWN OFFICE

BERGEN COUNTY OFFICE
246 HARRISTOWN ROAD
GLEN ROCK, NEW JERSEY 07452

ESSEX COUNTY OFFICE
SEVEN HUTTON AVENUE
WEST ORANGE, NEW JERSEY 07052

MONMOUTH COUNTY OFFICE
1725 HIGHWAY 35, SUITE C
WALL, NEW JERSEY 07719

March 8, 2017

Linda DeSantis, RMC
Mount Arlington Borough Clerk
Borough of Mount Arlington
419 Howard Boulevard
Mount Arlington, New Jersey 07856-1129

Re: Permanent Drainage and Access Easement
Property Owners: Trailwood Woodmont JV, LLC
Property: A portion of Block 82, Lot 1.01
Borough of Mount Arlington, Morris County

Dear Ms. DeSantis:

Enclosed please find the original recorded Permanent Drainage and Access Easement for the Borough's records. Should you have any questions or require any additional information, please call me directly at (973) 538-1230.

Thank you for your assistance and courtesies.

Very truly yours,

O'DONNELL MCCORD, P.C.


MATTHEW J. O'DONNELL

MOD:eav

Enclosure

cc: Carolyn Rinaldi, Borough Administrator/CFO
James Landry, PE, Borough Engineer
Stephen A. Santola, Esq.

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

February

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

TO

Grantee.

WHEREAS, Grantor is the owner of certain property shown and designated as a portion of Block 82, Lot 1.01 on the tax map of the Borough of Mount Arlington, Morris County, New Jersey (the "Grantor Property");

WHEREAS, Grantor desires to grant to Grantee a Permanent Drainage and Access Easement to permit Grantee with the right to access the Easement Area to inspect, maintain and repair the drainage improvements located on a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

7

2. DESCRIPTION OF THE EASEMENT. The Easement shall be located as shown on the Metes and Bounds description entitled "Description of a Proposed Storm Sewer Easement through Lot 1.01, Block 82 situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. GRANTEE'S OBLIGATIONS. Grantee agrees to the following in connection with its use of the Easement Area:

a. All use by Grantee pursuant to this easement shall be (i) at the sole cost and expense of Grantee; and (ii) performed in a safe and good manner and in accordance with all applicable statutes, codes and regulations.

b. All activities of the Grantee shall be conducted so as to minimize any interference to the use of the Grantor Property.

c. In no event shall Grantee use, store, generate, dispose of or discharge any contaminants or hazardous substances or wastes of any nature on the Grantor Property, and Grantee shall not permit or allow any contaminants or hazardous substances or wastes of any nature to be discharged, disposed of or otherwise present on the Easement Area.

4. INDEMNIFICATION. The Grantee hereby assumes all risk of loss of and damage to any property whatsoever and wherever located (including, without limitation, damage to property of Grantor), and any injury to any person or persons whomever occurring by reason of or in connection with or direct or indirectly arising out of or related to the exercise by Grantee of any of its rights under this easement (collectively the "Assumed Risks"). By acceptance of this easement, Grantee hereby agrees to defend (with counsel reasonably acceptable to Grantee), indemnify and save harmless Grantor, and hereby releases Grantor, from and against any all liability, loss, claims, damage, injury or death included in or related to the Assumed Risks and from any and all claims, demands, actions, suits, judgments, costs, charges, fees, damages, and expenses (including, without limitation, attorneys' fees) which may arise or result from the Assumed Risks. Without limiting the foregoing, during times when Grantee is actively performing any construction or repair in the Easement Area, Grantee shall maintain liability insurance in amounts and with carriers reasonably acceptable to Grantor, shall name Grantor as an additional insured on such policies and

if requested shall provide Grantor with a certificate of insurance and/or such other evidence as Grantor may reasonably require to show that such insurance is in full force and effect.

5. RESTORATION OF PREMISES AFTER CONSTRUCTION AND/OR MAINTENANCE. The Grantee agrees for itself and its successors and assigns to exercise all due care to protect the property of the Grantor during the installation of or any maintenance to, the easement or any improvements located therein. The Grantee further agrees for itself and its successors and assigns as soon as reasonably possible after doing any work in connection with the easement to restore the Grantor Property to substantially the same condition in which the same was found before such work was undertaken and that it will not create any nuisance or do any act that will be detrimental to the Grantor Property.

6. CONSIDERATION FOR THE EASEMENT. In consideration of all of the promises of the Grantor as set forth above, the Grantee agrees to pay to the Grantor simultaneously with the execution of this easement, the sum of \$1.00, receipt of which is hereby acknowledged by the Grantor's signature at the bottom of this document.

7. EASEMENT SUBJECT TO OTHER RIGHTS OF RECORD. This easement is subject to any all covenants, easements, restrictions and other encumbrances of record and such facts as a survey of the premises would reveal.

8. AMENDMENTS. This easement may not be amended, modified, or rescinded in any fashion, except by a writing signed by the Grantor and the Grantee in recordable form.

9. EASEMENT TO BE PERMANENT. The terms, provisions, and covenants contained in this easement shall run in perpetuity.

10. TERMINATION OF RIGHTS. The provisions of this easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. PRONOUNS. Wherever herein any party, person or entity shall be designated or referred to, whether by name or general reference, such designation is intended to and shall have the same effect as if the words "grantees, legal representatives, successors and assigns" had been inserted after each and every such designation and all the terms, covenants, and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties and entities and their grantees, legal representatives, successors and assigns.

12. SIGNATURES. The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:

TRAILWOOD WOODMONT JV, LLC

ATTORNEY AT LAW STATE OF NJ

BY:

ERIC Withmordt

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on February 10, 2017, Eric Witman, personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is the Morgan of Trailwood Woodmont JV, LLC, the limited liability corporation named in this document, the Grantor named in this easement; and
- (b) this easement was signed on behalf of Trailwood Woodmont JV, LLC as the Morgan of the limited liability corporation named in this document, the Grantor named in this easement as this person's/its voluntary act, and was duly authorized to do so; and
- (c) that this person's signature is proof to attest to the truth of these facts.

ATTORNEY AT LAW STATE OF NJ

STEPHEN. A. SAWYER

WITNESS:

BOROUGH OF MOUNT ARLINGTON

Linda DeSantis, Borough Clerk

Michael Stanzilis, Mayor

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on 2/10/, 2017, Michael Stanzilis, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement; and
- (b) this easement was signed by him as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement as his/its voluntary act, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
- (c) that he signed this proof to attest to the truth of these facts.

Linda DeSantis, Borough Clerk

SCHEDULE A



54 Horsehill Road
Cedar Knolls, New Jersey 07927
Phone: 973-359-8400
Fax: 973-359-8455

October 5, 2016
OEA Proj. 030502

DESCRIPTION OF A PROPOSED STORM SEWER EASEMENT THROUGH LOT 1.01, BLOCK 82 SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

BEING a parcel of land, a portion of Lot 1.01, Block 82, as delineated on a map entitled "Shadow Woods Final Plat Borough of Mount Arlington, Morris County, New Jersey", filed April 2, 2008 in Book 7, Page 50, more particularly described as follows:

BEGINNING at a point in the southeasterly sideline of Elizabeth Way, 50' wide, said point being South 28° 31' 31" West, 31.73 feet along said sideline from a point where the same is intersected by the division line between said Lot 1.01 and Lot 1.02, Block 82 all as shown on the said filed map, and running; Thence

- 1) By a new line through said Lot 1.01, North 84° 44' 34" East, 75.05 feet to a point in said division line; Thence**
- 2) Along said division line, South 61° 28' 29" East, 108.43 feet to a point in same; Thence**
- 3) By another new line through said Lot 1.01, Block 82, South 66° 19' 41" West, 12.66 feet to an angle point in same; Thence**
- 4) Still by a new line, North 61° 28' 29" West, 79.65 feet to an angle point in same; Thence**
- 5) Still by a new line, South 84° 44' 34" West, 82.35 feet to a point where the same is intersected by the aforementioned sideline of Elizabeth Way; Thence**
- 6) Along said sideline, North 28° 31' 31" East, 24.06 feet to a point in same and the point of BEGINNING.**

Containing 2,335 square feet or 0.0535 acres more or less. Subject to easements and restrictions of record.

This description prepared by:

A handwritten signature in black ink, appearing to read "D. B. Dixon".

**David B. Dixon, PLS Lic. 27282
OmLand Engineering Associates, Inc**

SHADOW WOODS FINAL PLAT

OMLAND

[Signature]

TABLE OF LOT AREAS

Lot No.	Area (Acres)
1	0.15
2	0.15
3	0.15
4	0.15
5	0.15
6	0.15
7	0.15
8	0.15
9	0.15
10	0.15
11	0.15
12	0.15
13	0.15
14	0.15
15	0.15
16	0.15
17	0.15
18	0.15
19	0.15
20	0.15
21	0.15
22	0.15
23	0.15
24	0.15
25	0.15
26	0.15
27	0.15
28	0.15
29	0.15
30	0.15
31	0.15
32	0.15
33	0.15
34	0.15
35	0.15
36	0.15
37	0.15
38	0.15
39	0.15
40	0.15
41	0.15
42	0.15
43	0.15
44	0.15
45	0.15
46	0.15
47	0.15
48	0.15
49	0.15
50	0.15
51	0.15
52	0.15
53	0.15
54	0.15
55	0.15
56	0.15
57	0.15
58	0.15
59	0.15
60	0.15
61	0.15
62	0.15
63	0.15
64	0.15
65	0.15
66	0.15
67	0.15
68	0.15
69	0.15
70	0.15
71	0.15
72	0.15
73	0.15
74	0.15
75	0.15
76	0.15
77	0.15
78	0.15
79	0.15
80	0.15
81	0.15
82	0.15
83	0.15
84	0.15
85	0.15
86	0.15
87	0.15
88	0.15
89	0.15
90	0.15
91	0.15
92	0.15
93	0.15
94	0.15
95	0.15
96	0.15
97	0.15
98	0.15
99	0.15
100	0.15

RESOLUTION # 2017 - 34

RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION AND RECORDATION OF THE PROPOSED PERMANENT DRAINAGE AND ACCESS EASEMENT LOCATED ON BLOCK 82, LOT 1.01

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Drainage and Access Easement on certain land described as "Easement Area" over a portion of Block 82, Lot 1.01 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of a Proposed Storm Sewer Easement through Lot 1.01, Block 82 situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer and the Borough Attorney reviewed the above-referenced easement document, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the granting of the easement, the proposed easement documents and Metes and Bounds description are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced easement documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Drainage and Access Easement is approved and that the recordation of the easement documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the recordation of the documents.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on January 17, 2017.


Linda DeSantis, R.M.C.
Borough Clerk

O'DONNELL McCORD, P.C.
ATTORNEYS AT LAW

15 MOUNT KEMBLE AVENUE
MORRISTOWN, NEW JERSEY 07960

T: (973) 538-1230

F: (973) 538-3301

PLEASE REPLY TO MORRISTOWN OFFICE

Matthew J. O'Donnell*~+†
MODONNELL@OMLAWPC.COM
Attorney Id.: 028261994
• Member NJ and NY Bars
+ Member U.S. Tax Court
• Diplomate NJ Local Government Law
† Certified Public Accountant (NJ & NY)

BERGEN COUNTY OFFICE
266 HARRISTOWN ROAD
GLEN ROCK, NEW JERSEY 07432

ESSEX COUNTY OFFICE
SEVEN HUTTON AVENUE
WEST ORANGE, NEW JERSEY 07052

MONMOUTH COUNTY OFFICE
1725 HIGHWAY 35, SUITE C
WALL, NEW JERSEY 07719

March 8, 2017

Linda DeSantis, RMC
Mount Arlington Borough Clerk
Borough of Mount Arlington
419 Howard Boulevard
Mount Arlington, New Jersey 07856-1129

Re: Permanent Drainage and Access Easement
Property Owners: Trailwood Woodmont JV, LLC
Property: A portion of Block 82, Lot 1.02
Borough of Mount Arlington, Morris County

Dear Ms. DeSantis:

Enclosed please find the original recorded Permanent Drainage and Access Easement for the Borough's records. Should you have any questions or require any additional information, please call me directly at (973) 538-1230.

Thank you for your assistance and courtesies.

Very truly yours,

O'DONNELL McCORD, P.C.

MATTHEW J. O'DONNELL

MOD:ce

Enclosure

cc: Carolyn Rinaldi, Borough Administrator/CFO
James Landry, PE, Borough Engineer
Stephen A. Santola, Esq.



MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUNEAS-OR BOOK 23084 PG 874
RECORDED 02/28/2017 11:28:05
FILE NUMBER 2017012679
RCPT #: 1238113; RECD BY: MStehr
RECORDING FEES \$8.00

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT DRAINAGE AND ACCESS EASEMENT

This Permanent Drainage and Access Easement (the "Easement") granted this 10th day of February, 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor,

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion of Block 82, Lot 1.02 on the tax map of the Borough of Mount Arlington, Morris County, New Jersey (the "Grantor Property");

WHEREAS, Grantor desires to grant to Grantee a Permanent Drainage and Access Easement to permit Grantee with the right to access the Easement Area to inspect, maintain and repair the drainage improvements located on a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. **GRANT OF AND PURPOSE FOR THE EASEMENT.** The Grantor grants and conveys to the Grantee and its successors and assigns a Permanent Drainage and Access Easement to access the Easement Area to inspect, maintain and repair the drainage improvements located on a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

2. **DESCRIPTION OF THE EASEMENT.** The Easement shall be located as shown on the Metes and Bounds description entitled "Description of a Proposed Storm Sewer Easement through Lot 1.02, Block 82 situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. **GRANTEE'S OBLIGATIONS.** Grantee agrees to the following in connection with its use of the Easement Area:

a. All use by Grantee pursuant to this easement shall be (i) at the sole cost and expense of Grantee; and (ii) performed in a safe and good manner and in accordance with all applicable statutes, codes and regulations.

b. All activities of the Grantee shall be conducted so as to minimize any interference to the use of the Grantor Property.

c. In no event shall Grantee use, store, generate, dispose of or discharge any contaminants or hazardous substances or wastes of any nature on the Grantor Property, and Grantee shall not permit or allow any contaminants or hazardous substances or wastes of any nature to be discharged, disposed of or otherwise present on the Easement Area.

4. **INDEMNIFICATION.** The Grantee hereby assumes all risk of loss of and damage to any property whatsoever and wherever located (including, without limitation, damage to property of Grantor), and any injury to any person or persons whomever occurring by reason of or in connection with or direct or indirectly arising out of or related to the exercise by Grantee of any of its rights under this easement (collectively the "Assumed Risks"). By acceptance of this easement, Grantee hereby agrees to defend (with counsel reasonably acceptable to Grantee), indemnify and save harmless Grantor, and hereby releases Grantor, from and against any all liability, loss, claims, damage, injury or death included in or related to the Assumed Risks and from any and all claims, demands, actions, suits, judgments, costs, charges, fees, damages, and expenses (including, without limitation, attorneys' fees) which may arise or result from the Assumed Risks. Without limiting the foregoing, during times when Grantee is actively performing any construction or repair in the Easement Area, Grantee shall maintain liability insurance in amounts and with carriers reasonably acceptable to Grantor, shall name Grantor as an additional insured on such policies and

if requested shall provide Grantor with a certificate of insurance and/or such other evidence as Grantor may reasonably require to show that such insurance is in full force and effect.

5. RESTORATION OF PREMISES AFTER CONSTRUCTION AND/OR MAINTENANCE. The Grantee agrees for itself and its successors and assigns to exercise all due care to protect the property of the Grantor during the installation of or any maintenance to, the easement or any improvements located therein. The Grantee further agrees for itself and its successors and assigns as soon as reasonably possible after doing any work in connection with the easement to restore the Grantor Property to substantially the same condition in which the same was found before such work was undertaken and that it will not create any nuisance or do any act that will be detrimental to the Grantor Property.

6. CONSIDERATION FOR THE EASEMENT. In consideration of all of the promises of the Grantor as set forth above, the Grantee agrees to pay to the Grantor simultaneously with the execution of this easement, the sum of \$1.00, receipt of which is hereby acknowledged by the Grantor's signature at the bottom of this document.

7. EASEMENT SUBJECT TO OTHER RIGHTS OF RECORD. This easement is subject to any all covenants, easements, restrictions and other encumbrances of record and such facts as a survey of the premises would reveal.

8. AMENDMENTS. This easement may not be amended, modified, or rescinded in any fashion, except by a writing signed by the Grantor and the Grantee in recordable form.

9. EASEMENT TO BE PERMANENT. The terms, provisions, and covenants contained in this easement shall run in perpetuity.

10. TERMINATION OF RIGHTS. The provisions of this easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. PRONOUNS. Wherever herein any party, person or entity shall be designated or referred to, whether by name or general reference, such designation is intended to and shall have the same effect as if the words "grantees, legal representatives, successors and assigns" had been inserted after each and every such designation and all the terms, covenants, and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties and entities and their grantees, legal representatives, successors and assigns.

12. SIGNATURES. The parties have signed this easement as of the date at the top of the first page by their authorized representatives.



OD WOODMONT

BY: Eric Witmer

) ss:

Eric W. Thomas

- Manager


Linda DeSantis, Borough Clerk

the truth of these f

) 55:

2/10/17

- of these facts.
- 
Linda DeSantis, Borough Clerk

Linda DeSantis, Borough Clerk

SCHEDULE A



54 Horsehill Road
Cedar Knolls, New Jersey 07927
Phone: 973-359-8400
Fax: 973-359-8455

October 5, 2016
OEA Proj. 030502

DESCRIPTION OF A PROPOSED STORM SEWER EASEMENT THROUGH LOT 1.02, BLOCK 82 SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

BEING a parcel of land, a portion of Lot 1.02, Block 82, as delineated on a map entitled "Shadow Woods Final Plat Borough of Mount Arlington, Morris County, New Jersey", filed April 2, 2008 in Book 7, Page 50, more particularly described as follows:

BEGINNING at a point in the northwesterly sideline of Dawes Way, 50' wide, where the same is intersected by the division line between said Lot 1.02 and Lot 1.04, Block 82 all as shown on the said filed map, and running; Thence

- 1) Along said sideline, South 45° 41' 31" West, 53.06 feet to a point in same; Thence**
- 2) By a new line through said Lot 1.02, South 66° 19' 41" West, 114.75 feet to a point in the division line between Lots 1.01 and 1.02, Block 82; Thence**
- 3) Along said division line, North 61° 28' 29" West, 108.43 feet to a point in same; Thence**
- 4) By a new line through said Lot 1.02, North 84° 44' 34" East, 17.98 feet to an angle point in same; Thence**
- 5) Still by a new line, South 61° 28' 29" East, 75.93 feet to an angle point in same; Thence**
- 6) Still by a new line, North 66° 19' 41" East, 166.26 feet to a point where the same is intersected by the aforementioned division line between Lots 1.02 and 1.04; Thence**
- 7) Along said division line, South 61° 28' 29" East, 1.65 feet to a point in the aforementioned sideline of Dawes Way and the point of BEGINNING.**

Containing 3,774 square feet or 0.0866 acres more or less. Subject to easements and restrictions of record.

This description prepared by:

A handwritten signature in black ink, appearing to read "David B. Dixon".

**David B. Dixon, PLS Lic. 27282
OmLand Engineering Associates, Inc**

[illegible]

RESOLUTION # 2017 - 35

RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION AND RECORDATION OF THE PROPOSED PERMANENT DRAINAGE AND ACCESS EASEMENT LOCATED ON BLOCK 82, LOT 1.02

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Drainage and Access Easement on certain land described as "Easement Area" over a portion of Block 82, Lot 1.02 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of a Proposed Storm Sewer Easement through Lot 1.02, Block 82 situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and


WHEREAS, the Borough of Mount Arlington Borough Engineer and the Borough Attorney reviewed the above-referenced easement document, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the granting of the easement, the proposed easement documents and Metes and Bounds description are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced easement documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Drainage and Access Easement is approved and that the recordation of the easement documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the recordation of the documents.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on January 17, 2017


Linda DeSantis, R.M.C.
Borough Clerk

O'DONNELL MCCORD, P.C.

ATTORNEYS AT LAW

15 MOUNT KEMBLE AVENUE
MORRISTOWN, NEW JERSEY 07960

T: (973) 538-1230

F: (973) 538-3301

Matthew J. O'Donnell*+†
MODONNELL@OMLAWPC.COM

Attorney Id.: 025261594

• Member NJ and NY Bars

• Member U.S. Tax Court

• Diplomate NJ Local Government Law

† Certified Public Accountant (NJ & NY)

PLEASE REPLY TO MORRISTOWN OFFICE

BERGEN COUNTY OFFICE
266 HARRISTOWN ROAD
GLEN ROCK, NEW JERSEY 07452

ESSEX COUNTY OFFICE
SEVEN HUTTON AVENUE
WEST ORANGE, NEW JERSEY 07052

MONMOUTH COUNTY OFFICE
1725 HIGHWAY 35, SUITE C
WALL, NEW JERSEY 07719

March 8, 2017

Linda DeSantis, RMC
Mount Arlington Borough Clerk
Borough of Mount Arlington
419 Howard Boulevard
Mount Arlington, New Jersey 07856-1129

Re: Permanent Non Exclusive Access and Maintenance Easement
Property Owners: Trailwood Woodmont JV, LLC
Property: A portion of Block 82.01, Lot 1
Borough of Mount Arlington, Morris County

Dear Ms. DeSantis:

Enclosed please find the original recorded Permanent Non Exclusive Access and Maintenance Easement for the Borough's records. Should you have any questions or require any additional information, please call me directly at (973) 538-1230.

Thank you for your assistance and courtesies.

Very truly yours,

O'DONNELL MCCORD, P.C.

MATTHEW J. O'DONNELL

MOD:eav

Enclosure

cc: Carolyn Rinaldi, Borough Administrator/CFO
James Landry, PE, Borough Engineer
Stephen A. Santola, Esq.



MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUNEAS-OR BOOK 23086 PG 881
RECORDED 02/28/2017 11:28:05
FILE NUMBER 2017012680
RCPT #: 1238113; REC'D BY: MStehr
RECORDING FEES \$8.00

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT NONEXCLUSIVE ACCESS AND MAINTENANCE EASEMENT

This Permanent Nonexclusive Access and Maintenance Easement (the "Easement") granted this 10th day of February 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor,

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion of Block 82.01, Lot 1 on the tax map of the Borough of Mount Arlington, Morris County, New Jersey (the "Grantor Property"), also known as 76 Elizabeth Way, commonly referred to as Maple Path;

WHEREAS, Grantor desires to grant to Grantee a Permanent Nonexclusive Access and Maintenance Easement to permit Grantee with the right to access the Easement Area and reach the lots that contain residential, infrastructure and improvements from the public right-of-way over a portion of Grantor Property within the easement limits described herein, the Easement Area (as hereinafter defined). The intent of the easement is to limit access to only those requiring access to the residential building and not the public in general.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. **GRANT OF AND PURPOSE FOR THE EASEMENT.** The Grantor grants and conveys to the Grantee and its successors and assigns a Permanent Nonexclusive Access and Maintenance

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Easement to access the Easement Area and reach Lots 1 and 3 in Block 84, and Lots 1.01 and 2 in Block 72 as shown on the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc. filed in the Morris County Clerk's office at Map Book 7, Page 50 containing residential, infrastructure and improvements from the public right-of-way over a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

2. **DESCRIPTION OF THE EASEMENT.** The Easement shall be located as shown on the Metes and Bounds description entitled "Description of an Access Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 10, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A" attached hereto and made a part hereof (the "Easement Area"); and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. **GRANTEE'S OBLIGATIONS.** Grantee agrees to the following in connection with its use of the Easement Area:

a. All use by Grantee pursuant to this Easement shall be (i) at the sole cost and expense of Grantee; and (ii) performed in a safe and good manner and in accordance with all applicable statutes, codes and regulations.

b. All activities of the Grantee shall be conducted so as to minimize any interference to the use of the Grantor Property.

c. In no event shall Grantee use, store, generate, dispose of or discharge any contaminants or hazardous substances or wastes of any nature on the Grantor Property, and Grantee shall not permit or allow any contaminants or hazardous substances or wastes of any nature to be discharged, disposed of or otherwise present on the Easement Area.

4. **INDEMNIFICATION.** The Grantee hereby assumes all risk of loss of and damage to any property whatsoever and wherever located (including, without limitation, damage to property of Grantor), and any injury to any person or persons whomever occurring by reason of or in connection with or direct or indirectly arising out of or related to the exercise by Grantee of any of its rights under this Easement (collectively the "Assumed Risks"). By acceptance of this Easement, Grantee hereby agrees to defend (with counsel reasonably acceptable to Grantee), indemnify and save harmless Grantor, and hereby releases Grantor, from and against any all liability, loss, claims, damage, injury or death included in or related to the Assumed Risks and from any and all claims, demands, actions, suits, judgments, costs, charges, fees, damages, and expenses (including, without limitation, attorneys' fees) which may arise or result from the Assumed Risks. Without limiting the foregoing, during times when Grantee is actively performing any construction or repair

in the Easement Area, Grantee shall maintain liability insurance in amounts and with carriers reasonably acceptable to Grantor, shall name Grantor as an additional insured on such policies and if requested shall provide Grantor with a certificate of insurance and/or such other evidence as Grantor may reasonably require to show that such insurance is in full force and effect.

5. RESTORATION OF PREMISES AFTER CONSTRUCTION AND/OR MAINTENANCE. The Grantee agrees for itself and its successors and assigns to exercise all due care to protect the property of the Grantor during the installation of or any maintenance to, the easement or any improvements located therein. The Grantee further agrees for itself and its successors and assigns as soon as reasonably possible after doing any work in connection with the easement to restore the Grantor Property to substantially the same condition in which the same was found before such work was undertaken and that it will not create any nuisance or do any act that will be detrimental to the Grantor Property.

6. CONSIDERATION FOR THE EASEMENT. In consideration of all of the promises of the Grantor as set forth above, the Grantee agrees to pay to the Grantor simultaneously with the execution of this easement, the sum of \$1.00, receipt of which is hereby acknowledged by the Grantor's signature at the bottom of this document.

7. EASEMENT SUBJECT TO OTHER RIGHTS OF RECORD. This Easement is subject to any all covenants, easements, restrictions and other encumbrances of record and such facts as a survey of the premises would reveal.

8. AMENDMENTS. This Easement may not be amended, modified, or rescinded in any fashion, except by a writing signed by the Grantor and the Grantee in recordable form.

9. EASEMENT TO BE PERMANENT. The terms, provisions, and covenants contained in this Easement shall run in perpetuity.

10. TERMINATION OF RIGHTS. The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. PRONOUNS. Wherever herein any party, person or entity shall be designated or referred to, whether by name or general reference, such designation is intended to and shall have the same effect as if the words "grantees, legal representatives, successors and assigns" had been inserted after each and every such designation and all the terms, covenants, and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties and entities and their grantees, legal representatives, successors and assigns.

12. SIGNATURES. The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:

4

Schedule A



54 Horsehill Road
Cedar Knolls, New Jersey 07927
Phone: 973-359-8400
Fax: 973-359-8455

October 10, 2016
OEA Proj. 030502

DESCRIPTION OF AN ACCESS EASEMENT SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

Being a portion of Lot 1, Block 82.01 as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, filed in the Morris County Clerk's Office April 2, 2008 in Book 7, Page 50, more particularly described as follows:

BEGINNING at a point in the new southerly sideline of Maple Path, 16 feet wide, at the terminus of a curve connecting said sideline to the new easterly sideline of Elizabeth Way, 50 feet wide all as shown on said map, and running; Thence

- 1) Along said sideline of Maple Path, South 66° 19' 20" East, 230.22 feet to a point of curve in same; Thence
- 2) Along a curve to the right leading into Dawes Way, having a radius of 25.00 feet, and arc length of 28.98 feet, the chord of which bears South 33° 06' 40" East, 27.39 feet to a point in same; Thence
- 3) By a new line through said Lot 1, Block 82.01, North 66° 19' 20" West, 276.05 feet to a point in said sideline of Elizabeth Way; Thence
- 4) Along said sideline, along a curve to the right having a radius of 25.00 feet, and arc length of 28.98 feet, the chord of which bears North 80° 28' 01" East, 27.39 feet to a point in said sideline of Maple Path, and the place of **BEGINNING**.

Containing 3,949 Square Feet or 0.0907 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., filed in the Morris County Clerk's Office

This description prepared by:

A handwritten signature in black ink, appearing to read "David B. Dixon".

David B. Dixon, PLS Lic. 27282
Omland Engineering Associates, Inc.

RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION AND RECORDATION OF THE PERMANENT NONEXCLUSIVE ACCESS AND MAINTENANCE EASEMENT LOCATED OVER A PORTION OF BLOCK 82.01. LOT 1

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Nonexclusive Access and Maintenance Easement on certain land described as "Easement Area" over a portion of Block 82.01, Lot 1 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of an Access Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 10, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B"; and the as-built plan "As-Built Plans for Fieldstone at Mt. Arlington and Shadow Woods As Built Water Tower, Block 72, Lot 1.01" dated June 27, 2016, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule C", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer and the Borough Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Nonexclusive Access and Maintenance Easement is approved and that the recordation of the conveyance documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on November 1, 2016.


Linda DeSantis, R.M.C.
Borough Clerk

Morris County Recording Cover Sheet



**Honorable Ann F. Grossi, Esq.
Morris County Clerk**

**MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUNEAS-OR BOOK 23151 PG 227
RECORDED 06/28/2017 10:58:11
FILE NUMBER 2017037289
RCPT #: 12704621 RECD BY: TCola
RECORDING FEES \$8.00**

Official Use Only - Realty Transfer Fee

Official Use Only - Barcode

Deed of Document:
13-17

Type of Document:
Permanent Conservation Easement

First Party Name:
Borough of Mount Arlington

Second Party Name: JV (AU)
Trailwood Woodmont, LLC

Additional Parties:

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

Block:
Block 72

Lot:
Portion of Lot 1.01

Municipality:
Borough of Mount Arlington

Consideration:
\$1.00

Mailing Address of Grantee:
c/o GRONKELL RECORDS, PC
640 New & O'Connell Sts.
13 Mount Kisco Avenue
Morristown, New Jersey 07960

**THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN
ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE**

Original Book:

Original Page:

MORRIS COUNTY RECORDING COVER SHEET

**Please do not detach this page from the original document as it contains important recording information and
is part of the permanent record.**

**WARNING: Information contained on the Recording Cover Sheet must exactly match the information within the
attached document or the document will be rejected and returned.**

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT CONSERVATION EASEMENT

This Permanent Conservation Easement (the "Easement") granted this 13th day of June 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey,
having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of
New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New
Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion
of Lot 1.01, Block 72 as shown on the tax map of the Borough of Mount Arlington, Morris
County, New Jersey (the "Grantor Property");

WHEREAS, Grantor desires to grant to Grantee a Permanent Conservation Easement over
a portion of Grantor Property within the easement limits described herein, the Easement Area
(as hereinafter defined). The intent of the Conservation Easement is to preserve the area in its
natural and existing state in perpetuity except as specifically noted herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained
and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties
hereto agree as follows:

1. **GRANT OF AND PURPOSE FOR THE EASEMENT.** The Grantor grants and conveys
to the Grantee and its successors and assigns a Permanent Conservation Easement as shown on
the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1,
Block 83, Lots 9, 12 & 15" dated February 28, 2008, attached as "Schedule B", prepared by

Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc. filed in the Morris County Clerk's office at Map Book 7, Page 50, containing residential, infrastructure and improvements from the public right-of-way over a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

2. DESCRIPTION OF THE EASEMENT. The Easement shall be located as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to March 30, 2017, prepared by Kevin P. Bollinger, PLS for the firm of Bowman Consulting Group, LTD, formerly Omland Engineering Associates, Inc., described and attached as "Schedule A" and made a part hereof (the "Easement Area"); and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. TERMS AND CONDITIONS. Within the Conservation Easement Area, the following terms and conditions shall apply, it being the intention of the parties that the Conservation Easement Area shall be preserved in its natural and existing state in perpetuity except as specifically noted herein:

(A) Grantor may convey, mortgage, lease or otherwise transfer title or interest in the Grantor's Property subject to this Conservation Easement; provided however, that the covenants and conditions herein remain superior to such conveyance, mortgage, lease, or transfer, it being the intention of the parties that this Conservation Easement and its terms and conditions shall become a part of the chain of title and shall run with the land in perpetuity.

(B) This Conservation Easement and all provisions herein are subordinate to the right of Grantor, expressly reserved, to (i) construct, maintain, and repair on and within the Conservation Easement Area those existing and/or future improvements depicted on the Plans, if any; and (ii) clear, grade, excavate and fill in order to construct such existing and/or future improvements within the Conservation Easement Area as specifically shown on the Plans, if any.

(C) This Conservation Easement and all provisions herein are further subordinate to the Grantor's right to construct, maintain and repair utility connections or drainage facilities on, over, and under the Conservation Easement Area and to clear, grade, excavate, and fill as necessary to construct and maintain such utility connections or drainage facilities as are shown on the Plans, if any.

(D) Grantor shall not change any features of the natural landscape or general topography of the Conservation Easement Area nor remove any trees, shrubs, or other vegetation except as necessary for the construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without providing the Grantee with written notice and obtaining the prior written approval of the Grantee; provided, however, that Grantor may, without such written approval, remove dead or diseased foliage and plantings that may reasonably be expected to threaten the surrounding foliage and/or any existing and/or future improvements as depicted on the Plans in accordance with any Borough Ordinances.

(E) Grantor shall not make any changes within the Conservation Easement Area that will affect existing drainage, flood control, erosion control or soil conservation, except as necessary to construct, maintain and repair the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without the prior written consent of the Grantee.

(F) No topsoil, sand, gravel, loam, rock, minerals or other materials shall be excavated within or removed from the Conservation Easement Area, nor shall any fill be deposited, except as necessary for construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted, unless the prior written consent of the Grantee is secured.

(G) Grantor shall not deposit, or allow to be deposited, any trash, waste or any other materials within the Conservation Easement Area and shall not use the Conservation Easement Area for the storage of materials whatsoever.

(H) No advertising signs or structures shall be located within the Conservation Easement Area.

(I) No buildings or other structures, other than the existing and/or future improvements shown on the referenced Plans and utilities or drainage facilities and structures necessary therefor herein permitted, shall be erected in the Conservation Easement Area unless application therefor, with plans and specifications have been filed with and approved by the Grantee and the Borough of Mt. Arlington.

(J) It is understood and agreed that this Conservation Easement confers upon the Grantee no rights of title or use of the Conservation Easement Area, and nothing herein shall be construed to permit public access to or use of that area nor require the Grantee to maintain such area.

Nothing herein shall be construed to limit the Grantor's right of access to and use of that area except as herein provided.

(K) Grantee, its employees and agents, are permitted to enter the Conservation Easement Area for the purpose of ascertaining compliance with the terms of this Conservation Easement.

(L) No roadways or other rights of way or parking of motor vehicles or equipment shall be allowed within the Conservation Easement Area unless shown on the Plans.

(M) This Conservation Easement shall be subject to, and read in conjunction with any other easements depicted on the Plat and entered into by the parties hereto simultaneously or in connection herewith.

(N) It is the intention of the parties hereto that the Conservation Easement Area will remain undisturbed and forever wild except as specifically provided herein.

(O) Despite anything contained in the preceding paragraphs (A) through (N), Grantor (and all who succeed in title to Grantor) shall have the right (a) to conduct prudent forest management activities subject to the approval of the Grantee and (b) to otherwise use the Conservation Easement Area provided that such use is not materially detrimental to the preservation of the Conservation Easement Area or contrary to the terms and conditions of this Conservation Easement.

4. PRONOUNS. Wherever in this Conservation Easement any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of, and shall bind, the respective parties hereto, and their heirs executors, administrators, personal or legal representatives, successors and assigns, respectively. In all references herein to any party, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within Conservation Easement may require.

5. OBLIGATIONS OF PARTIES. This Conservation Easement shall in all respects to be governed by and construed in accordance with the laws of the State of New Jersey. The terms and conditions of this Conservation Easement are not intended in any way to diminish the obligations of the parties or their successors and assigns to comply with any Federal or State statute, rule or resolution (including, but not limited to, the freshwater Wetlands Protection Act,

N.J.S.A. 13:9B-1, and the rules and regulations promulgated thereunder which may control and regulate the use of the Conservation Easement Area or any portion of the Conservation Easement Area. In the event that such obligations are stricter than the terms and conditions of this Conservation Easement, then such obligation shall be fully met and satisfied.

6. **RIGHTS.** In the event of any violation of the covenants and conditions contained in this Conservation Easement, the Borough of Mt. Arlington or its designee shall be entitled to recover, in any action to enforce the terms hereof, , including any and all costs and reasonable attorney's fees. If the Grantee determines that the Grantor is in violation of the terms of this easement or that a violation is threatened, the Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of the notice thereof from the Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, failure to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If the Grantee, in its sole discretion, determines the circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and the Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this

paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. **ENFORCEMENT.** Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Conservation Easement or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right of remedy upon any breach by Grantor shall impair such right or remedy will be construed as a waiver.

8. **AMENDMENTS.** The provisions of this Agreement may not be amended, modified or terminated without the express written consent of the Borough of Mt. Arlington, and no such amendment, modification or termination shall be effective for any purpose unless set forth in writing and signed by the appropriate municipal officials.

9. **EASEMENT TO BE PERMANENT.** The terms, provisions, and covenants contained in this Easement shall run in perpetuity.

10. **TERMINATION OF RIGHTS.** The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. **SIGNATURES.** The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:

TRAILWOOD WOODMONT JV, LLC

ATTORNEY AT LAW STATE OF NJ
STEPHEN H. SANTOLA

BY: Eric W. Wilmont

STATE OF NEW JERSEY)

) ss:

COUNTY OF MORRIS)

I CERTIFY that on June 12, 2017, ERIC WITKOWITZ, personally came before me and acknowledged under oath, to my satisfaction, that this person:

(a) is the MANAGER of Trailwood Woodmont JV, LLC, the limited liability corporation named in this document, the Grantor named in this easement; and

(b) this easement was signed on behalf of Trailwood Woodmont JV, LLC as the MANAGER of the limited liability corporation named in this document, the Grantor named in this easement as this person's/its voluntary act, and was duly authorized to do so; and

(c) that this person's signature is proof to attest to the truth of these facts.

STEPHEN A. SANTOLA
ATTORNEY AT LAW STATE OF NJ

BOROUGH OF MOUNT ARLINGTON

Michael Stanzilis, Mayor

WITNESS

Linda DeSantis, Borough Clerk

STATE OF NEW JERSEY)

COUNTY OF MORRIS)

I CERTIFY that on 6/13, 2017, Michael Stanzilis, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement; and
- (b) this easement was signed by him as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement as his/its voluntary act, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
- (c) that he signed this proof to attest to the truth of these facts.

Linda DeSantis, Borough Clerk

SCHEDULE A



February 28, 2008
Revised to March 30, 2017
OEA Proj. 030502.1

DESCRIPTION OF A CONSERVATION EASEMENT SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

Being a portion of Lot 1.01, Block 72 as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office, more particularly described as follows:

BEGINNING at a point in the proposed southeasterly sideline of Dawes Way, 40 feet wide, where same is intersected by the division line between said Lot 1.01 and Lot 2, Block 72, all as shown on said map, and running; Thence

- 1) Along said sideline, North $24^{\circ}09'31''$ East, 130.31 feet to an angle point in same; Thence
- 2) Still along said sideline, North $29^{\circ}24'31''$ East, 56.02 feet to a point in same; Thence
- 3) By a new line through said Lot 1.01, South $60^{\circ}48'46''$ East, 228.93 feet to a point where same is intersected by the division line between said Lot 1.01 and Lot 42.03, Block 61 as shown on map entitled "Final Plat, Block 61, Lot 42.01, Borough of Mount Arlington, Township of Roxbury, Morris County, New Jersey" dated December 12, 2005 and filed in the Morris County Clerk's Office on January 10, 2006 as Map No. 5920; Thence
- 4) Along said division line, South $29^{\circ}11'17''$ West, 155.30 feet to a point where same is intersected by the aforesaid division line between said Lots 1.01 and 2; Thence
- 5) Along said division line, North $68^{\circ}50'29''$ West, 213.03 feet to a point where same is intersected by the aforesaid proposed southeasterly sideline of Dawes Way and the place of BEGINNING.

Containing 38,085 Square Feet or 0.8743 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris

Bowman Consulting Group, Ltd.
54 Horsehill Road • Cedar Knolls, NJ 07927
Phone: 973.359.8400 • www.omland.com • www.bowmanconsulting.com

Description Conservation-Ease-Lot-1.01-81-72
Borough of Mount Arlington, Morris County, NJ
March 30, 2017
Page 2

County, New Jersey dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office

This description was prepared by:


Kevin P. Bellinger, PLS Lic. 30744
BOWMAN CONSULTING GROUP, LTD.

H:\Projects\Documents\SEA Projects\1030602.1 Shadow Wood\DESCRIPTIONS\Revised Descriptions 3-30-17\Deed-Conservation-Ease-Lot-1.01-81-72-Revised.docx

Bowman
CONSULTING

SCHEDULE B



RESOLUTION NO.: 99 -2017

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF
MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY,
AUTHORIZING THE EXECUTION AND RECORDATION OF THE PERMANENT
CONSERVATION EASEMENT LOCATED OVER A PORTION OF BLOCK 72, LOT 1.01**

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Conservation Easement on certain land described as "Easement Area" over a portion of Block 72, Lot 1.01 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to March 30, 2017, prepared by Kevin P. Bollinger, PLS for the firm of Bowman Consulting Group, LTD, formerly Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer; Borough Attorney; Developer's Engineer; and the Developer's Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Conservation Easement is approved and that the recordation of the conveyance documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on June 13, 2017.


Linda DeSantis, R.M.C.
Borough Clerk

**Morris County Recording Cover Sheet**

Honorable Ann F. Grossi, Esq.
Morris County Clerk

MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUNEAS-OR BOOK 23151 PG 239
RECORDED 06/28/2017 10:58:11
FILE NUMBER 2017037290
RCPT #: 1270462; RECD BY: TCole
RECORDING FEES \$8.00

Official Use Only - Realty Transfer Fee**Official Use Only - Barcode**

Block of Document:
13-17

Type of Document:
Permanent Conservation Easement

First Party Name:
Borough of Mount Arlington

Second Party Name: JV
Trailwood Woodmont, JE, LLC

Additional Parties:

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY**Block:**

Block 83

Lot:

Portion of Lot 15.01

Municipality:

Borough of Mount Arlington

Consideration:

\$1.00

Mailing Address of Grantee:

JO GROSSI, MODORA, PC
Matthew A. Grossi, Esq.
18 Mount Kemble Avenue
Morristown, New Jersey 07960

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE**Original Book:****Original Page:****MORRIS COUNTY RECORDING COVER SHEET**

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

WARNING: Information contained on the Recording Cover Sheet must exactly match the information within the attached document or the document will be rejected and returned.

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT CONSERVATION EASEMENT

This Permanent Conservation Easement (the "Easement") granted this 13th day of June 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey,
having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of
New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New
Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion
of Lot 15.01, Block 83 as shown on the tax map of the Borough of Mount Arlington, Morris
County, New Jersey (the "Grantor Property"), commonly referred to as 67 Elizabeth Way;

WHEREAS, Grantor desires to grant to Grantee a Permanent Conservation Easement over
a portion of Grantor Property within the easement limits described herein, the Easement Area
(as hereinafter defined). The intent of the Conservation Easement is to preserve the area in its
natural and existing state in perpetuity except as specifically noted herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained
and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties
hereto agree as follows:

1. **GRANT OF AND PURPOSE FOR THE EASEMENT.** The Grantor grants and conveys
to the Grantee and its successors and assigns a Permanent Conservation Easement as shown on
the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1,
Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and

David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc. filed in the Morris County Clerk's office at Map Book 7, Page 50, attached as "Schedule B", containing residential, infrastructure and improvements from the public right-of-way over a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

2. **DESCRIPTION OF THE EASEMENT.** The Easement shall be located as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A" and made a part hereof (the "Easement Area"); and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. **TERMS AND CONDITIONS.** Within the Conservation Easement Area, the following terms and conditions shall apply, it being the intention of the parties that the Conservation Easement Area shall be preserved in its natural and existing state in perpetuity except as specifically noted herein:

(A) Grantor may convey, mortgage, lease or otherwise transfer title or interest in the Grantor's Property subject to this Conservation Easement; provided however, that the covenants and conditions herein remain superior to such conveyance, mortgage, lease, or transfer, it being the intention of the parties that this Conservation Easement and its terms and conditions shall become a part of the chain of title and shall run with the land in perpetuity.

(B) This Conservation Easement and all provisions herein are subordinate to the right of Grantor, expressly reserved, to (i) construct, maintain, and repair on and within the Conservation Easement Area those existing and/or future improvements depicted on the Plans, if any; and (ii) clear, grade, excavate and fill in order to construct such existing and/or future improvements within the Conservation Easement Area as specifically shown on the Plans, if any.

(C) This Conservation Easement and all provisions herein are further subordinate to the Grantor's right to construct, maintain and repair utility connections or drainage facilities on, over and under the Conservation Easement Area and to clear, grade, excavate, and fill as necessary to construct and maintain such utility connections or drainage facilities as are shown on the Plans, if any.

(D) Grantor shall not change any features of the natural landscape or general topography of the Conservation Easement Area nor remove any trees, shrubs, or other vegetation except as necessary for the construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without providing the Grantee with written notice and obtaining the prior written approval of the Grantee; provided, however, that Grantor may, without such written approval, remove dead or diseased foliage and plantings that may reasonably be expected to threaten the surrounding foliage and/or any existing and/or future improvements as depicted on the Plans in accordance with any Borough Ordinances.

(E) Grantor shall not make any changes within the Conservation Easement Area that will affect existing drainage, flood control, erosion control or soil conservation, except as necessary to construct, maintain and repair the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without the prior written consent of the Grantee.

(F) No topsoil, sand, gravel, loam, rock, minerals or other materials shall be excavated within or removed from the Conservation Easement Area, nor shall any fill be deposited, except as necessary for construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted, unless the prior written consent of the Grantee is secured.

(G) Grantor shall not deposit, or allow to be deposited, any trash, waste or any other materials within the Conservation Easement Area and shall not use the Conservation Easement Area for the storage of materials whatsoever.

(H) No advertising signs or structures shall be located within the Conservation Easement Area.

(I) No buildings or other structures, other than the existing and/or future improvements shown on the referenced Plans and utilities or drainage facilities and structures necessary therefor herein permitted, shall be erected in the Conservation Easement Area unless application therefore, with plans and specifications have been filed with and approved by the Grantee and the Borough of Mt. Arlington.

(J) It is understood and agreed that this Conservation Easement confers upon the Grantee no rights of title or use of the Conservation Easement Area, and nothing herein shall be construed to permit public access to or use of that area nor require the Grantee to maintain such area.

Nothing herein shall be construed to limit the Grantor's right of access to and use of that area except as herein provided.

(K) Grantee, its employees and agents, are permitted to enter the Conservation Easement Area for the purpose of ascertaining compliance with the terms of this Conservation Easement.

(L) No roadways or other rights of way or parking of motor vehicles or equipment shall be allowed within the Conservation Easement Area unless shown on the Plans.

(M) This Conservation Easement shall be subject to, and read in conjunction with any other easements depicted on the Plat and entered into by the parties hereto simultaneously or in connection herewith.

(N) It is the intention of the parties hereto that the Conservation Easement Area will remain undisturbed and forever wild except as specifically provided herein.

(O) Despite anything contained in the preceding paragraphs (A) through (N), Grantor (and all who succeed in title to Grantor) shall have the right (a) to conduct prudent forest management activities subject to the approval of the Grantee and (b) to otherwise use the Conservation Easement Area provided that such use is not materially detrimental to the preservation of the Conservation Easement Area or contrary to the terms and conditions of this Conservation Easement.

4. PRONOUNS. Wherever in this Conservation Easement any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of, and shall bind, the respective parties hereto, and their heirs executors, administrators, personal or legal representatives, successors and assigns, respectively. In all references hereto any party, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within Conservation Easement may require.

5. OBLIGATIONS OF PARTIES. This Conservation Easement shall in all respects to be governed by and construed in accordance with the laws of the State of New Jersey. The terms and conditions of this Conservation Easement are not intended in any way to diminish the obligations of the parties or their successors and assigns to comply with any Federal or State statute, rule or resolution (including, but not limited to, the freshwater Wetlands Protection Act,

N.J.S.A. 13:9B-1, and the rules and regulations promulgated thereunder which may control and regulate the use of the Conservation Easement Area or any portion of the Conservation Easement Area. In the event that such obligations are stricter than the terms and conditions of this Conservation Easement, then such obligation shall be fully met and satisfied.

6. **RIGHTS.** In the event of any violation of the covenants and conditions contained in this Conservation Easement, the Borough of Mt. Arlington or its designee shall be entitled to recover, in any action to enforce the terms hereof, including any and all costs and reasonable attorney's fees. If the Grantee determines that the Grantor is in violation of the terms of this easement or that a violation is threatened, the Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of the notice thereof from the Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, failure to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If the Grantee, in its sole discretion, determines the circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and the Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this

paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. **ENFORCEMENT.** Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Conservation Easement or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right of remedy upon any breach by Grantor shall impair such right or remedy will be construed as a waiver.


8. **AMENDMENTS.** The provisions of this Agreement may not be amended, modified or terminated without the express written consent of the Borough of Mt. Arlington, and no such amendment, modification or termination shall be effective for any purpose unless set forth in writing and signed by the appropriate municipal officials.

9. **EASEMENT TO BE PERMANENT.** The terms, provisions, and covenants contained in this Easement shall run in perpetuity.

10. **TERMINATION OF RIGHTS.** The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. **SIGNATURES.** The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:



ATTORNEY AT LAW STATE OF NJ
STEPHEN A. SANTOLA

TRAILWOOD WOODMONT JV, LLC



BY: Eric W. W. W. W.

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on JUNE 12 2017, ERIC WITMCRAFT, personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is the MANAGER of Trailwood Woodmont JV, LLC, the limited liability corporation named in this document, the Grantor named in this easement; and
(b) this easement was signed on behalf of Trailwood Woodmont JV, LLC as the MANAGER of the limited liability corporation named in this document, the Grantor named in this easement as this person's/its voluntary act, and was duly authorized to do so; and
(c) that this person's signature is proof to attest to the truth of these facts.

ATTORNEY AT LAW STATE OF NJ (EAV)
STEPHEN A. SANTOLA

WITNESS:

Linda DeSantis, Borough Clerk

BOROUGH OF MOUNT ARLINGTON

Michael Stanzilis, Mayor

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on 6/13, 2017, Michael Stanzilis, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement; and
(b) this easement was signed by him as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement as his/its voluntary act, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
(c) that he signed this proof to attest to the truth of these facts.

Linda DeSantis, Borough Clerk

SCHEDULE A



54 Horsehill Road
Cedar Knolls, New Jersey 07927
Phone: 973-359-8400
Fax: 973-359-8455

October 5, 2016
OEA Proj. 030502

**DESCRIPTION OF A CONSERVATION EASEMENT SITUATED IN THE BOROUGH OF
MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.**

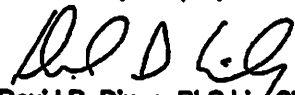
Being a portion of Lot 15.01, Block 83 as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, filed in the Morris County Clerk's Office April 2, 2008 in Book 7, Page 50, more particularly described as follows:

BEGINNING at a point in the northeasterly sideline of Laurel Path, 40 feet wide, where the same is intersected by the division line between Lot 15.01 and Lot 1, Block 83, extended, all as shown on said map, and running; Thence

- 1) Along said division line and then the division line between said Lots 15.01 and Lot 3, Block 83, North $28^{\circ} 31' 31''$ East, 243.34 feet to a point where the same is intersected by the division line between Lots 15.01 and 15.02, Block 83; Thence
- 2) Along said division line, South $61^{\circ} 28' 29''$ East, 25.00 feet to an angle point in same; Thence
- 3) By a new line through said Lot 15.01, South $28^{\circ} 31' 31''$ West, 248.83 feet to a point where same is intersected by the aforementioned northeasterly sideline of Laurel Path, 40 feet wide; Thence
- 4) Along said sideline, North $49^{\circ} 05' 29''$ West, 25.60 feet to a point where same is intersected by the aforementioned division line between said Lot 15.01 and Lot 1, Block 83, extended, and the place of **BEGINNING**.

Containing 6,152 Square Feet or 0.1412 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office

This description prepared by:


David B. Dixon, PLS Lic. 27282
Omland Engineering Associates, Inc.

H:\Projects\Documents\OEA Projects\030502 Addns ML Arlington\DESCRIPTIONS\Desc-Conservation Easmt Lot 15.01.docx

[illegible]

RESOLUTION NO.: 100 -2017

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF
MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY,
AUTHORIZING THE EXECUTION AND RECORDATION OF THE PERMANENT
CONSERVATION EASEMENT LOCATED OVER A PORTION OF LOT 15.01, BLOCK 83**

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Conservation Easement on certain land described as "Easement Area" over a portion of Lot 15.01, Block 83 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer; Borough Attorney; Developer's Engineer; and the Developer's Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Conservation Easement is approved and that the recordation of the conveyance documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on June 13, 2017.


Linda DeSantis, R.M.C.
Borough Clerk

Morris County Recording Cover Sheet

Honorable Ann F. Grossi, Esq.
Morris County Clerk

MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUNEAS-OR BOOK 23151 PG 250
RECORDED 06/28/2017 10:58:11
FILE NUMBER 2017037291
RCPT #: 12704623 RECD BY: TCole
RECORDING FEES \$8.00

Official Use Only - Realty Transfer Fee

Official Use Only - Barcode

Original Document:
8-13-17

Type of Document:
Permanent Conservation Easement

First Party Name:
Borough of Mount Arlington

Second Party Name: JV
Trailwood Woodmont, JC, LLC

Additional Parties:

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

Block:
Block 83

Lot:
Portion of Lot 15.02

Municipality:
Borough of Mount Arlington

Consideration:
\$1.00

Mailing Address of Grantee:
c/o O'DONOGHUE, MORRIS, PC
Matthew A. O'Donoghue, Esq.
18 Mount Pleasant Avenue
Morristown, New Jersey 07960

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE

Original Book:

Original Page:

MORRIS COUNTY RECORDING COVER SHEET

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

WARNING: Information contained on the Recording Cover Sheet must exactly match the information within the attached document or the document will be rejected and returned.

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT CONSERVATION EASEMENT

This Permanent Conservation Easement (the "Easement") granted this 13th day of June 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey,
having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of
New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New
Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion
of Lot 15.02, Block 83 as shown on the tax map of the Borough of Mount Arlington, Morris
County, New Jersey (the "Grantor Property"), commonly referred to as 71 Elizabeth Way;

WHEREAS, Grantor desires to grant to Grantee a Permanent Conservation Easement over
a portion of Grantor Property within the easement limits described herein, the Easement Area
(as hereinafter defined). The intent of the Conservation Easement is to preserve the area in its
natural and existing state in perpetuity except as specifically noted herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained
and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties
hereto agree as follows:

1. **GRANT OF AND PURPOSE FOR THE EASEMENT.** The Grantor grants and conveys
to the Grantee and its successors and assigns a Permanent Conservation Easement as shown on
the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1,
Block 83, Lots 9, 12 & 15" dated February 28, 2008, attached as "Schedule B", prepared by

Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc. filed in the Morris County Clerk's office at Map Book 7, Page 50 containing residential, infrastructure and improvements from the public right-of-way over a portion of Grantor's property within the easement limits described herein, the Easement Area (as hereinafter defined).

2. **DESCRIPTION OF THE EASEMENT.** The Easement shall be located as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A" and made a part hereof (the "Easement Area"); and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. **TERMS AND CONDITIONS.** Within the Conservation Easement Area, the following terms and conditions shall apply; it being the intention of the parties that the Conservation Easement Area shall be preserved in its natural and existing state in perpetuity except as specifically noted herein:

(A) Grantor may convey, mortgage, lease or otherwise transfer title or interest in the Grantor's Property subject to this Conservation Easement, provided however, that the covenants and conditions herein remain superior to such conveyance, mortgage, lease, or transfer, it being the intention of the parties that this Conservation Easement and its terms and conditions shall become a part of the chain of title and shall run with the land in perpetuity.

(B) This Conservation Easement and all provisions herein are subordinate to the right of Grantor, expressly reserved, to (i) construct, maintain, and repair on and within the Conservation Easement Area those existing and/or future improvements depicted on the Plans, if any; and (ii) clear, grade, excavate and fill in order to construct such existing and/or future improvements within the Conservation Easement Area as specifically shown on the Plans, if any.

(C) This Conservation Easement and all provisions herein are further subordinate to the Grantor's right to construct, maintain and repair utility connections or drainage facilities on, over and under the Conservation Easement Area and to clear, grade, excavate, and fill as necessary to construct and maintain such utility connections or drainage facilities as are shown on the Plans, if any.

(D) Grantor shall not change any features of the natural landscape or general topography of the Conservation Easement Area nor remove any trees, shrubs, or other vegetation except as necessary for the construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without providing the Grantee with written notice and obtaining the prior written approval of the Grantee; provided, however, that Grantor may, without such written approval, remove dead or diseased foliage and plantings that may reasonably be expected to threaten the surrounding foliage and/or any existing and/or future improvements as depicted on the Plans in accordance with any Borough Ordinances.

(E) Grantor shall not make any changes within the Conservation Easement Area that will affect existing drainage, flood control, erosion control or soil conservation, except as necessary to construct, maintain and repair the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without the prior written consent of the Grantee.

(F) No topsoil, sand, gravel, loam, rock, minerals or other materials shall be excavated within or removed from the Conservation Easement Area, nor shall any fill be deposited, except as necessary for construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage herein permitted, unless the prior written consent of the Grantee is secured.

(G) Grantor shall not deposit, or allow to be deposited, any trash, waste or any other materials within the Conservation Easement Area and shall not use the Conservation Easement Area for the storage of materials whatsoever.

(H) No advertising signs or structures shall be located within the Conservation Easement Area.

(I) No buildings or other structures, other than the existing and/or future improvements shown on the referenced Plans and utilities or drainage facilities and structures necessary therefor herein permitted, shall be erected in the Conservation Easement Area unless application therefore, with plans and specifications have been filed with and approved by the Grantee and the Borough of Mt. Arlington.

(J) It is understood and agreed that this Conservation Easement confers upon the Grantee no rights of title or use of the Conservation Easement Area, and nothing herein shall be construed to permit public access to or use of that area nor require the Grantee to maintain such area.

Nothing herein shall be construed to limit the Grantor's right of access to and use of that area except as herein provided.

(K) Grantee, its employees and agents, are permitted to enter the Conservation Easement Area for the purpose of ascertaining compliance with the terms of this Conservation Easement.

(L) No roadways or other rights of way or parking of motor vehicles or equipment shall be allowed within the Conservation Easement Area unless shown on the Plans.

(M) This Conservation Easement shall be subject to, and read in conjunction with any other easements depicted on the Plat and entered into by the parties hereto simultaneously or in connection herewith.

(N) It is the intention of the parties hereto that the Conservation Easement Area will remain undisturbed and forever wild except as specifically provided herein.

(O) Despite anything contained in the preceding paragraphs (A) through (N), Grantor (and all who succeed in title to Grantor) shall have the right (a) to conduct prudent forest management activities subject to the approval of the Grantee and (b) to otherwise use the Conservation Easement Area provided that such use is not materially detrimental to the preservation of the Conservation Easement Area or contrary to the terms and conditions of this Conservation Easement.

4. PRONOUNS. Wherever in this Conservation Easement any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of, and shall bind, the respective parties hereto, and their heirs executors, administrators, personal or legal representatives, successors and assigns, respectively. In all references herein to any party, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within Conservation Easement may require.

5. OBLIGATIONS OF PARTIES. This Conservation Easement shall in all respects to be governed by and construed in accordance with the laws of the State of New Jersey. The terms and conditions of this Conservation Easement are not intended in any way to diminish the obligations of the parties or their successors and assigns to comply with any Federal or State statute, rule or resolution (including, but not limited to, the freshwater Wetlands Protection Act,

N.J.S.A. 13:9B-1, and the rules and regulations promulgated thereunder which may control and regulate the use of the Conservation Easement Area or any portion of the Conservation Easement Area. In the event that such obligations are stricter than the terms and conditions of this Conservation Easement, then such obligation shall be fully met and satisfied.

6. **RIGHTS.** In the event of any violation of the covenants and conditions contained in this Conservation Easement, the Borough of Mt. Arlington or its designee shall be entitled to recover, in any action to enforce the terms hereof, , including any and all costs and reasonable attorney's fees. If the Grantee determines that the Grantor is in violation of the terms of this easement or that a violation is threatened, the Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of the notice thereof from the Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, failure to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If the Grantee, in its sole discretion, determines the circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and the Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this

paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. **ENFORCEMENT.** Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Conservation Easement or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right of remedy upon any breach by Grantor shall impair such right or remedy will be construed as a waiver.

8. **AMENDMENTS.** The provisions of this Agreement may not be amended, modified or terminated without the express written consent of the Borough of Mt. Arlington, and no such amendment, modification or termination shall be effective for any purpose unless set forth in writing and signed by the appropriate municipal officials.

9. **EASEMENT TO BE PERMANENT.** The terms, provisions, and covenants contained in this Easement shall run in perpetuity.

10. **TERMINATION OF RIGHTS.** The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

11. **SIGNATURES.** The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:

TRAILWOOD WOODMONT IV, LLC

ATTORNEY AT LAW STATE OF NJ
STEPHEN A. SANTOLA

BY: Eric W. Mundt

STATE OF NEW JERSEY)

) ss:

COUNTY OF MORRIS)

I CERTIFY that on JUNE 12, 2017, ERIC WITMANS, personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is the MANAGER of Trailwood Woodmont JV, LLC, the limited liability corporation named in this document, the Grantor named in this easement; and
- (b) this easement was signed on behalf of Trailwood Woodmont JV, LLC as the MANAGER of the limited liability corporation named in this document, the Grantor named in this easement as this person's/its voluntary act, and was duly authorized to do so; and
- (c) that this person's signature is proof to attest to the truth of these facts.

[Signature]
ATTORNEY AT LAW STATE OF NJ (EAV)
STEPHEN A. SAANTOLA

WITNESS:

BOROUGH OF MOUNT ARLINGTON

[Signature]
Linda DeSantis, Borough Clerk

[Signature]
Michael Stanzilis, Mayor

STATE OF NEW JERSEY)

) ss:

COUNTY OF MORRIS)

I CERTIFY that on JUNE 12, 2017, Michael Stanzilis, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:

- (a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement; and
- (b) this easement was signed by him as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement as his/its voluntary act, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
- (c) that he signed this proof to attest to the truth of these facts.

[Signature]
Linda DeSantis, Borough Clerk

SCHEDULE A



54 Horsehill Road
Cedar Knolls, New Jersey 07927
Phone: 973-359-8400
Fax: 973-359-8455

October 5, 2016
OEA Proj. 030502

DESCRIPTION OF A CONSERVATION EASEMENT SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

Being a portion of Lot 15.02, Block 83 as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, filed in the Morris County Clerk's Office April 2, 2008 in Book 7, Page 50, more particularly described as follows:

BEGINNING at a point in the division line between Lots 3 and 15.02, Block 83, where the same is intersected by the division line between Lots 15.01 and Lot 15.02, Block 83, all as shown on said map, and running thence

- 1) Along said division line and then the division line between said Lots 15.02 and Lots 3 and 8, Block 83, North $28^{\circ} 31' 31''$ East, 76.32 feet to an angle point in same; Thence
- 2) Still along said division line, North $26^{\circ} 12' 31''$ East, 103.03 feet to a point in same; Thence
- 3) By a new line through said Lot 15.02, South $63^{\circ} 47' 28''$ East, 25.00 feet to an angle point in same; Thence
- 4) Still by a new line through said Lot 15.02, South $26^{\circ} 12' 31''$ West, 103.54 feet to an angle point in same; Thence
- 5) Still by a new line, South $28^{\circ} 31' 31''$ West, 76.82 feet to a point where the same is intersected by the aforementioned division line between Lots 15.01 and 15.02, Block 83; Thence
- 6) Along said division line, North $61^{\circ} 28' 29''$ West, 25.00 feet to a point where same is intersected by the aforementioned division line between said Lot 15.02 and Lot 3, Block 83, and the place of **BEGINNING**.

Containing 4,496 Square Feet or 0.1032 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office

Description of Storm Easement
October 25, 2013
Page 2 of 2

This description prepared by:



David B. Dixon, PLS Lic. 27282
Omland Engineering Associates, Inc.

This is not an official copy

H:\Projects\Documents\OEA Projects\MS0502 Addtl M. Arlington\DESCRIPTIONS\Desc-Conservation Easmt\Lot 18.02.docx

OMLAND

[illegible]

RESOLUTION NO.: 101 -2017

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF
MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY,
AUTHORIZING THE EXECUTION AND RECORDATION OF THE PERMANENT
CONSERVATION EASEMENT LOCATED OVER A PORTION OF LOT 15.02, BLOCK 83**

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Conservation Easement on certain land described as "Easement Area" over a portion of Lot 15.02, Block 83 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated October 5, 2016, prepared by David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

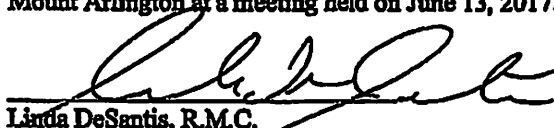
WHEREAS, the Borough of Mount Arlington Borough Engineer; Borough Attorney; Developer's Engineer; and the Developer's Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Conservation Easement is approved and that the recordation of the conveyance documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on June 13, 2017.


Linda DeSantis, R.M.C.
Borough Clerk



MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUNEAS-OR BOOK 23151 PG 262
RECORDED 06/28/2017 10:58:11
FILE NUMBER 2017037292
RCPT #: 12704623 RECD BY: TCole
RECORDING FEES \$8.00

Morris County Recording Cover Sheet



Honorable Ann F. Grossi, Esq.
Morris County Clerk

Official Use Only - Realty Transfer Fee

Official Use Only - Barcode

Date of Document:
06/13/17

Type of Document:
Permanent Conservation Easement

First Party Name:
Borough of Mount Arlington

Second Party Name: JV @AU
Trailwood Woodmont, LLC

Additional Parties:

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

Block:
Block 83.01

Lot:
Portion of Lot 1

Municipality:
Borough of Mount Arlington

Consideration:
\$1.00

Mailing Address of Grantee:
c/o GROSSI, MORRIS, PC
Matthew A. Grossi, Esq.
15 Mount Kemble Avenue
Morristown, New Jersey 07960

**THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN
ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE**

Original Book:

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MORRIS COUNTY RECORDING COVER SHEET

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is part of the permanent record.

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attached document or the document will be rejected and returned.

RECORD AND RETURN TO:
Matthew J. O'Donnell, Esq.
O'Donnell McCord, PC
15 Mt. Kemble Avenue
Morristown, New Jersey 07960

PERMANENT CONSERVATION EASEMENT

This Permanent Conservation Easement (the "Easement") granted this 13th day of June 2017.

FROM

Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey,
having its principal place of business at 100 Passaic Ave, STE 240 Fairfield, New Jersey 07004,

Grantor.

TO

THE BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of
New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New
Jersey 07856-1129,

Grantee.

RECITALS:

WHEREAS, Grantor is the owner of certain property shown and designated as a portion
of Lot 1, Block 83.01 as shown on the tax map of the Borough of Mount Arlington, Morris
County, New Jersey (the "Grantor Property");

WHEREAS, Grantor desires to grant to Grantee a Permanent Conservation Easement over
a portion of Grantor Property within the easement limits described herein, the Easement Area
(as hereinafter defined). The intent of the Conservation Easement is to preserve the area in its
natural and existing state in perpetuity except as specifically noted herein.

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and for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties
hereto agree as follows:

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to the Grantee and its successors and assigns a Permanent Conservation Easement as shown on
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2. DESCRIPTION OF THE EASEMENT. The Easement shall be located as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to March 30, 2017, prepared by Kevin P. Bollinger, PLS for the firm of Bowman Consulting Group, LTD, formerly Omland Engineering Associates, Inc., described and attached as "Schedule A" and made a part hereof (the "Easement Area"); and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them.

3. TERMS AND CONDITIONS. Within the Conservation Easement Area, the following terms and conditions shall apply, it being the intention of the parties that the Conservation Easement Area shall be preserved in its natural and existing state in perpetuity except as specifically noted herein:

(A) Grantor may convey, mortgage, lease or otherwise transfer title or interest in the Grantor's Property subject to this Conservation Easement, provided however, that the covenants and conditions herein remain superior to such conveyance, mortgage, lease, or transfer, it being the intention of the parties that this Conservation Easement and its terms and conditions shall become a part of the chain of title and shall run with the land in perpetuity.

(B) This Conservation Easement and all provisions herein are subordinate to the right of Grantor, expressly reserved, to (i) construct, maintain, and repair on and within the Conservation Easement Area those existing and/or future improvements depicted on the Plans, if any; and (ii) clear, grade, excavate and fill in order to construct such existing and/or future improvements within the Conservation Easement Area as specifically shown on the Plans, if any.

(C) This Conservation Easement and all provisions herein are further subordinate to the Grantor's right to construct, maintain and repair utility connections or drainage facilities on, over and under the Conservation Easement Area and to clear, grade, excavate, and fill as necessary to construct and maintain such utility connections or drainage facilities as are shown on the Plans, if any.

(D) Grantor shall not change any features of the natural landscape or general topography of the Conservation Easement Area nor remove any trees, shrubs, or other vegetation except as necessary for the construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without providing the Grantee with written notice and obtaining the prior written approval of the Grantee; provided, however, that Grantor may, without such written approval, remove dead or diseased foliage and plantings that may reasonably be expected to threaten the surrounding foliage and/or any existing and/or future improvements as depicted on the Plans in accordance with any Borough Ordinances.

(E) Grantor shall not make any changes within the Conservation Easement Area that will affect existing drainage, flood control, erosion control or soil conservation, except as necessary to construct, maintain and repair the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted without the prior written consent of the Grantee.

(F) No topsoil, sand, gravel, loam, rock, minerals or other materials shall be excavated within or removed from the Conservation Easement Area, nor shall any fill be deposited, except as necessary for construction, maintenance and repair of the existing and/or future improvements shown on the referenced Plans and utilities or drainage easements herein permitted, unless the prior written consent of the Grantee is secured.

(G) Grantor shall not deposit, or allow to be deposited, any trash, waste or any other materials within the Conservation Easement Area and shall not use the Conservation Easement Area for the storage of materials whatsoever.

(H) No advertising signs or structures shall be located within the Conservation Easement Area.

(I) No buildings or other structures, other than the existing and/or future improvements shown on the referenced Plans and utilities or drainage facilities and structures necessary therefor herein permitted, shall be erected in the Conservation Easement Area unless application therefor with plans and specifications have been filed with and approved by the Grantee and the Borough of Mt. Arlington.

(J) It is understood and agreed that this Conservation Easement confers upon the Grantee no rights of title or use of the Conservation Easement Area, and nothing herein shall be construed to permit public access to or use of that area nor require the Grantee to maintain such area.

Nothing herein shall be construed to limit the Grantor's right of access to and use of that area except as herein provided.

(K) Grantee, its employees and agents, are permitted to enter the Conservation Easement Area for the purpose of ascertaining compliance with the terms of this Conservation Easement.

(L) No roadways or other rights of way or parking of motor vehicles or equipment shall be allowed within the Conservation Easement Area unless shown on the Plans.

(M) This Conservation Easement shall be subject to, and read in conjunction with any other easements depicted on the Plat and entered into by the parties hereto simultaneously or in connection herewith.

(N) It is the intention of the parties hereto that the Conservation Easement Area will remain undisturbed and forever wild except as specifically provided herein.

(O) Despite anything contained in the preceding paragraphs (A) through (N), Grantor (and all who succeed in title to Grantor) shall have the right (a) to conduct prudent forest management activities subject to the approval of the Grantee and (b) to otherwise use the Conservation Easement Area provided that such use is not materially detrimental to the preservation of the Conservation Easement Area or contrary to the terms and conditions of this Conservation Easement.

4. PRONOUNS. Wherever in this Conservation Easement any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of, and shall bind, the respective parties hereto, and their heirs executors, administrators, personal or legal representatives, successors and assigns, respectively. In all references herein to any party, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within Conservation Easement may require.

5. OBLIGATIONS OF PARTIES. This Conservation Easement shall in all respects to be governed by and construed in accordance with the laws of the State of New Jersey. The terms and conditions of this Conservation Easement are not intended in any way to diminish the obligations of the parties or their successors and assigns to comply with any Federal or State statute, rule or resolution (including, but not limited to, the freshwater Wetlands Protection Act,

N.J.S.A. 13:9B-1, and the rules and regulations promulgated thereunder which may control and regulate the use of the Conservation Easement Area or any portion of the Conservation Easement Area. In the event that such obligations are stricter than the terms and conditions of this Conservation Easement, then such obligation shall be fully met and satisfied.

6. **RIGHTS.** In the event of any violation of the covenants and conditions contained in this Conservation Easement, the Borough of Mt. Arlington or its designee shall be entitled to recover, in any action to enforce the terms hereof, including any and all costs and reasonable attorney's fees. If the Grantee determines that the Grantor is in violation of the terms of this easement or that a violation is threatened, the Grantee shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of the notice thereof from the Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, failure to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of scenic, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If the Grantee, in its sole discretion, determines the circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and the Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this

paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. **ENFORCEMENT.** Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Conservation Easement or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy will be construed as a waiver.


8. **AMENDMENTS.** The provisions of this Agreement may not be amended, modified or terminated without the express written consent of the Borough of Mt. Arlington, and no such amendment, modification or termination shall be effective for any purpose unless set forth in writing and signed by the appropriate municipal officials.

9. **EASEMENT TO BE PERMANENT.** The terms, provisions, and covenants contained in this Easement shall run in perpetuity.

10. **TERMINATION OF RIGHTS.** The provisions of this Easement shall be obligatory upon the respective parties hereto, and upon their respective heirs and assigns.

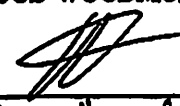
11. **SIGNATURES.** The parties have signed this easement as of the date at the top of the first page by their authorized representatives.

WITNESS:



ATTORNEY AT LAW STATE OF NJ
STEPHEN A. SANTOLA

TRAILWOOD WOODMONT JV, LLO



BY: Eric Witmelt

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on JUNE 12, 2017, ERIC WITMONS, personally came before me and acknowledged under oath, to my satisfaction, that this person:
(a) is the MANAGER of Trailwood Woodmont JV, LLC, the limited liability corporation named in this document, the Grantor named in this easement; and
(b) this easement was signed on behalf of Trailwood Woodmont JV, LLC as the MANAGER of the limited liability corporation named in this document, the Grantor named in this easement as this person's/its voluntary act, and was duly authorized to do so; and
(c) that this person's signature is proof to attest to the truth of these facts.

[Signature]
ATTORNEY AT LAW STATE OF NJ (EAT)
STEPHEN A. SANTOLA

BOROUGH OF MOUNT ARLINGTON

WITNESS:

[Signature]
Linda DeSantis, Borough Clerk

[Signature]
Michael Stanzilis, Mayor

STATE OF NEW JERSEY)
) ss:
COUNTY OF MORRIS)

I CERTIFY that on 6/13, 2017, Michael Stanzilis, Mayor, personally came before me and he acknowledged under oath, to my satisfaction, that he:
(a) is the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement; and
(b) this easement was signed by him as the Mayor of the Borough of Mount Arlington, the municipal corporation named in this document, the Grantee named in this easement as his/its voluntary act, and was duly authorized in accordance with a Resolution of the Borough of Mount Arlington; and
(c) that he signed this proof to attest to the truth of these facts.

[Signature]
Linda DeSantis, Borough Clerk

SCHEDULE A

Bowman
CONSULTING
formerly OMLAND ENGINEERING ASSOCIATES

February 28, 2008
Revised to March 30, 2017
OEA Proj. 030502.1

DESCRIPTION OF A CONSERVATION EASEMENT SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

Being a portion of Lot 1, Block 83.01 as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office, more particularly described as follows:

BEGINNING at a point in the proposed southeasterly sideline of Orben Drive, 40 feet wide, where the same is intersected by a curve leading into the proposed southwesterly sideline of Maple Path, 16 feet wide, all as shown on said map, and running; Thence

Along said curve, along a curve to the right having a radius of 25.00 feet, an arc length of 38.17 feet, the chord of which bears North 69° 48' 46" East, 34.57 feet to a point of tangency in the said southwesterly sideline of Maple Path; Thence

Along said sideline, South 66° 18' 59" East, 230.22 feet to a point of curve leading into the proposed northwesterly sideline of Elizabeth Way, 50 feet wide; Thence

Along said curve, along a curve to the right having a radius of 25.00 feet, an arc length of 39.27 feet, the chord of which bears South 21° 18' 29" East, 35.36 feet to a point in same; Thence

By a new line through said Lot 1, Block 83.01, North 66° 18' 59" West, 280.25 feet to a point in the aforesaid southeasterly sideline of Orben Drive; Thence

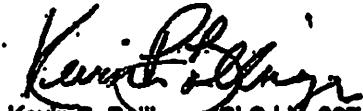
Along said sideline, North 26° 12' 31" East, 1.10 feet to the aforesaid point of curve leading into the proposed southwesterly sideline of Maple Path and the place of BEGINNING.

Containing 6,737 Square Feet or 0.1547 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office

Bowman Consulting Group, Ltd.
54 Horsehill Road • Cedar Knolls, NJ 07927
Phone: 973.359.8400 • www.omland.com • www.bowmanconsulting.com

Description Conservation-Ease-Lot-1-81-83.01
Borough of Mount Arlington, Morris County, NJ
March 30, 2017
Page 2

This description was prepared by:



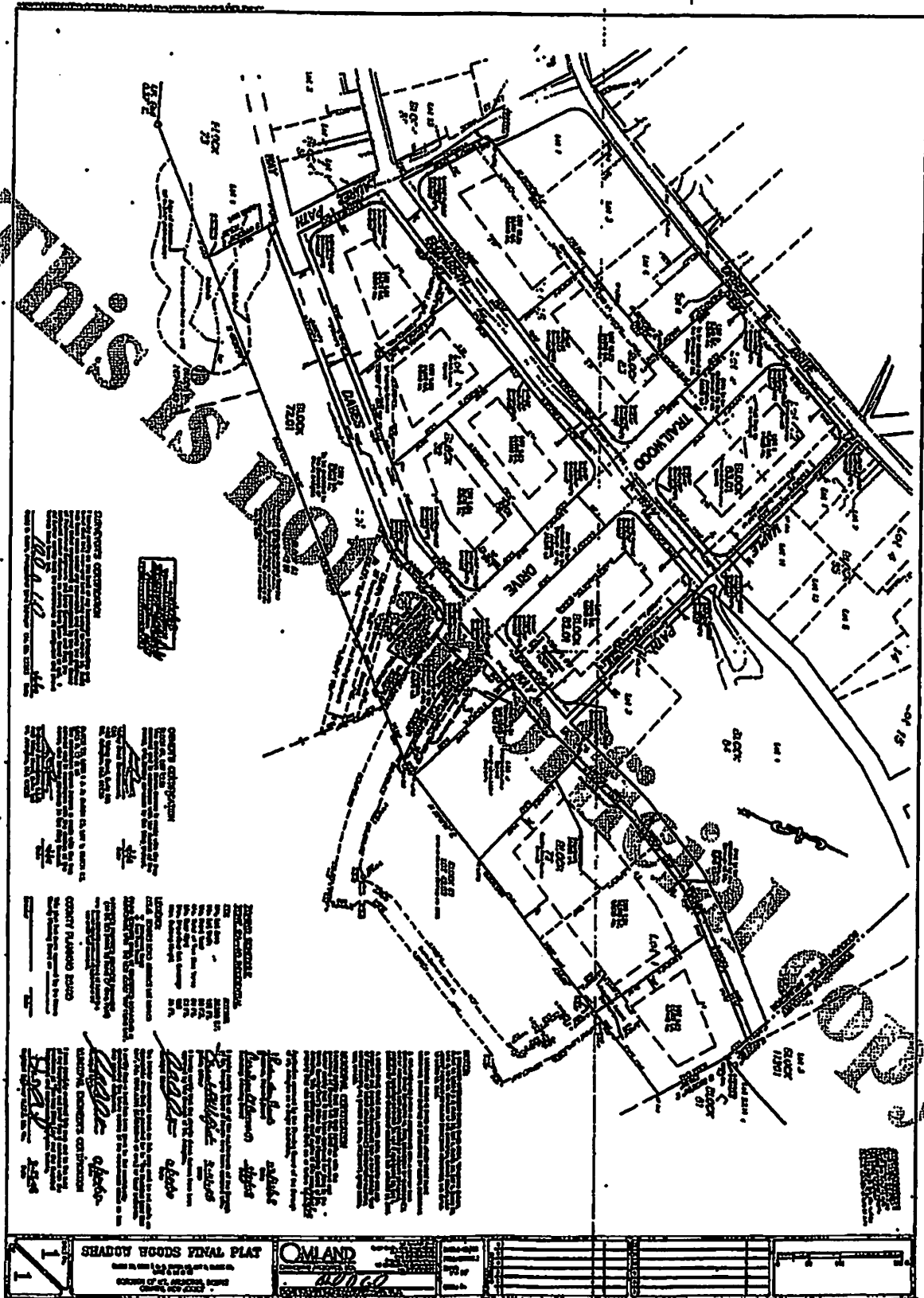
Kevin P. Bollinger, PLS Lic. 30744
BOWMAN CONSULTING GROUP, LTD.

\\Bollinger\Documents\CSA Projects\030602.1 Shadow Wood\DESCRIPTIONS\Revised Description 3-30-17\Conservation-Ease-Lot-1-81-83.01-Revised.docx

This is not an official copy

Bowman
CONSULTING

SCHEDULE B



RESOLUTION NO.: 102 -2017

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF
MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY,
AUTHORIZING THE EXECUTION AND RECORDATION OF THE PERMANENT
CONSERVATION EASEMENT LOCATED OVER A PORTION OF BLOCK 83.01, LOT 1**

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a Permanent Conservation Easement on certain land described as "Easement Area" over a portion of Block 83.01, Lot 1 in the Borough of Mt. Arlington, Morris County, New Jersey as shown on the Metes and Bounds description entitled "Description of an Conservation Easement Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to March 30, 2017, prepared by Kevin P. Bollinger, PLS for the firm of Bowman Consulting Group, LTD, formerly for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule A"; and the final plat plan entitled "Shadow Woods Final Plat Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 & 15" dated February 28, 2008, prepared by Stanley T. Omland, PE and David B. Dixon, PLS for the firm of Omland Engineering Associates, Inc., described and attached as "Schedule B", each attached hereto and made a part hereof (the "Easement Area") a copy of each are incorporated herein at length by reference; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer; Borough Attorney; Developer's Engineer; and the Developer's Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Conservation Easement is approved and that the recordation of the conveyance documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney and the title company. The Borough Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on June 13, 2017.


Linda DeSantis, R.M.C.
Borough Clerk

ORDINANCE NO.: 08-17

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, APPROVING AND AUTHORIZING THE ACCEPTING OF PROPERTY AND RECORDATION OF THE PROPOSED DEED OF DEDICATION OF PROPERTY LOCATED AT BLOCK 72.01, LOT 3

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a certain tract or parcel of land and premises situated in the Borough of Mount Arlington located in Block 72.01, Lot 3, as described in the "Description of a Parcel of Land to be dedicated to the Borough of Mount Arlington, Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to March 30, 2017, prepared by Kevin P. Bollinger, PLS, Bowman Consulting Group, LTD, formerly Omiland Engineering Associates, Inc., described and attached as "Schedule A" attached hereto and made a part hereof; and hereby warrant that they have the exclusive right and authority under the law to make this dedication to the Borough the land described herein warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer; Borough Attorney; Developer's Engineer; and the Developer's Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded in the office of the Morris County Clerk; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-5, authorizes municipalities to acquire real property; and

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey, that pursuant to N.J.S.A. 40A:12-5 the Borough of Mount Arlington is authorized to accept, and cause to be recorded along with a memorialized copy of this Ordinance, the proposed Deed of Dedication located in Block 72.01, Lot 3, as described in the "Description of a Parcel of Land to be dedicated to the Borough of Mount Arlington, Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to

March 30, 2017, prepared by Kevin P. Bollinger, PLS, Bowman Consulting Group, LTD, formerly Omland Engineering Associates, Inc., described and attached as "Schedule A", a copy of which is incorporated herein at length by reference.

BE IT FURTHER ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey, that the documents be accepted and provided to the Morris County Clerk for recordation. The Borough Mayor, Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on June 13, 2017 and will be further considered after a Public Hearing held on July 11, 2017 at the Municipal Building at 7:00 P.M.

INTRODUCED:
PUBLISHED:
ATTEST:


Linda DeSantis, Borough Clerk

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY


Michael Stanzilis, Mayor



MORRIS COUNTY, NEW JERSEY
ANN F. GROSSI, COUNTY CLERK
MUND-OR-BOOK-23241-PG-807-S6
RECORDED-11/14/2017-15:21:23
FILE NUMBER-2017068468-ty: ASec.owski
RCPT #1-13079123 RECD BY: ASedkowski
RECORDING FEES \$8.00

Morris County Recording Cover Sheet



Honorable Ann F. Grossi, Esq.
Morris County Clerk

Official Use Only - Realty Transfer Fee



Official Use Only - Barcode

Date of Document:

11-17

Type of Document:

Deed

First Party Name:

Borough of Mount Arlington

Second Party Name:

Trailwood Associates, LLC

Additional Parties:

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

Block:

Block 72.01

Lot:

Lot 3

Municipality:

Borough of Mount Arlington

Consideration:

\$1.00

Mailing Address of Grantee:

DR OROSCHELL MOORE, PC
Matthew A. O'Rourke, Esq.
18 Mount Pleasant Avenue
Morristown, New Jersey 07960

**THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN
ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE**

Original Book:

Original Page:

MORRIS COUNTY RECORDING COVER SHEET

Please do not detach this page from the original document as it contains important recording information and
is part of the permanent record.

WARNING: Information contained on the Recording Cover Sheet must exactly match the information within the
attached document or the document will be rejected and returned.

Record and Return to:
Matthew J. O'Donnell, Esq.
15 Mount Kemble Ave
Morristown, New Jersey 07960

DEED

This indenture, made this 11th day of July, 2017.

By and Between TRAILWOOD ASSOCIATES, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, hereinafter referred to as the Grantor,

And The BOROUGH OF MOUNT ARLINGTON, a Municipal Corporation of the State of New Jersey, whose principal place of business at 419 Howard Boulevard, Mount Arlington, New Jersey 07856-1129, hereinafter referred to as the Grantee.

Witnesseth

The Grantor, in consideration of the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, does hereby give, grant, and convey to the Grantee, its successors and assigns forever, Lot 3 in Block 72.01 as shown on the "Description of Parcel of Land to be dedicated to the Borough of Mount Arlington, situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2003, Revised to March 30, 2017, prepared by Kevin P. Bollinger, P.E., of Cowman Consulting Group, LTD, formerly Omland Engineering Associates, Inc., described and attached as "Schedule A" attached hereto and made a part hereof; and hereby warrant that they have the exclusive right and authority under the law to make this dedication to the Borough the land described herein warranted to be owned by them.

TOGETHER WITH all right, title and interest that the owner may have unto the said Grantee, its successors and assigns forever.

Grantor does covenant with the said Grantee that it is lawfully seized of the land and has good and lawful right to convey any part thereof.

And the Grantor does covenant with the said Grantee as follows:

1. That the said Grantor has good and marketable title to the premises detailed in Schedule A, attached hereto and made a part hereof.
2. That the Grantee shall quietly enjoy the said property without disturbance and interference, subject to any and all easements and/or encumbrances of record.
3. That the said property is free and clear from encumbrances, subject to any and all easements and/or encumbrances of record.

Promises by the Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a 'covenant as to a grantor's acts' (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The parties have signed this Deed as of the date at the top of the first page by their authorized representatives.

In Witness Whereof, the said Grantor has caused these presents to be signed and sealed this day and year first above written.

WITNESS:

[Signature]

TRAILWOOD ASSOCIATES, LLC

BY:

Cory Atkins

STATE OF NEW JERSEY

ESSEX }
COUNTY OF MORRIS

I CERTIFY that on JUNE 30, 2017, Cory Atkins personally came before me and stated to my satisfaction, that this person:

- (a) is the maker of the Deed;
- (b) executed this Deed as the Grantor named in this Deed as his/her voluntary act, and was duly authorized to execute this Deed by TRAILWOOD ASSOCIATES, LLC; and
- (c) made this Deed for \$1.00 (one dollar and 00/100) as the full and actual consideration paid or to be paid for the transfer of title (such consideration is defined by N.J.S.A. 46:15.5).

JOYCE CAVALIERI
Notary Public

State of New Jersey

My Commission Expires Oct. 27, 2019

JOYCE CAVALIERI

NOTARY PUBLIC OF THE STATE OF NJ

MY COMMISSION EXPIRES: 10/27/2019

SCHEDULE A



February 28, 2008
Revised to March 30, 2017
OEA Proj. 030502.1

DESCRIPTION OF A PARCEL OF LAND TO BE DEDICATED TO THE BOROUGH OF MOUNT ARLINGTON, SITUATED IN THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY.

Being Lot 3, Block 72.01, as shown on a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Omland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office, more particularly described as follows:

BEGINNING at a point in the proposed southeasterly sideline of Dawes Way, 50 feet wide, at a point where same is intersected by the division line between said Lot 3 and Lot 1, Block 73, all as shown on said map, and running; Thence

- 1) Along said sideline, North $45^{\circ} 41' 31''$ East, 517.53 feet to a point of curve in same; Thence
- 2) Still along said sideline, along a curve to the left having a radius of 150.00 feet, an arc length of 51.01 feet, the chord of which bears North $35^{\circ} 57' 01''$ East, 50.76 feet to a point of tangency in same; Thence
- 3) Still along said sideline, North $26^{\circ} 12' 31''$ East, 88.64 feet to a point of curve leading into the proposed southwesterly sideline of Trailwood Drive, 66 feet wide; Thence
- 4) Along curve to the right having a radius of 25.00 feet, an arc length of 37.85 feet, the chord of which bears North $69^{\circ} 35' 05''$ East, 34.34 feet to a point of reverse curve in the said southwesterly sideline of Trailwood Drive; Thence
- 5) Along said sideline, along curve to the left having a radius of 433.00 feet, an arc length of 79.97 feet, the chord of which bears South $72^{\circ} 19' 50''$ East, 79.86 feet to a point of compound curve in same; Thence
- 6) Still along said sideline, along curve to the left having a radius of 768.00 feet, an arc length of 66.84 feet, the chord of which bears South $80^{\circ} 06' 53''$ East, 66.82 feet to a point where same is intersected by the division line between said Lot 3 and Lot 42.01, Block 61 as shown on map entitled "Final Plat, Block 61, Lot 42.01, Borough of Mount Arlington, Township

Bowman Consulting Group, Ltd.
54 Horsehill Road • Cedar Knolls, NJ 07927
Phone: 973.359.8400 • www.omland.com • www.bowmanconsulting.com

Description Conservation-Ease-Lot-3-Bk-72.01
Borough of Mount Arlington, Morris County, NJ
March 30, 2017
Page 2

of Roxbury, Morris County, New Jersey" dated December 12, 2005 filed in the Morris County Clerk's Office on January 10, 2006 as Map No. 5920; Thence

7) Along said division line and then the division line between said Lot 3 and Lot 42.02, Block 61 as shown on said Map No. 5920, South $45^{\circ} 20' 50''$ West, 750.37 feet to a point where same is intersected by the aforesaid division line between Lots 1 and 3; Thence

8) Along said division line, North $49^{\circ} 05' 29''$ West, 105.32 feet to a point in the aforesaid proposed southeasterly sideline of Dawes Way and the place of BEGINNING.

Containing 77,344 Square Feet or 1.7756 acres more or less. Subject to easements and restrictions of record. All in accordance with a map entitled "Shadow Woods, Final Plat, Block 72, Lots 1 and 3, Block 82, Lot 1, Block 83, Lots 9, 12 and 15, Borough of Mt. Arlington, Morris County, New Jersey" dated February 28, 2008, prepared by Onland Engineering Associates, Inc., and about to be filed in the Morris County Clerk's Office

This description was prepared by:


Kevin P. Bollinger, PLS, Inc. 30744
BOWMAN CONSULTING GROUP, LTD.

H:\Projects\Documents\MOBA Projects\030502.1 Shadow Woods\DESCRIPTIONS\Revised Descriptions 3-30-17\Conservation Easmt Lot 3 Bk 72.01-Revised.docx

Bowman
CONSULTING

ORDINANCE NO.: 08-17

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, APPROVING AND AUTHORIZING THE ACCEPTING OF PROPERTY AND RECORDATION OF THE PROPOSED DEED OF DEDICATION OF PROPERTY LOCATED AT BLOCK 72.01, LOT 3

WHEREAS, Trailwood Woodmont JV, LLC, a limited liability corporation of the State of New Jersey, having its principal place of business at 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052, desires to convey a certain tract or parcel of land and premises situated in the Borough of Mount Arlington located in Block 72.01, Lot 3, as described in the "Description of a Parcel of Land to be dedicated to the Borough of Mount Arlington, Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to March 30, 2017, prepared by Kevin P. Bollinger, PLS, Bowman Consulting Group, LTD, formerly Omland Engineering Associates, Inc., described and attached as "Schedule A" attached hereto and made a part hereof; and hereby warrant that they have the exclusive right and authority under the law to make this dedication to the Borough the land described herein warranted to be owned by them; and

WHEREAS, the Borough of Mount Arlington Borough Engineer; Borough Attorney; Developer's Engineer; and the Developer's Attorney reviewed the above-referenced conveyance documents, a copy of which is incorporated herein at length by reference; and

WHEREAS, in order to effectuate the acceptance of the property, the proposed conveyance documents and Metes and Bounds Descriptions are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced conveyance documents and recommends the documents be recorded in the office of the Morris County Clerk; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-5, authorizes municipalities to acquire real property; and

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey, that pursuant to N.J.S.A. 40A:12-5 the Borough of Mount Arlington is authorized to accept, and cause to be recorded along with a memorialized copy of this Ordinance, the proposed Deed of Dedication located in Block 72.01, Lot 3, as described in the "Description of a Parcel of Land to be dedicated to the Borough of Mount Arlington, Situated in the Borough of Mount Arlington, Morris County, New Jersey" dated February 28, 2008, Revised to

March 30, 2017, prepared by Kevin P. Bollinger, PLS, Bowman Consulting Group, LTD, formerly Onland Engineering Associates, Inc., described and attached as "Schedule A", a copy of which is incorporated herein at length by reference.

BE IT FURTHER ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey, that the documents be accepted and provided to the Morris County Clerk for recordation. The Borough Mayor, Administrator and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the conveyance of this parcel.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on June 13, 2017 and will be further considered after a Public Hearing held on July 11, 2017 at the Municipal Building at 7:00 P.M.

INTRODUCED:
PUBLISHED:
ATTEST:


Linda DeSantis, Borough Clerk


BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY
Michael Stanzilli, Mayor

RECORD & RETURN TO:
Matthew J. O'Donnell, Esq.
O'DONNELL McCORD, PC
15 Mount Kemble Avenue
Morristown, New Jersey 07960

FIRST AMENDED DEVELOPER'S AGREEMENT

THIS FIRST AMENDED DEVELOPER'S AGREEMENT is made this 2nd day of July, 2013 by and between THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a municipal corporation of the State of New Jersey, having an address at 419 Howard Boulevard, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Borough") and SEASONS ASSOCIATES, LLC, a limited liability company of the State of New Jersey with administrative offices c/o Atkins Companies, 101 Old Short Hills Road, West Orange, New Jersey 07052, and TRAILWOOD ASSOCIATES, LLC, a limited liability company of the State of New Jersey with administrative offices at c/o Atkins Companies, 101 Old Short Hills Road, Suite PH-1, West Orange, New Jersey 07052 (hereinafter collectively referred to as the "Developer").

WITNESSETH:

WHEREAS, Developer heretofore received from the Mount Arlington Land Use Board (hereinafter referred to as the "Land Use Board") preliminary and final major site plan approval and preliminary and final major subdivision approval for the construction of 60 townhouse units and ten (10) single family homes (hereinafter referred to as the "Project") on property that had been identified as Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 (hereinafter referred to as the "Development Property") on the tax map of the Borough of Mount Arlington, County of Morris, State of New Jersey, which project is known as "Shadow Woods", with the approved final plans being prepared by Omland Engineering Associates dated February 22, 2005, and revised through November 17, 2005 described in the resolution of the Land Use Board approved on January 11, 2006 and memorialized in a

[34-004/00127457-2]

Resolution of Approval on February 8, 2006 (hereinafter referred to as the "Resolution"). A copy of the Resolution is annexed hereto as Exhibit A; and

WHEREAS, Seasons Associates, LLC is the owner and developer of the portion of the Development Property on which the 60 townhouse units are to be constructed, which portion of the Development Property is identified as Block 61, lot 42.03; and

WHEREAS, Trailwood Associates, LLC is the owner and developer for the portion of the Development Property on which the ten (10) single family homes will be constructed, which property was formerly identified as Block 72, Lots 1 and 3, Block 82, Lot 1, and Block 83, Lots 9, 12 & 15. As a result of the perfection and recording of the approved final subdivision plat, it is now known as Block 72, Lots 1.01, 1.02 and 3; Block 82, Lots 1.01, 1.02, 1.03 and 1.04; Block 82.01, Lot 1; Block 83, Lots 9, 15.01 and 15.02; and Block 83.01, Lot 1. Block 72.01, Lot 3 and Block 83, Lot 9 as shown on the final subdivision plat are to be dedicated to the Borough for open space purposes as noted thereon; and

WHEREAS, the Developer revised the final approved site plans for the Shadow Woods Project in 2011 to address all of the engineering comments, conditions of approval and conditions of outside agency approvals. Those changes were approved by the Borough Engineer, and the Borough executed the final approved site plans on or about April 27, 2011. The final approved site plans have been further amended and revised through November 1, 2011;

and

WHEREAS, the approvals of the Land Use Board for the above-mentioned plans were conditioned upon, among other things, the Developer entering into a Developer's Agreement with the Borough; and

[54-004/00127457-2]

WHEREAS, the Borough and the Developer entered into a Developer's Agreement for the Project on or about March 13, 2007 (hereinafter the "Developer's Agreement"). A copy of the Developer's Agreement is annexed hereto as Exhibit B; and

WHEREAS, pursuant to the Developer's Agreement, the primary purpose for entering into same in 2007 was to allow "certain limited site work to proceed with respect to the implementation of the Project"; and

WHEREAS, Article I, Paragraph 7 of the Developer Agreement further provided that "[i]t is understood and agreed that an Amended Developer's Agreement will have to be agreed upon and executed by and between the Borough and the Developer before the start of construction, except as otherwise provided in Article II of this Agreement. The Amended Developer's Agreement shall include, among other things, the cost estimate for the Public Improvement Security, and shall address any other construction-related issues, items and agreements not otherwise covered by the terms of this Agreement";

WHEREAS, the Developer proceeded to undertake the limited tree removal and clearing permitted by Article II of the Developer's Agreement and now desires to commence with the construction of the Project; and

WHEREAS, the Developer and the Borough desire to enter into this First Amended Developer's Agreement ("Amended Developer's Agreement") in order to satisfy the terms and conditions of the Developer's Land Use Board approvals and the terms and conditions of the Developer's Agreement.

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.....

..... NOW, THEREFORE, in consideration of the promises and mutual covenants

..... hereinafter contained, the parties hereto, for themselves, their successors and assigns, hereby

..... agrees to the following:

I. DEVELOPER'S AGREEMENT BINDING. Except as otherwise provided

herein, all terms and conditions of the March 13, 2007 Developer's Agreement by and between the Borough and the Developer shall be binding upon the Developer and shall remain in full force and effect.

II. PUBLIC IMPROVEMENT SECURITY.

1. In accordance with Article I, paragraph 6 of the Developer's Agreement, prior to the commencement of construction, the Developer shall post with the Borough a surety bond, letter of credit or other form of security acceptable to the Borough (in an amount that is reasonably estimated by the Borough) (the "Public Improvement Security") as a performance guarantee for the cost of the public and private site improvements to be placed upon the Development Property in accordance with a cost estimate to be prepared and submitted by the Developer's engineer and approved by the Borough Engineer. A copy of the cost estimate is annexed hereto as Exhibit C.

2. Upon the completion or installation of all or a portion of the bonded public improvements by the Developer, and upon the approval and certification by the Borough Engineer, the Developer may apply for a full or proportional reduction (as the case may be) in the original amount of such performance guarantee. A reduction or release of the performance or maintenance guaranty as hereinafter set forth, shall be in accordance with this Agreement and in accordance with the procedures established by the Municipal Land Use Law, N.J.S.A. 40:55D.

53.

[54-004/00127457-3]

3. Developer agrees to provide the Borough with a maintenance bond or irrevocable letter of credit to run for a period of two (2) years from the date of completion of all site improvements required by this Agreement as permitted by N.J.S.A. 40:55D-53(a)(2). Said bond will be in an amount of fifteen (15%) percent of the cost of the site improvements and will be provided in form satisfactory to the Borough Attorney. Said bond or irrevocable letter of credit shall assure the maintenance of said site improvements and facilities by the Developer and provide for the reimbursement of all expenditures incurred by the Borough for their repair and maintenance and/or such other expenses as may be necessary to keep the same in good working order during the two (2) year period. The Borough shall provide the Developer with thirty (30) days' notice prior to incurring such expenses except for emergency repair. No provisions in this paragraph or in this Agreement, however, shall be construed to impose any duty or liability of maintenance, inspection or repair on the part of the Borough with respect to any private facilities or site improvements, whether bonded hereunder or otherwise.

III. Compliance with Conditions of Approval.

1. Prior to the commencement of construction, Applicant shall deed to the Borough as open space the portion of the Development Property identified as Block 72.01, Lot 3 and Block 83, Lot 9 as shown on the tax map of the Borough of Mount Arlington, County of Morris, State of New Jersey, in accordance with Condition 1 of the Resolution.

2. Prior to the commencement of construction, the Applicant shall prepare easements to be reviewed by the Board attorney in favor of the Borough to restrict any further improvement in the areas delineated in the plans as being in conservation easements in accordance with Condition 1 of the Resolution.

3. In addition to the foregoing, the Applicant shall be required to comply with all other remaining outstanding conditions of approval set forth in Resolution, as well as conditions set forth in any and all other outside agency approvals.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this instrument to be executed by their respective corporate officers and their proper corporate seals to be hereunto affixed the day and year first above written.

ATTEST:


Linda DeSantis, RMC, Borough Clerk

BOROUGH OF MOUNT ARLINGTON


Arthur R. Ondish, Mayor

WITNESS:

WITNESS:

SEASONS ASSOCIATES, LLC

TRAILWOOD ASSOCIATES, LLC

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RESOLUTION 2013 - 86

**A RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF
THE BOROUGH OF MOUNT ARLINGTON, COUNTY OF MORRIS,
STATE OF NEW JERSEY, APPROVING AND AUTHORIZING
EXECUTION OF THE FIRST AMENDED DEVELOPERS
AGREEMENT WITH SEASONS ASSOCIATES, LLC
AND TRAILWOOD ASSOCIATES LLC
FOR SHADOW WOODS**

WHEREAS, on June 26, 2013, the Mount Arlington Land Use Board approved the First Amended Developer's Agreement with Seasons Associates, LLC, and Trailwoods Associates, LLC, for Shadow Woods, Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 ("Property"), as shown on the official tax map of the Borough of Mount Arlington; and

WHEREAS, the Mayor, Borough Clerk and Borough Attorney wish to execute the First Amended Developer's Agreement on file in the office of the Borough Clerk; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mount Arlington in the County of Morris and State of New Jersey as follows:

1. The First Amended Developer's Agreement on file in the office of the Borough Clerk with Seasons Associates, LLC, and Trailwoods Associates, LLC, for Shadow Woods, Block 61, Lot 42.03, Block 72, Lots 1 and 3, Block 82, Lot 1 and Block 83, Lots 9, 12 & 15 ("Property") is approved and the Mayor, Borough Clerk and Borough Attorney are authorized to execute the same.
2. This Agreement shall be recorded in the office of the Morris County Clerk and is available for inspection in the Borough Clerk's office.
3. The First Amended Developer's Agreement is hereafter binding upon the Developer, its successors, heirs, assigns and/or transferees.

This resolution shall take effect immediately.

I HEREBY CERTIFY this to be a true and correct Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, and adopted on July 2, 2013.


Linda DeSantis, RMC, Municipal Clerk
Borough of Mount Arlington

Exhibit A

BOROUGH OF MOUNT ARLINGTON LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Approved: January 11, 2006

Memorialized: February 8, 2006

**IN THE MATTER OF SEASONS ASSOCIATES, L.L.C.
PRELIMINARY AND FINAL MAJOR SITE PLAN
AND PRELIMINARY MAJOR SUBDIVISION APPROVAL
LOT 42.03, BLOCK 61; LOTS 1 AND 3, BLOCK 72; LOT 1, BLOCK
82; LOTS 9, 12 AND 15, BLOCK 83**

WHEREAS, Valley Road Development, L.L.C. ("VRD") had previously submitted an application to the Borough of Mount Arlington Land Use Board ("Board") for preliminary and final site plan approval for the construction of two (2) commercial office buildings in the Borough of Mount Arlington on property described on the Borough's Tax Map as Block 61, Lot 42.01; and

WHEREAS, VRD also concurrently submitted a subdivision plan seeking approval for a subdivision on Lot 42 in Block 61; and

WHEREAS, the Board denied the aforesaid applications which prompted VRD to institute a lawsuit against, among others, the Board, the Borough, and Suburban Consulting Engineers, the Borough's civil engineers; and

WHEREAS, the aforesaid litigation was amicably resolved by and between the parties in accordance with terms set forth in a Consent Order which was accepted and filed by the Court on August 6, 2003; and

WHEREAS, the terms of the Consent Order provided, inter alia, that VRD could develop Lot 42.03 in Block 61 "for residential use of not more than 60 residential dwelling units, provided that the appropriate variance relief and residential site improvements standard relief [was] granted"; and

WHEREAS, the Consent Order further held that "no residential development shall take place [on Lot 42.03 in Block 61] until development

{00216301-1}

plans and applications are submitted and approved by the Land Use Board which show access for residential development of not more than 60 dwelling units. The approval of the subdivision for residential purposes shall not be construed as an agreement to approve any particular site plan application for the property, which approval can only be given in compliance with the application and hearing provision of the Municipal Land Use Law"; and

WHEREAS, VRD entered into an Agreement of Sale to sell Lot 42.03 in Block 61 (the VRD Property) to Seasons Associates, L.L.C. ("Seasons"); and

WHEREAS, Seasons further entered into an Agreement of Sale with Anthony P. Costa, III Sub Trust B for the purchase of Lots 1 and 3 in Block 72, Lot 1 in Block 82; and Lots 9, 12 and 15 in Block 83 (hereinafter referred to as the "Pio Costa Property"); and

WHEREAS, Seasons applied to the Board for preliminary and final major site plan and preliminary major subdivision approval to construct sixty (60) townhomes on the VRD Property and create ten (10) building lots for the construction of single-family homes on the Pio Costa Property; and

WHEREAS, the aforesaid application was deemed complete by the Board on April 13, 2005; and

WHEREAS, public hearings were held before the Board on May 25, 2005; June 22, 2005; September 28, 2005; October 26, 2005; November 30, 2005; December 7, 2005; and January 11, 2006, notice being required and given, at which time the Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(b). At all times Seasons was represented by John Inglesino, Esq. of the law firm of Stern and Kilcullen, Esqs.; and

WHEREAS, it has been determined by the Board that the applicant has complied with all of its rules, regulations and requirements and that all of the required provisions of compliance have been filed with the Board; and

WHEREAS, the Board received as part of the hearing process the following documentary and testimonial evidence submitted by Seasons, as well as comments received from the Board's staff and members of the public:

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Robert Atkins, a principal member of Seasons, testified that Seasons was the contract purchaser from VRD for the VRD Property. He added that Seasons also had a contract to acquire the Pio Costa Property. He explained that if the requisite approvals were granted, Seasons would be responsible for developing the residential development project proposed on the VRD and Pio Costa Properties.

Mr. Atkins stated that prior to designing the project, Seasons examined possible access to the aforesaid Properties. He indicated that Seasons had two possible means of ingress and egress to the Properties. One possible approach required an extension of a road from Orben Drive, in the Lake Rogerene section of the Borough, into the Pio Costa and VRD Properties. Second, Seasons could possibly gain access by extending a private road from Mulberry Lane, a road located in the adjacent Seasons Glen condominium development.

Mr. Atkins explained that roads in the Seasons Glen condominium development were privately owned by the Seasons Glen homeowners association. He said that this meant that Seasons would need to secure an agreement with the homeowners association before extending any of its private roadways into the VRD and Pio Costa Properties.

Mr. Atkins stated that in the summer of 2003, representatives for Seasons entered into discussions with the Board of Trustees for the Seasons Glen homeowners association which eventually culminated in a formal written proposal being presented to the Seasons Glen Board by Seasons on or about February 27, 2004. Negotiations continued for several months thereafter, culminating in Seasons' final offer to pay the Seasons Glen homeowners association one million dollars to secure access from Mulberry Lane. Mr. Atkins testified that this final offer was rejected.

Mr. Atkins stated that it was only after Seasons was unsuccessful in obtaining access from the Seasons Glen homeowners association that it began negotiating with the owner of the Pio Costa Property. Mr. Atkins testified that the Pio Costa Property fronted along Orben Drive and would enable Seasons Associates to secure access to the VRD Property, Lot 42.03 in Block 61.

After Mr. Atkins completed his testimony, Seasons presented Stanley T. Omland, P.E., P.P. Mr. Omland and the company for which he is

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employed, Omland Engineering Associates, prepared the site plan and subdivision plans. After being accepted by the Board as an expert in the area of civil engineering and professional planning, Mr. Omland testified about the property that was the subject of the application. In so doing, he described for the Board where the proposed ten (10) single-family lots would be located and where the sixty (60) townhouse units were to be built. Mr. Omland explained that Seasons intended to develop the Property in reliance upon the Borough's land development ordinances, the residential site improvement standards, and all applicable regulatory agencies. He also stated that the development proposal was consistent with the Borough's Master Plan. He stated that the project was designed using a cluster concept which would leave much of the property undisturbed as open space. Mr. Omland stated that the total acreage for all of the lots combined was 28.3 acres, which meant approximately 8 acres, or 28% of the tract, would be left as open space.

Mr. Omland indicated that the westerly portion of the property, which encompassed the Pio Costa property, was located in the Borough's RA-40 district. He stated that this zoning district would allow single-family individual lots consisting of 40,000 square feet which could be reduced to 30,000 square feet if public water were available. The total acreage for all of the lots in the Pio Costa Property was approximately 13 acres.

Mr. Omland also described the development proposal for the VRD Property. He stated that the proposed development was done in accordance with the Borough's PUD zoning district. It would consist of sixty (60) townhomes ranging in size from 2200 to 2700 square feet. Two hundred and forty-six (246) parking spaces would be made available, even though only 144 were required by RSIS in his opinion. The project would include a clubhouse with a pool.

Mr. Omland testified that access to the entire project would come from a boulevard entrance extending from Orben Drive through the single-family homes section and then into the townhome development. Originally, Mr. Omland indicated the width of each lane of the proposed boulevard at Orben Drive would be 18 feet wide. After receiving the Board's input, each lane was reduced to 12 feet, although it was widened back to an undivided width of 28 feet as the road approached Orben Drive from Elizabeth Way. The rest of the proposed roadways within the development would include extending and improving the paper street currently known as Elizabeth Way.

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All dwelling units would have, according to Mr. Omland, public water available. He further explained that the proposed townhomes would have public sewer service available, because they were within the municipality's public sewer district. The ten (10) single-family homes, Mr. Omland opined, would have on-site septic systems installed.

Mr. Omland stated that the development proposal presented by Seasons complied with all applicable storm water management regulations. In his opinion, the storm water management plan was designed so that there would be less storm water runoff from all of the lots than there is currently in their undeveloped condition. Mr. Omland continued by claiming that the system was designed to remove eighty percent (80%) of the total suspended solids, thereby enhancing water quality. He believed that there would be no additional storm water runoff flowing into Lake Rogerene. In response to a question from the public, Mr. Omland indicated that only 2.5 acres currently drains from the property into Lake Rogerene. He stated that the plan was designed to divert approximately 1.8 acres of the area away from Lake Rogerene, although he did say that the water could be redirected to the lake, if it was necessary to maintain water levels in the lake. The stormwater facilities located within the townhome section of the project would be maintained by the future homeowners' association. The detention basin located on Lot 9 would be owned and maintained by the Borough, pursuant to the Board's recommendations.

Mr. Omland stated that the proposed townhouse development would include a 50-foot setback with a 25-foot wooded buffer to the rear of the properties located in the Seasons Glen development along Mulberry Lane. He believed that the buffer area would be sufficiently dense to maintain the quiet enjoyment for the residents in Seasons Glen. He also asserted that there would be a number of conservation easements established in the project to minimize future development of the Properties.

Numerous questions were raised by Board members and members of the public concerning the proposed access to the project from Orben Drive. Members of the Board and public questioned whether the project could be accessed by extending Valley Road, an existing road that provides access to a commercial project located on an adjacent lot. Mr. Omland stated that he examined this issue and believed that it would be impractical to design such a road that would comply with current standards. In support of his position, Mr. Omland stated that the VRD Property, where the proposed townhomes

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would be located, was 170 feet higher in elevation than the present terminus of Valley Road. He maintained that this would require a very steep road that would exceed the 14% maximum allowable profile under the RSIS standards. He further claimed that there would be a significant amount of disturbance and loss of vegetation along the steep sloped area to incorporate a serpentine, winding banked road that would need to be built.

He testified as well that the Borough's ordinances limit the maximum grade of road to 12%. An extension of Valley Road would necessitate, in his opinion, an 18% grade. The Board's engineer, Paul VanGelder, P.E. agreed, adding that it would be extremely expensive and unsafe. In Mr. VanGelder's words, an extension of Valley Road would represent an "unreasonable route."

Finally, Mr. Omland opined that blasting would be required during the development process. He indicated that Seasons would comply with all state requirements regulating blasting. He further testified that construction would attempt to be balanced subject to blasting guidelines. In other words, any soils disturbed in one area could be used in another.

Given the concerns about access to the property and traffic impacts, Seasons offered Eric Keller as an expert in traffic matters. Mr. Keller stated that he performed a standard traffic impact study, examining site conditions and traffic counts along the existing roadway network.

Initially, Mr. Keller stated that the proposed internal roadway network complied with RSIS standards and the Borough's ordinances. He next considered whether the use of Orben Drive would be permitted. Mr. Keller testified that Orben Drive is presently the sole access for homes in the Lake Rogerene section of the Borough. Mr. Keller opined that Orben Drive would be considered a minor collector road in accordance with RSIS standards. A minor collector road is one that provides frontage for access to lots and other residential streets while not handling regional traffic.

Mr. Keller maintained that Orben Drive in Mt. Arlington was as wide as 20 feet with some areas being as narrow as 17 feet. Generally, there is no curbing or sidewalks along the road. He indicated that the vehicular capacity of a road of this classification is 2000 vehicles per hour based on the standards in the Highway Capacity Manual. Based upon his analysis, there were currently only about 100 vehicles using Orben Drive per hour.

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Along the residential portion of Orben Drive, hourly traffic counts showed approximately 1200 daily trips, according to Mr. Keller.

Mr. Keller then applied a 2% growth factor for traffic along Orben Drive over the next two (2) years, which did not include traffic from the proposed project. Again, in his opinion, the additional 2% growth would not exceed the 2000 trips per hour permitted along Orben Drive. He claimed that based on his review of the Institute of Transportation Engineer's Trip Generation Manual, the proposed project would add an additional 500 two-way trips which when added to the existing traffic would total approximately 1100 two-way trips per day which is far below the allowable threshold.

Mr. Keller further opined that Orben Drive could handle the capacity even if it were to be reclassified. In his analysis, he admitted that if Orben Drive were to be reclassified as a residential access street under the RSIS, it would be limited to 1500 trips per day. Again, even applying this more conservative classification, if the project were to be constructed, the number of trips per day would be below the amount permitted under the RSIS for residential access streets. Therefore, he testified that the development would not change the functional classification of the existing roadways. He also stated that the proposed roadway network to be constructed within the proposed residential development would be adequate to handle the traffic generated by the project itself.

The Board's traffic consultant, Kenneth E. Fears, P.E., did not disagree with Mr. Keller's conclusions. Mr. Fears did raise an issue concerning the classification of Orben Drive vis-a-vis the proposed project. Mr. Fears questioned whether Orben Drive should be classified as a cul-de-sac since it was the only means of direct access into the project. Based upon Mr. Fears concerns, Mr. Keller petitioned the Department of Community Affairs of the State of New Jersey, asking it to address this issue. The Department of Community Affairs ultimately agreed with Mr. Keller, concluding that Orben Drive would not constitute a residential cul-de-sac, which might have otherwise limited traffic volume.

Mr. Fears also raised issues concerning proposed sight triangles needed in the proposed project. Mr. Fears indicated that sight triangles should be established or the applicant could seek a de minimus exception from the sight triangle requirements. In response, Mr. Keller stated that the applicant try to secure the exception.

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Members of the public questioned whether Orben Drive was wide enough to handle additional traffic from the proposed project. Mr. Fears responded that Orben Drive is capable of carrying the additional volume of traffic that is projected. He did admit that there are points along the road where widening or improvements might be desirable. He added, however, that these improvements are not necessitated by the additional traffic volume. In his words, "there is nothing about this project that rises to the threshold of calling for or mandating such improvements where they are not currently required."

Seasons also had an Environmental Impact Assessment prepared and submitted with its initial application. The Assessment was prepared by Laura Newgard of EcolSciences, Inc. Ms. Newgard generated an inventory of the existing natural resources. She analyzed the geology, the topography and the soils. She also described the ground water quality and the surface water quantity and quality.

Ms. Newgard indicated that she examined existing vegetation on the property. Essentially, she determined that the property was an upland forest area except for the extreme western portion which she called a palustrine forested wetland. Ms. Newgard also set forth her observations concerning wildlife and endangered species, not only on the property, but in the surrounding area. Ms. Newgard submitted a request to the Natural Heritage Program to determine if there were any documented sightings of threatened or endangered species. She was informed that there were none on the property, although there were records of sightings of barred owls, red-shouldered hawks, Jefferson salamanders, marbled salamanders and veery in nearby areas. Special concerned species are not threatened or endangered, but are simply being monitored by the Endangered and Nongame Species Program. Of these species, Ms. Newgard stated that the red-shouldered hawk and veery could possibly live on the property or simply pass through. The Jefferson salamander and the marbled salamander reside within a specific wetlands that, according to her, are necessary for breeding. Ms. Newgard found no such wetland habitat on the property that would lead her to believe that such species existed on the property.

The Board's environmental consultants, Dr. Sharon Ann Wander, Ph.D. and Wade Wander, N.Sc., analyzed the applicant's environmental assessment. Mr. and Dr. Wander did take issue with some of her

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observations. They indicated that there were actual sightings of the worm-eating warbler and the Jefferson salamanders on the property. Mr. Wander also expressed a concern that while the Jefferson salamander does breed in vernal ponds, it spends the rest of the time in forested areas. Therefore, he stated that it is possible if the forest were to be destroyed, the habitat for the Jefferson salamander would be lost. Mr. Wander did agree, however, that there are currently no state or federal regulations offering enhanced protection for these salamanders.

Mr. and Dr. Wander also expressed concerns that although there may have been no barred owl or red-shouldered hawks sighted on the property, these species have very large home ranges that could include the property. Again, however, Mr. and Dr. Wander agreed that there was presently no regulations governing these species or offering enhanced protection for them. They also offered concerns about the federally endangered Indiana bat. Although not present on the property, their potential home range could include this property. Ms. Newgard indicated, however, that even if this bat were present on the property, the applicant may have to tailor its clearing activities so as to not interfere with this species' breeding. Ultimately, Mr. and Dr. Wander offered certain recommendations, but admitted that the applicant's proposal violated no state or federal law regarding the protection of threatened or endangered species.

After Seasons concluded its presentation, the matter was opened to the public. The Lake Rogerens Civic Association appeared by and through its attorney, Joel Murphy, Esq. The Association first presented testimony from Gary Anderson, P.E. from John Desch Associates, Inc. Mr. Anderson has experience in performing traffic studies in New Jersey.

Mr. Anderson indicated that his company performed a site inspection to observe traffic and roadway conditions. He also analyzed the reports prepared by Mr. Keller and Mr. Fears. Mr. Anderson concluded that Orben Drive is not sufficiently wide enough to manage the additional traffic safely. He stated that according to RSIS, the minimum width of the road should be 20 feet. He added that the minimum width should be 28 feet to accommodate the parking that is allowed along one side of the road.

Mr. Anderson also analyzed the accident history for Orben Drive and Elizabeth Way. He discovered that there was only one (1) accident which related directly to the substandard width of the roadway. He attributed the

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low number of accidents to the fact that residents on Orben Drive are aware of the narrowness of the roadway and drive accordingly. He raised doubts about whether future residents moving into Seasons' project would be as careful thereby resulting in more accidents.

As a result of his analysis, Mr. Anderson believed that the project should not be built with access to Orben Drive unless appropriate measures were taken to improve and widen the roadway.

The Lake Rogerene Civic Association also presented testimony from Kevin O'Brien, a resident living in Lake Rogerene. Mr. O'Brien testified that he possesses an engineering degree, but was not qualified as an expert in civil engineering nor did he testify as an expert in such matters. Mr. O'Brien essentially offered a lay opinion regarding the feasibility of extending Valley Road to provide an alternative access to the property. However, he personally did not prepare any such plan and instead recommended that the Borough perform its own independent analysis.

In response to his testimony, Valerie Hrabal, P.E. of Clough, Harbour Associates, the Board's engineering consultant, stated that this issue had been examined and it was her opinion that it was not practical to extend this roadway given the steep slopes, the extensive cutting, stripping, clearing, and blasting that would be required.

The Lake Rogerene Civic Association also presented testimony from its president, Paula Danchuk. Ms. Danchuk testified that there were problems along Orben Drive, particularly when people park along the road.

After the Lake Rogerene Civic Association concluded its presentation, other interested parties appeared to offer comments and/or objections to Seasons' proposal. These comments focused upon environmental issues, landscaping and buffering, traffic, water quality, access, and traffic.

WHEREAS, the Board, during the hearing process, also received documentary evidence that were marked as the following Exhibits:

A-1 Shadow Woods subdivision plan of Block 1, Lot 42
 prepared by Omland Engineering.

- A-2 Consent Order regarding settlement agreement in the Valley Road Development v. Borough of Mount Arlington, et al. matter.
- A-3 Written proposals made by Atkins Development Corp. to the Seasons Glen Condominium Association regarding access through the Seasons Glen development.
- A-4 Opinion letter by Benjamin Lambert, Esq. regarding Seasons Glen's authority to enter into an access agreement without the consent from homeowners.
- A-5 Letter from Arnold Calabrese, Esq. on behalf of Seasons Glen rejecting the request by Atkins Development to gain access to its property from Seasons Glen.
- A-6. Letter from Dan Horgan, Esq. to Seasons Glen regarding access.
- A-7 Contours and aerial photo color rendering the property.
- A-8 Aerial photo of Block 61, Lot 42.
- A-9 Aerial photo entitled "Shadow Woods Overall Area."
- A-10 Aerial photo entitled "Shadow Woods Project Area."
- A-11 Letter dated July 22, 2005, from Eric Keller to Amy Fenwick Frank of the Department of Community Affairs regarding the road classification for Orben Drive.
- A-12 Letter dated July 25, 2005, from the Department of Community Affairs responding to Mr. Keller's July 22, 2005 letter.
- E-1 E-mail from Larry Torick of the New Jersey Department of Environmental Protection to Jacklyn Enfield.

WHEREAS, the Board also reviewed and considered reports from its own consultants; and

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WHEREAS, the Board, in reviewing the testimony and documentary evidence submitted, made the following findings of fact and conclusions of law:

1. The Board finds that the applicant's, Season Associates, L.L.C., application for preliminary and final major site plan and preliminary major subdivision approval to construct sixty (60) townhomes on Lot 42.03 in Block 61 and create ten (10) building lots for the construction of single-family homes on Lots 1 and 3 in Block 72; Lot 1 in Block 82; and Lots 9, 12 and 15 in Block 83 comply with the Borough's land development ordinances, the New Jersey Municipal Land Use Law, and the Borough's Master Plan. The Board finds that the Pio Costa Property is located in the Borough's Zone RA-40 zoning district. Specifically, the Board find that ten (10) proposed lots satisfy the Borough's land development ordinances with respect to minimum lot area; minimum lot width; minimum front yard; minimum side yard; minimum total side of two side yards; minimum rear yard; maximum impervious lot coverage; maximum building height and minimum number of parking spaces. The Board finds that the ten (10) proposed single-family lots require no variance relief.
2. Similarly, the Board finds that the townhouse development proposal for the VRD Property complies with the Borough's PUD zoning requirements. Specifically, the application satisfies the requirements for tract size; minimum exposures per unit; minimum number of parking spaces; minimum number of guest parking spaces; parking space size; minimum tract setback; maximum building height; maximum units per building; distance between buildings; and open space. The Board does note that the application does not comply with the distance required between the townhome units and the adjacent single-family residential zone. Specifically, 75 feet is required and not less than 20 feet is proposed. However, the Board believes that this

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waiver request is reasonable and no detriment will befall the adjacent residential homeowners, given the buffer area to be established by the applicant.

3. The Board finds that the application satisfactorily addresses all applicable standards relating to streets, traffic and parking, including RSIS. After hearing all testimony, the Board is satisfied that the applicant made a good faith effort to secure access through the Seasons Glen project and that an extension of Valley Road would not be practical from an engineering standpoint. The Board agrees with its traffic consultant's opinion that Orben Drive has adequate capacity to handle the additional traffic that is anticipated to result from the proposed project. The Board also finds that the roadway network proposed within the applicant's project is satisfactory. The Board also agrees that the applicant has provided adequate on-site parking.
4. The applicant is granted a de minimus exception from the sight triangle requirements at the stub street locations.
5. The applicant is granted a de minimus exception from the RSIS standards requiring sidewalks on both sides of the streets proposed for the proposed development. The Board agrees that the applicant shall only be obligated to install sidewalks on one side of the street as depicted upon the approved plans.
6. The Board agrees with the applicant's request for an agreement to exceed RSIS with respect to common parking spaces. The Board does not object to the applicant constructing 36 common parking spaces, whereas only 30 are required under RSIS. The Board agrees with the applicant's request for an agreement to exceed the number of fire hydrants required by RSIS. Four (4) hydrants are required and the applicant proposes eight (8) hydrants. The Board also agrees with the applicant's request for an agreement to exceed the right-

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of-way width for the access boulevard. RSIS requires 50 feet and the applicant proposes 66 feet.

7. The applicant is granted a waiver to permit the wooded buffer between the townhouse development project and the single-family zone line to be not less than 20 feet.
8. The Board finds that the applicant's proposal adequately safeguards the Borough's water supply, as does its proposal for on-site septic systems for the ten (10) single-family homes. Further, the Board believes that the applicant's storm water management plan is consistent with the expectations of the New Jersey Department of Environmental Protection with respect to storm water management. The Board agrees that the amount of storm water runoff will be reduced after construction is completed on the property and that the proposed design should enhance water quality.
9. The Board finds that the development proposal will not be negatively impacted as a result of limestone or mines. The Board also finds that during construction, the applicant should attempt to achieve a balanced site, that is, that all soil disturbed will be able to be used elsewhere on the site.
10. The Board finds that the applicant's proposal will not threaten historical resources or threatened and endangered species. The application will also protect wetland areas on the property.

NOW, THEREFORE, BE IT RESOLVED that the Borough of Mount Arlington Land Use Board does hereby approve the preliminary and final major site plan and preliminary major subdivision application filed by Seasons Associates, L.L.C. to construct sixty (60) townhomes on Lot 42-03 in Block 61 and ten (10) individual building lots for the construction of single-family homes on Lots 1 and 3 in Block 72; Lot 1 in Block 82; and Lots 9, 12 and 15 in Block 83 as set forth on the Tax Map for the Borough of Mount Arlington as more particularly described in the preliminary major subdivision plans and preliminary and final site plans prepared by OmLand

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Engineering Associates, Inc. dated February 22, 2005 and revised through November 17, 2005, subject to the following terms and conditions:

1. The applicant shall prepare easements to be reviewed by the Board's attorney in favor of the Borough to restrict any further improvement in the areas delineated on the plans as being conservation easements. The applicant shall deed to the Borough as open space proposed lot 3 in Block 72.01 and proposed Lot 9 in Block 83.
2. The applicant is granted a deminimus exception from RSIS standards regulating sidewalks on both sides of the street. The RSIS requires sidewalks on both sides of the street for this project, but the applicant proposed a sidewalk only on one side. The Board grants this exception.
3. The applicant is granted deminimus exceptions from the RSIS sight triangle requirements for the three short stub street locations in the proposed multi-family access courts. The deminimus exceptions from the sight triangle requirements are at the intersections of Roads A and B; Roads E and F; and Roads D and F.
4. The Board consents to the applicant's request for an "agreement-to-exceed" with respect to the width of the entrance road. The RSIS requires that the entrance road from Orben Drive be no greater than 50 feet in width. The applicant proposes that the width be 66 feet. The Board takes no exception to this request.
5. The Board consents to the applicant's request for an "agreement-to-exceed" with respect to the number of fire hydrants in the proposed development. The RSIS requires that only four (4) hydrants be installed. The applicant proposes to install eight (8). The Board takes no exception to this request.
6. The Board consents to the applicant's request for an "agreement-to-exceed" with respect to the number of guest parking spaces in the development. The RSIS requires that only thirty (30) parking spaces be installed. The applicant

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proposes to install thirty-six (36). The Board takes no exception to this request.

7. The applicant shall transmit a copy of this Resolution to the New Jersey Department of Community Affairs to satisfy the approved de minimus exceptions and agreements to exceed. A copy of this transmittal letter shall be forwarded to the Board.
8. The applicant shall revise its plans to reduce the cartway for each lane of the main boulevard into the project from Orben Drive from 18 feet to 12 feet.
9. The applicant shall relocate the cartway of Maple Path to eliminate an encroachment onto proposed Lot 1 or provide an easement as set forth in the November 30, 2005 technical report prepared by Clough, Harbour and Associates at Section III, A, 31.
10. The applicant shall construct a dry water main in Road A between Elizabeth Way and Orben Drive to allow for a future interconnection as permitted by the New Jersey Department of Environmental Protection.
11. The applicant shall provide a note to the plans indicating that all utilities shall be placed underground and the owner of all BPU-regulated public utilities will determine the final location of such facilities within the proposed rights-of-way.
12. The applicant shall confirm that the water purveyor, United Water, has physical and legal capacity and franchise areas to handle the additional flows proposed from this project. Additionally, the applicant shall provide documentation of compliance with all requirements of N.J.A.C. 5:21-5.3(1)(3) to maintain twenty (20) psi at street levels under all flow conditions prior to the issuance of any Certificate of Occupancy.
13. The applicant shall re-examine the sanitary sewer alignment at the intersection of proposed Roads A and D and secure the

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consent of Clough, Harbour and Associates with respect to same.

14. The applicant shall provide written confirmation that the Valley Road treatment plant/pump station has physical and legal capacity to accept the additional flows to be generated from this project.
15. The applicant shall provide a copy of a "will serve" letter from the utility authority and approval of the treatment works permit prior to the issuance of a building permit.
16. The applicant shall provide a bedding detail on the plans in connection with the revisions needed to its storm water management plan.
17. The applicant shall be required to return to the Board if substantive changes to its storm water management plan are required by other outside agencies exercising jurisdiction over the application.
18. The applicant's monitoring maintenance plan for detention basins and other storm water management facilities shall be revised in accordance with technical comment III D, 14 as set forth in the November 30, 2005 report from Clough, Harbour and Associates, Inc.
19. The applicant shall submit to the Board any substantive revisions to the proposed scour holes that may be required following a review by the Morris County Soil Conservation District.
20. During the clearing and construction phase, the applicant shall attempt to maintain a balanced site to ensure that there is no excess material removed or brought in to the property.
21. The applicant shall comply with all recommendations for retaining walls as set forth by Clough, Harbour and Associates in its November 30, 2005 report at Section III L.

22. Prior to the issuance of building permits, the applicant shall provide written proof of approvals granted by the Mount Arlington Board of Health; the Morris County Planning Board; the Morris County Soil Conservation District; the New Jersey Department of Environmental Protection, water main extension/allocation permit and treatment works approval; the New Jersey Department of Environmental Protection Wastewater Management Plan, Service Area Amendment, if necessary; and the Borough of Mount Arlington franchise area amendments for sewer/water.

23. The applicant shall prepare easements to the satisfaction of the Board's engineer and attorneys with respect to lot grading across Lot 42.01 in Block 61, storm easements across Dawes Way, Road A and Elizabeth Way; an access easement for proposed Lots 1.01 and 1.02 in Block 82, drainage easements across proposed Lots 1.01 and 1.02 in Block 72; sanitary sewer easement for Lot 23.07 in Block 61; and water main easements. Prior to the issuance of building permits, the applicant shall provide easements for all public and private utilities and right-to-enter by the Borough of Mount Arlington for emergency access.

24. Prior to the issuance of building permits, the applicant shall enter into a Developer's Agreement with the Borough of Mount Arlington. The Developer's Agreement shall, among other things, address the ownership and maintenance of the stormwater management facilities.

25. Prior to the issuance of a building permit, the applicant shall present a copy of a Letter of Interpretation from the New Jersey Department of Environmental Protection for the Rio Costa Property.

26. Prior the issuance of a building permit, the applicant shall participate in a preconstruction meeting with Borough officials. The purpose of the preconstruction meeting shall be to address issues regarding use of existing roadways, including Orben Drive and Elizabeth Way; hours of construction; erosion control; possible blasting and any other matters Borough

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officials believe germane to the construction and development of the property.

27. The applicant shall establish a homeowners' association in accordance with the laws of the State of New Jersey. All homeowners' association documents shall be submitted for review and approval by the Borough's attorney. The homeowners association documents shall address, among other things, access and use of the roads in the planned unit development by owners of the two (2) single-family lots to be known and designated as Lots 1.01 and 1.02 in Block 72.
28. The applicant shall be bound to comply with all outstanding recommendations as set forth in the report of Clough, Harbour and Associates dated November 30, 2005, as well as any further recommendations that may be made by Clough, Harbour and Associates subsequent to its review of the revised plans.
29. The applicant shall be bound to comply with representations made before by the Board by the applicant and the applicant's professionals and witnesses at the public hearings and the same are incorporated herein and are representations upon which this Board has relied in granting the approvals set forth herein and shall be enforceable as if those representations were made conditions of this approval.
30. To the extent applicable, the applicant shall seek and obtain all necessary and required permits from such state, federal, county and local entities that shall have jurisdiction over this application.
31. All fees required by the ordinances of the Borough of Mount Arlington shall be paid in connection with this application, including reimbursement for construction and inspection costs.
32. The applicant shall submit proof that all real estate taxes and assessments due on this property have been paid in full prior to the issuance of a building permit and a Certificate of Occupancy for any lot.

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33. The applicant shall further comply with and adhere to any and all rules, regulations and ordinances of the Borough of Mount Arlington applicable to this development application.
34. The secretary for the Borough of Mount Arlington Land Use Board shall file a copy of this Resolution with all municipal governmental bodies as shall be necessary and appropriate.

**BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD**

Carolyn Rinaldi
Carolyn Rinaldi, Secretary

By: Robert van den Hende 02/08/06
Robert van den Hende,
Acting Chairperson

DATED: February 8th, 2006

THE VOTE: Approved

IN FAVOR: Salati, Huyten, van den Hende, Endler, Ursell, Ondish

OPPOSED: Ø

ABSTENTIONS: Ø

CLERK'S CERTIFICATION

I, Carolyn Rinaldi, Secretary of the Land Use Board of the Borough of Mount Arlington, County of Morris, State of New Jersey, do hereby certify the foregoing as a true and exact copy of the Resolution adopted at a meeting of the Land Use Board of the Borough of Mount Arlington held on February 8, 2006;

Carolyn Rinaldi
Carolyn Rinaldi, Board Secretary

Exhibit B

Prepared by:

Nancy C. Gage, Esq.

DEVELOPER'S AGREEMENT

THIS AGREEMENT is made on March 13, 2007, by and between THE BOROUGH OF MOUNT ARLINGTON, in the County of Morris, a municipal corporation of the State of New Jersey, having an address at 419 Howard Boulevard, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Borough,") and VALLEY ROAD DEVELOPMENT, L.L.C., a limited liability company of the State of New Jersey with administrative offices c/o William Myrtle, 400 Valley Road, Mount Arlington, New Jersey 07856 (hereinafter referred to as the "Developer.")

WITNESSETH:

WHEREAS, the Developer heretofore received from the Mount Arlington Land Use Board (hereinafter referred to as the "Land Use Board") preliminary and final major subdivision approval to subdivide an approximately 70 acre parcel of land property formerly identified as Block 61, Lot 42.01 into three individual lots. The three created lots were re-designated as Block 61, Lots 42.01, 42.02 and 42.03; and

WHEREAS, the Developer also received preliminary and final site plan approval to construct two commercial office buildings and associated improvements (hereinafter referred to as the "Project"), to be built on Lots 42.01 and 42.02 in Block 61 respectively (hereinafter referred to as the "Development Property"). The Development Property is known as 500 and 600 Valley Road,

Mt. Arlington, New Jersey; and

WHEREAS, among other things, the site plan approvals for the Project permitted the Developer to construct a road off of existing Valley Road through adjoining properties which are identified as Block 61, Lots 23.05 and 23.07, to provide access to the Project. This road, which shall be privately owned and maintained by the Developer, shall be considered an extension of Valley Road, and for the purposes of this Developer's Agreement, shall be referred to as the "Valley Road Extension."

WHEREAS, the specific terms and conditions of the aforementioned preliminary and final subdivision and site plan approvals are reflected in the Resolution of Approval approved by the Board on August 13, 2003, and memorialized by the Land Use Board on September 10, 2003 (hereinafter referred to as the "Resolution"). A copy of the Resolution is annexed hereto as Exhibit

A.

WHEREAS, the Developer perfected its subdivision approvals with the appropriate land development agencies, including the Land Use Board, the Mt. Arlington Board of Health, the Borough Engineer, and the Morris County Planning Board. The final plat creating the three lot subdivision was recorded with the Morris County Register's Office in 2006; and

WHEREAS, the approvals of the Board were conditioned upon, among other things, the Developer entering into a Developer's Agreement with the Borough; and

WHEREAS, it is understood and agreed that the primary purpose for entering into this Agreement at this time is to allow certain limited site work to proceed with respect to the implementation of the Project; and

WHEREAS, it is further understood and agreed that future amendments to this Agreement

will be necessary and required before actual construction of the Project may commence, except as otherwise provided herein; and

WHEREAS, the Developer and the Borough desire to enter into this Developer's Agreement (hereinafter referred to as the "Agreement") in order to satisfy the terms and conditions of Developer's Land Use Board approvals.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties hereto, for themselves, their successors and assigns, hereby agree to the following:

I. AGREEMENTS RELATING TO INSTALLATION OF GENRAL SITE IMPROVEMENTS

1. The Developer shall construct, at its own cost and expense, in a good, workmanlike and substantial manner, and in accordance with all present State and local laws, ordinances and regulations of the Borough, all proposed improvements described in the approved plans, and agrees to comply with all terms and conditions of the preliminary and final major site plan approval and preliminary and final major subdivision approval, as set forth in the Land Use Board's Resolution which is incorporated herein by reference.

2. All work shall be done in accordance with the applicable ordinances, rules, and regulations of the Borough. The Borough Engineer shall inspect and approve the work as installed in accordance with the approved plans and requirements of the Borough's ordinances and codes, and all other requirements of governmental bodies with jurisdiction over any aspect of the development or the improvements or facilities thereof, including all applicable regulations, statutes and requirements of the State of New Jersey, and all conditions of the Land Use Board approvals. Developer agrees

that, should it fail to comply with such ordinances, regulations, or statutes, and fail to cure such noncompliance within a reasonable time after written notice and demand, the Borough may have the right to suspend all building permits until it shall comply.

3. No construction shall be undertaken until all inspection fees, review fees, escrow deposits or other sums due on account of services provided by the Borough or its professionals in connection with the subject project have been paid, subject to the requirements of N.J.S.A. 40:55D-53a.

4. Developer and Borough acknowledge that the Project covered by this Agreement is situated in the Borough of Mt. Arlington, County of Morris, State of New Jersey, and is more particularly depicted on preliminary and final site plans prepared by Thor Engineers, title 500 and 600 Valley Road, dated September 19, 2001, revised through July of 2005. All roads and other improvements within Development Property are to be privately owned and maintained at the sole cost and expense of Developer and its successors and assigns (provided that nothing herein shall constitute a waiver of any right to Municipal services that may be conferred by law upon Developer or its successors or assigns).

5. In regard to any curb cuts, driveway openings, or utility connections required within municipal streets, Developer shall obtain all necessary street opening permits from the Borough and shall provide bonds or other performance guarantees in accordance with Borough ordinances. In regard to any curb cuts, driveway openings, or utility connections required within any County road, Developer shall obtain all necessary road opening permits from the County of Morris, and shall provide bonds or other performance guarantees in accordance with County requirements.

6. Prior to the start of construction, Developer shall post with the Borough a surety

bond, letter of credit or other form of security acceptable to the Borough (in an amount that is reasonably estimated by the Borough) (the "Public Improvement Security") as a performance guarantee for the cost of the public improvements to be placed upon the Development Property in accordance with an cost estimate to be prepared and submitted by the Developer's engineer and approved by the Borough Engineer in the future. The Public Improvement Security will be returned to Developer upon completion of the Public Improvements.

It is understood and agreed that an Amended Developer's Agreement will have to be agreed upon and executed by and between the Borough and the Developer before the start of construction, except as otherwise provided in Articles II and III of this Agreement. The Amended Developer's Agreement shall include, among other things, the cost estimate for the Public Improvement Security, and shall address any other construction-related issues, items, and agreements not otherwise covered by the terms of the Agreement.

**AGREEMENT RELATED TO THE IMMEDIATE CONSTRUCTION
OF THE VALLEY ROAD EXTENSION.**

1. It is agreed by and between the parties that it is in the best interest of both the Borough and the Developer that the Developer be permitted to immediately proceed with the implementation and construction of the Valley Road Extension across existing Lots 23.05 and 23.07 in Block 61; to provide access to Lots 42.01 and 42.02 in Block 61. Among other things, the implementation and construction of the Valley Road Extension will allow better access to the Borough's existing sewerage treatment plant located adjacent to the Project property, which provides an overall benefit to the Borough, and will benefit the implementation of the Project as a whole.

2. Notwithstanding anything contained in this Agreement to the contrary, the Developer

shall be entitled to immediately commence the construction of the Valley Road Extension, subject only to satisfaction of the terms and conditions of this Article II.

3. The Developer shall construct, at its own cost and expense, and in a good, workmanlike and substantial manner, and in accordance with all present State and local laws, ordinances and regulations of the Borough, all proposed improvements described in the approved plans for the Valley Road Extension, prepared by Thor Engineers, dated September 19, 2001, revised through November 9, 2006.

4. All work with respect to the implementation and construction of the Valley Road Extension shall be done in accordance with the applicable ordinances, rules, and regulations of the Borough. The Borough Engineer shall inspect and approve the work as installed in accordance with the approved plans and requirements of the Borough's ordinances and codes, and all other requirements of governmental bodies with jurisdiction over any aspect of the development or the improvements or facilities thereof, including all applicable regulations, statutes and requirements of the State of New Jersey, and all conditions of the Land Use Board approvals. Developer agrees that, should it fail to comply with such ordinances, regulations or statutes, and fail to cure such noncompliance within a reasonable time after written notice and demand, the Borough may have the right to suspend all building permits until it shall comply.

5. No construction in this regard shall be undertaken until all inspection fees, review fees, escrow deposits or other sums due on account of services provided by the Borough or its professionals in connection with the Project, if any, have been paid subject to the requirements of N.J.S.A. 40:55D-53.h.

6. The Developer and Borough acknowledge that the Valley Road Extension will be

privately owned and maintained at the sole cost and expense of Developer and its successors and assigns (provided that nothing herein shall constitute a waiver of any right to Municipal services that may be conferred by law upon Developer or its successors or assigns).

7. Prior to the start of construction of the Valley Road Extension, Developer shall post with the Borough a surety bond, irrevocable letter of credit or other performance guaranty or security acceptable to the Borough (the "Valley Road Extension Improvement Security") in an amount equal to the cost estimate annexed hereto as Exhibit B. The Valley Road Extension Improvement Security shall guarantee all workmanship, materials and the installation of the requisite improvements. The Valley Road Extension Improvement Security will be returned and released to the Developer upon the completion of the Valley Road Extension to the satisfaction of the Borough and the Borough Engineer. The reduction and/or release of the Valley Road Extension Improvement Security shall be in accordance with this Agreement and the procedures established by the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-53.

III. AGREEMENTS RELATED TO LIMITED TREE REMOVAL AND CLEARING

1. It is further agreed by and between the Borough and the Developer that it is in the best interest of the parties and the Project in general that the Developer be entitled to immediately undertake certain limited tree clearing and removal on the Development Property to prepare the area for the future installation of detention basins and other applicable utilities. The preparation of the detention basin areas intended to serve the Project is particularly important for stormwater management purposes.

2. Notwithstanding anything contained in this Agreement to the contrary, the Developer

shall be entitled to immediately undertake limited tree clearing in accordance with the tree removal plan annexed hereto as Exhibit C, subject only to satisfaction of the terms and conditions of this Article III of the Agreement.

3. Prior to the commencement of any tree removal and clearing as contemplated by this Article III, the Developer shall post with the Borough a restoration bond or other form of security acceptable to the Borough (the "Tree Removal Restoration Security") in an amount equal to the cost estimate annexed hereto as Exhibit D as a performance guarantee for the cost of restoration of the portions of the Development Property that will be cleared in accordance this Article III of this Agreement, in the event that the Developer does not proceed with the construction of the Project. The Tree Removal Restoration Security will be returned to Developer upon completion of the Public Improvements as contemplated herein.

IV. GENERAL REQUIREMENTS

1. It is agreed that all site work shall be substantially completed within twenty-four (24) months from the date of the posting of the Public Improvement Security in accordance with Article I, Section 5 of this Agreement, unless said time is extended by the Borough, which extension shall not be unreasonably withheld.

2. This agreement shall run with the land; as shall also the covenants herein contained, and shall be to the benefit of the Borough and its successors and assigns, and shall be recorded in the office of the Morris County Clerk. Developer may assign this Agreement to a legal entity organized under the laws of the State of New Jersey.

3. In the event of a default by the Developer hereunder, the Borough shall have the right to withhold all permits and approvals for Developer's Project, and the right to all other remedies.

provided to it herein or by law. Such remedies as the Borough may have hereunder are cumulative, and may be exercised by the Borough jointly or in the alternative. A "default", "breach" or "violation" of this agreement, as used herein, shall be deemed to occur if the Developer, (a) after receipt of all necessary federal, state, county and municipal government approvals delays the completion of the work hereunder beyond the time limits set forth in paragraph 1 of this Article IV, (b) fails to diligently pursue and continue construction of the project improvements, and fails to cure such deficiency within 30 days after notice, (c) materially departs from the requirements of the various plans, specifications, rules, regulations, statutes, and/or ordinances herein and referred to without the consent of the Borough, and fails to cure such deviation within 30 days after notice, or (d) files a petition for bankruptcy relief, or seeks the appointment of a receiver for its property.

4. Prior to proceeding with any construction, Developer shall apply for and obtain construction permits as required by the Borough's site plan ordinances, and shall receive authorization to proceed with construction from the Borough Engineer.

5. The Developer hereby agrees to procure, at its expense, the necessary permits and furnish any bond required for the opening of any state, municipal or county roads.

6. The Developer's application, all maps on file, construction plans, detail maps and state laws, present municipal ordinances, Land Use Board rules, regulations and official acts with respect to this site and all the terms and conditions of approval are incorporated herein by reference

as if set forth at length herein.

7. If the Borough determines that there is a continuing violation of present state law, municipal ordinances, Land Use Board rules, regulations and requirements, and/or the terms and provisions of this Agreement, it may issue a cease and desist order. Thereafter the Developer

acknowledges irreparable harm and injury to the Borough for the purpose of an application by the Borough to the courts for a restraint hereunder. If in the Developers' opinion it has not violated state laws, present municipal ordinances, Land Use Board rules, regulations and requirements and/or the terms and conditions of this Agreement, nothing herein shall be construed as the Developer's consent to cease and desist from its work without a court order.

8. In consideration of the execution of the Agreement, the Borough agrees that the Developer shall be entitled to building permits for the structures shown on the approved site plans on proper application to the Building Inspector, provided, however, that no Certificate of Occupancy shall be issued for any building until all improvements needed to safely occupy that building, in the judgment of the Borough Engineer, have been installed and approved by the Borough Engineer. Installation of all other improvements intended to serve any building for which a certificate of occupancy has been, or is about to be, issued shall be secured by a performance guarantee acceptable to the Borough Engineer, and such items shall be completed within such reasonable time as shall be fixed by the Borough Engineer.

9. Irrespective of the covenants and agreements contained in Paragraphs 1 through 3 above, the Developer acknowledges that plans, specifications and drawings approved by the Land Use Board subsequent to the execution of this Agreement shall be made a part of this Agreement and the Developer further agrees to be bound by those plans, specifications and drawings and they shall also be covered by any surety or performance provided by the Developer.

10. Developer agrees that this Agreement shall be binding on it and its successors and assigns, notwithstanding that Developer may sell, transfer, encumber or otherwise dispose of the premises.

11. Developer agrees to indemnify and hold harmless the Borough from any and all claims arising from the installation of improvements required by this agreement, unless due to the negligence or other wrongdoing of the Borough, its agents, servants, or independent contractors.

Developer shall submit a certificate of insurance evidencing public liability insurance of not less than \$1,000,000.00 for bodily injury to one person and \$300,000.00 for property damage, and excess umbrella coverage of at least \$2,000,000.00. The certificate shall further show the Borough as an additional insured in regard to occurrences arising out of Developer's installation of improvements pursuant to this Agreement.

12. If a municipal endorsement is required in connection with developer's application to other governmental agencies for necessary approvals for the project, the Borough agrees, in consideration for the mutual promises and agreements herein, to promptly execute such endorsements provided that the application for which endorsement is sought is in conformance with all applicable legal requirements.

13. If during the course of construction and installation of improvements revisions to the plans are necessary on account of unforeseen conditions, the Borough Engineer shall have authority to approve all necessary revisions as "field changes" provided that such changes do not create any need for variances or design waivers, or create any adverse impact upon any adjoining property or municipal facility. Such changes shall not be deemed to constitute a substantial amendment of Developer's approved site plan, and shall not require Developer to seek amended preliminary or final site plan approval. Such changes, if any, shall be confined to the premises owned by the Developer.

14. All cash deposits in excess of \$5,000.00 shall be maintained in an interest bearing account in accordance with N.J.S.A. 40:55D-53.1.

15. Prior to commencement of any tree removal and clearing as contemplated by Article II of this Agreement, Developer shall grant to the Borough such easement(s) for municipal utilities as are necessary to extend municipal utility lines from the Valley Road cul-de-sac to connect either to Borough owned property or to a Borough right-of-way, and which shall be approved by the Borough Attorney as to form and the Borough Engineer as to the description.

16. During construction of the project, the Developer shall provide temporary potable water service to any resident of the Borough whose water supply is disrupted as a result of the construction of the project. This temporary service shall be made functional during the winter months by whatever means are deemed necessary by the Borough Engineer.

17. A cut and fill plan together with associated soil movement details and information will be provided by the Developer to the Borough prior to any construction activities. No construction shall commence until such information has been provided and approved by the Borough Engineer. Such information shall be provided for each phase of the project prior to the construction of each phase.

18. The stormwater facilities shall be owned and maintained by the Developer.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this instrument to be executed by their respective corporate officers and their proper corporate seals to be hereunto affixed the day and year first above written.

ATTEST:

BOROUGH OF MOUNT ARLINGTON


Linda DeSantis, Borough Clerk

By:


Arthur R. Ondish, Mayor

WITNESS:

VALLEY ROAD DEVELOPMENT, L.L.C

Mary Ann... ..

By: [Signature]

STATE OF NEW JERSEY)

SS:

COUNTY OF MORRIS)

I CERTIFY that on 3-15, 2007, LINDA DESANTIS personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the BOROUGH OF MOUNT ARLINGTON (the "Borough");
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Arthur R. Ondish, Mayor of the Borough;
- (c) this document was signed and delivered by the Borough as its voluntary act duly authorized by a proper resolution of the governing body;
- (d) this person knows the proper seal of the Borough which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on 15 March, 2007

[Signature]
Notary Public of the State of New Jersey

JUDITH A. BAUER
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 03/13/2009

STATE OF NEW JERSEY)

COUNTY OF MORRIS)

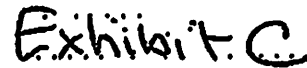
83
I CERTIFY that on March 15, 2007, William T. Myrland personally came before me and this person acknowledged under oath, to my satisfaction, that he/she:

- (a) is named in and personally signed the attached document; and
- (b) signed, sealed and delivered this document as his or her act and deed as a Manager/Member of Valley Road Development, LLC, a limited liability company of the State of New Jersey.

Signed and sworn to before me
this 15 day of March, 2007

Mary Saunders
Notary Public of New Jersey

MARY SAUNDERS
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 9/22/2011



OBA PROJ. # 030502.1 DATE 08/14/13 BASED ON PLANS REVISED THROUGH 11/1/11	
ITEM No.	ITEM DESCRIPTION

OMLAND
CHANGING THE WORLD



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION

GIT/REP-3
(8-2015)

(Please Print or Type)

SELLER'S INFORMATION

Name(s)

Trailwood Associates, LLC, LLC

Current Street Address

101 Old Short Hills Road, Suite PH-1

City/Town, Post Office Box

West Orange

State

NJ

Zip Code

07082

PROPERTY INFORMATION

Block(s)

72.01

Lot(s)

3

Qualifier

Street Address

City, Town, Post Office Box
MT. ARLINGTON

State
NJ

Zip Code
07058

Seller's Percentage of Ownership

100%

Total Consideration

1.00

Owner's Share of Consideration

1.00

Closing Date

SELLER'S ASSURANCES (Check the Appropriate Box) (Boxes 2 through 14 apply to Residents and Nonresidents)

1. ☐ Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident gross income tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. ☐ Seller is a mortgagee conveying the mortgage property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☒ Seller, transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate, or trust and is not required to make an estimated gross income tax payment.
6. ☐ The total consideration for the property is \$1,000 or less so the seller is not required to make an estimated income tax payment.
7. ☐ The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale and report the recognized gain.
☐ Seller did not receive non-like kind property.
8. ☐ The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
9. ☐ The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount to the mortgagee.
10. ☐ The deed is dated prior to August 1, 2004, and was not previously recorded.
11. ☐ The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
12. ☐ The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
13. ☐ The property transferred is a cemetery plot.
14. ☐ The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.

SELLER'S DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

6-30-17

Date

Date

Signature

(Seller) Please Indicate if Power of Attorney or Attorney in Fact

Signature

(Seller) Please Indicate if Power of Attorney or Attorney in Fact

RTF-1 (Rev. 7/14/10)
MUST SUBMIT IN DUPLICATE

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, P.L. 1993, as amended through Chapter 33, P.L. 2004) (N.J.A.C. 17:27-5 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY) SS County Municipal Code
COUNTY OF MORRIS 1629

FOR RECORDER'S USE ONLY
Consideration \$ 1.00
RTF paid by Seller \$
Date 4/11/17 By [Signature]

MUNICIPALITY OF PROPERTY LOCATION: Borough of Mt Arlington *Use symbol "G" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (Instructions 93 and 94 on reverse side)

Depositor, Trekkord Associates, LLC being duly sworn according to law upon his/her oath,
deposes and says that he/she is the GRANTOR in a deed dated 2017 transferring
(Grantor, Legal Representative, Corporate Officer, Officer of This Company, Lending Institution, etc.)
real property identified as Block number 72.01 Lot number 3 located at
Mt. Arlington, New Jersey 07055 and entered therein.

(2) CONSIDERATION \$1.00 (Instructions 61 and 65 on reverse side)
(3) Property transferred is Class 4A 4B 4C (check one). If property transferred is Class 4A, calculation in Section 3A below is required.

(4A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:
(Instructions 63A and 67 on reverse side)
Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation
% = \$

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) EXEMPTION FROM PAYMENT (Instructions 69 on reverse side)
Depositor states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1993, as amended through C. 66, P.L. 2004, for the following reason(s):
(5) By or to the United States of America, its State, or any instrumentality, agency or subdivision.

(6) PARTIAL EXEMPTION FROM PAYMENT (Instructions 69 on reverse side)

NOTE: All boxes below apply to grantor(s). ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Depositor certifies that this deed transaction is exempt from State portions of the Sales, Supplemental, and General Purpose Fee, as applicable, imposed by C. 17B, P.L. 1975, C. 123, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

A. SENIOR CITIZEN Grantor(s) ☐ Is 65 years of age or over. * (Instruction 69 on reverse side for A or B)*
B. (BLIND PERSON Grantor(s)) ☐ legally blind or:
(DISABLED PERSON Grantor(s)) ☐ permanently and totally disabled ☐ receiving disability payments ☐ not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:

☐ Owned and occupied by grantor(s) at time of sale. ☐ Department of State of New Jersey.
☐ One or two-family residential premises. ☐ Owners as joint tenants must all qualify.

*IN THE CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (Instruction 69 on reverse side)

☐ Affordable according to HUD standards. ☐ Reserved for occupancy by:
☐ Meets income requirements of region. ☐ Subject to resale controls.

(7) NEW CONSTRUCTION (Instruction 62, 610 and 612 on reverse side)

☐ Entirely new improvement. ☐ Not previously occupied.
☐ Not previously used for any purpose. *NEW CONSTRUCTION* printed clearly on page of this deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITY (Instructions 63, 612, 614 on reverse side)

☐ No Federal mortgage assumed or to which property is subject at time of sale.
☐ No contributions to capital by either grantor or grantee legal entity.
☐ No stock or money exchanged by or between grantor or grantee legal entities.

(8) Depositor makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1993, as amended through Chapter 33, P.L. 2004.

Subscribed and sworn to before me this 30 day of JUNE 2017

[Signature of Joyce Cavalieri]

JOYCE CAVALIERI
Notary Public
State of New Jersey
My Commission Expires Oct. 27, 2019

Signature of Depositor
Trekkord Associates, LLC
101 Old Short Hills Road, Suite PH-4,
West Orange, New Jersey 07052
Depositor Address

Last 3 digits in Grantor's Social Security Number

Trekkord Associates, LLC

Grantor Name

101 Old Short Hills Road, Suite PH-4
West Orange, New Jersey 07052

Grantor Address at Time of Sale

Name/Company of Settlement Officer/Notary Public

FOR OFFICIAL USE ONLY
Instrument Number 20266-6 County Morris
Deed Number Book 144 Page 107
Deed Date 4/11/17 Date Recorded 4/11/17

County Recording Officers shall forward one copy of each RTF-1 form when Section 3A is completed to:

STATE OF NEW JERSEY, DIVISION OF TAXATION
PO BOX 311
TRENTON, NJ 08646-0311

ATTENTION: REALTY TRANSFER FEE UNIT
The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or expended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at: www.state.nj.us/treasury/taxation/rtf.htm