

RECORDED

1998 SEP 29 P 2:30

NANDY HAVILAND
REGISTER OF DEEDS
LIVINGSTON COUNTY, MI.
48843

19/2

**TOWNSHIP OF MARION
PLANNED UNIT DEVELOPMENT AGREEMENT**

THE FOREST

THIS AGREEMENT is made as of the 24th day of September, 1998 by, between and among the Township of Marion, Livingston County, Michigan, herein called the "Township," the offices of which are located at 2877 West Coon Lake Road, Howell, Michigan 48843; Olympia Development Co. L.L.C., a Michigan limited liability company, 230 North Second Street, Suite 200, Brighton, Michigan 48116, its successors and assigns, herein called the "Developer," and The Forest Homeowners Association, a Michigan non-profit corporation, 230 North Second Street, Suite 200, Brighton, Michigan 48116, herein called the "Association."

WITNESSETH:

WHEREAS, Developer is the owner of land located in the Township of Marion, County of Livingston, State of Michigan, described as follows:

A part of the N.E. 1/4, Section 12, T.2N., R.4E., Marion Township, Livingston County, Michigan more particularly described as BEGINNING at the North 1/4 corner of said Section 12; thence N. 85 deg 02 min 59 E. sec along the North line of said Section 12 and the centerline of Francis Road (100 ft. wide right-of-way) 1301.02 ft. (recorded as 1301.13 ft.); thence S. 00 deg 56 min 55 sec E. 2006.24 ft. (recorded as S. 00 deg 57 min 18 sec E. 2006.42 ft.); thence S. 85 deg 58 min 59 sec W. 1273.79 ft. (recorded as S. 85 deg 58 min 57 sec W. 1274.05 ft.) to the North-South 1/4 line of said Section 12; thence N. 01 deg 41 min 46 sec W. 1983.80 ft. (recorded as N. 01 deg 41 min 54 sec W. 1984.00 ft.) along said North-South 1/4 line, to the POINT OF BEGINNING, containing 58.869 acres subject to the rights of the public or any governmental unit in any part thereof taken, used or deeded for street, road or highway purposes, also subject to easements and restrictions of record.

hereinafter sometimes referred to as the "Development;" and

WHEREAS, Article XIII, "Planned Unit Development District," of the Marion Township Zoning Ordinance provides an optional method for residential development; and

WHEREAS, the Developer applied for approval under Section 13.04 of said Article XIII, for the Development, and submitted the composite plan (the "Site Plan") required by Section 13.04 and, after public hearing thereon, approval thereof was granted by the Board of Trustees of the Township (hereinafter called the "Board" or the "Township Board") subject to all Township requirements and the execution of this Agreement; and

WHEREAS, the Developer wishes to develop the property described above and sell individual residential condominium building sites ("units) therein under the provisions of said Article XIII, the Development to be established as a single-phase condominium project under Public Act 59, P.A. 1978, as amended (herein called the "Act") known as The Forest, a condominium (sometimes herein called the "Condominium"), according to the Master Deed thereof to be recorded in Livingston County Records; and

WHEREAS, various portions of the Common Elements of the Condominium will constitute "Common Areas" and "Open Space" under the approved Site Plan; and

WHEREAS, the Association has been established for the purpose of representing the owners of units in the Condominium in managing, maintaining and administering the Condominium, including the Common Elements thereof, pursuant to the Act and the Condominium Documents for said Condominium; and

WHEREAS, certain portions of the Common Elements of the Development are required to be preserved in an essentially natural, undeveloped character in accordance with the provisions of the approved Site Plan; and

WHEREAS, it is now necessary and desirable that the Developer, the Association and the Township enter into a binding contract relative to the details of the Development.

NOW, THEREFORE, in consideration of the approval of the Site Plan of The Forest by the Township Board, and of the mutual promises contained herein, the parties agree as follows:

1. **Recording and Filing of Condominium Master Deed.** The Developer has, under the Act, prepared a Master Deed and Bylaws for The Forest, a condominium. Said instruments are hereinafter collectively called the "Condominium Documents" and will be filed for record with the County of Livingston and said Condominium Documents have been submitted to and approved by the Township Board. The Developer shall develop and the Association shall maintain the Development in accordance with the Condominium Documents, this Planned Unit Development Agreement and in accordance with the final Site Plan approved by the Board. No changes shall be made in the Condominium Documents which are contrary to the Site Plan as approved by the Township nor shall any changes be made in this Planned Unit Development Agreement unless the Township also approves such changes in writing.

2. **Use of Common Areas and Open Space in Accordance with Township Requirements.** The Common Areas and Open Space, as shown on the Site Plan of the Development, may be used for such purposes as are permitted by the Developer in the Condominium Documents but no use of property within such areas shall violate any of the statutes of the State of Michigan or the ordinances of the Township or be in conflict with the provisions of this Agreement or the approved Site Plan.

3. **Development, Construction and Maintenance of Development and Common Areas and Open Space Improvements in Accordance with Township Requirements.** Approval by the Township of this Development under Article XIII of the Marion Township Zoning Ordinance is conditioned upon the development, construction and maintenance of the Development in accordance with the Site Plan approved by the Township Planning Commission on August 25, 1998, and the Township Board on September 10, 1997, compliance with all specific conditions of said approval as set forth on the approved Site Plan, and in the minutes of the Planning Commission and Township Board and compliance with all applicable ordinances of the Township and in accordance with the Condominium Documents.

4. **Failure of Developer or Association to Develop or Maintain Common Areas and Open Space in Accordance with Township Requirements.** In the event that the Developer shall fail to develop the Common Areas and Open Space as depicted in the Site Plan in the manner set forth by the Township Board in its approval of the Site Plan, or any amendments thereof, or if Developer, the Association or the successors or assigns of either of them shall, at any time, fail to maintain the Common Areas and Open Spaces of the Development in reasonable order and condition as approved by the Township, the Township may serve written notice upon the Developer or the Association or the successors of either of them setting forth the manner in which there has been a failure to develop or maintain the Common Areas or Open Spaces in reasonable condition and said notice shall include a demand that deficiencies be cured within a specified reasonable time and, further, shall state the date and place of a hearing thereon before the Township Board or such other body or official to whom the Board shall delegate such responsibility, which shall be held immediately after the time period specified for the curing of deficiencies. At such hearing, the Township Board, other body or official shall review the progress, if any, and may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured.

(a) **Right of Township to Cure Deficiencies.** If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said reasonable time or any extension thereof, the Township, in order to preserve the taxable values of the properties within The Forest or to provide the required Common Areas or Open Space in the Development or to prevent such Common Areas or Open Space from becoming a public nuisance, may enter thereon and develop the open space or maintain the same for a reasonable period of time. The development or maintenance of the Common Areas or Open Space by the Township shall not constitute a taking or condemnation nor vest in the public any right to use the same. Before the expiration of the said time period, the Township may

upon its own initiative or, upon the request of the Developer or the Association or the successors of either of them (herein called the "requesting parties"), call a public hearing upon notice to the requesting parties at which hearing the requesting parties shall show cause why such development and/or maintenance by the Township shall not, at the election of the Township, continue for a succeeding time period. If the Township shall determine that the Developer or the Association or the successors of either of them (herein called the "responsible party or parties") is/are ready and able to develop and/or maintain the Common Areas or Open Space in reasonable manner and/or condition, the Township shall cease to maintain them at the end of said time period. If the Township shall determine that the responsible party or parties is/are not ready and able to develop or maintain the Common Areas or Open Space in a reasonable condition, the Township may in its discretion continue to develop and/or maintain said Common Areas or Open Spaces during a next succeeding time period, and, subject to a similar hearing and determination, in subsequent time periods thereafter.

(b) Collection of Costs of Curing Deficiencies by Tax Assessments against the Development. The cost of such development and/or maintenance, notices and hearings by the Township, shall be paid by the responsible party or parties and shall become a lien on the subject premises on a pro rata basis to be assessed and collected as a special assessment on the next annual Township tax roll at the discretion of the Township, or said costs may be billed directly to the responsible party or parties. If said costs are not paid by the responsible party or parties, the Township may sue to collect said costs and fees and if litigation commences, the responsible party or parties shall pay, in addition to said costs, all court costs and attorney fees. In all areas within the approved Development which have been developed in accordance with the requirements of the Township, the sole responsible party shall be the Association and the Developer shall have no further responsibilities with respect to such part.

5. No Change in Common Areas or Open Space Use Without Township Approval. No change affecting the use of the Common Areas or Open Space of the Development shall become effective until approved by the Township Board. Copies of all amendments of the approved Site Plan shall be filed with the Township.

6. Grant of Easements to Township. The Developer and the Association hereby grant an easement and right-of-way over the streets, roadways, driveways, units, Common Areas and Open Spaces of the Development to the Township and its assigns or agents. Said right-of-way and easement is only for the purpose of permitting the Township reasonably to enter upon said streets, roads, driveways, units, Common Areas and Open Spaces with its municipal vehicles for the purpose of rendering service to the Development, for emergency and public safety purposes and to enter upon, develop and maintain the Common Areas and Open Space in accordance with this Agreement. Such vehicles shall include, without limitation, police vehicles, fire apparatus, water and sewer vehicles, maintenance and service vehicles, emergency medical vehicles and other municipally-owned motor vehicles. In no way shall the granting of this easement, in and of itself,

be construed as a dedication of any portion of said streets, roads, driveways, units, Common Areas and/or Open Space to the public.

7. **Agreement Binding on Successors and Assigns.** The parties hereto make this Agreement on behalf of themselves, their successors and assigns and the signers hereby warrant that they have the authority and capacity to make this contract. All references to Developer herein shall include any successor to the Developer who or which may act as Developer of the Condominium or any part thereof. So long as Developer shall not violate any of the terms of this Agreement, it shall be relieved of further responsibilities hereunder upon conveyance by it of the Development to a successor developer and/or to the co-owners of all units in the Condominium. This Agreement shall be recorded with the Livingston County Register of Deeds.

IN WITNESSES WHEREOF, the parties hereto have set their hands as of the date set forth at the outset of this Agreement.

WITNESSED BY:

[Signature]
[Signature]

TOWNSHIP OF MARION,
a Michigan municipal corporation

By: *[Signature]*
Supervisor

By: *[Signature]*
Clerk

OLYMPIA DEVELOPMENT CO. L.L.C.,
a Michigan limited liability company

[Signature]
Lorraine A. Commire
[Signature]
William T. Myers

By: *[Signature]*
Frank M. Soave, Member


THE FOREST HOMEOWNERS
ASSOCIATION, a Michigan non-profit
corporation

[Signature]
Lorraine A. Commire
[Signature]
William T. Myers

By: *[Signature]*
Frank M. Soave, President


STATE OF MICHIGAN)
) SS.
COUNTY OF LIVINGSTON)

The foregoing instrument was acknowledged before me this 29th day of Sept, 1998, by Richard Soave and Marion Soave, the Supervisor and Clerk respectively of the Township of Marion, a Michigan municipal corporation, on behalf of the corporation.


Notary Public, Livingston County, Michigan
My commission expires: 5-28-2005


STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 24th day of September, 1998, by Frank M. Soave, a Member of Olympia Development Co. L.L.C., a Michigan limited liability company.


William T. Myers
Notary Public, Oakland County, Michigan
My commission expires August 29, 2000

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 24th day of September, 1998 by Frank M. Soave, the President of The Forest Homeowners Association, a Michigan non-profit corporation, on behalf of said non-profit corporation.


William T. Myers
Notary Public, Oakland County, Michigan
My commission expires August 29, 2000

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Drafted By:

William T. Myers of Dykema Gossett ✓
1577 North Woodward Avenue, Suite 300
Bloomfield Hills, Michigan 48304

When recorded return to Drafter

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