

RECORDED

2000 APR -5 P 2:11

NANCY HAVILAND
REGISTER OF DEEDS
LIVINGSTON COUNTY, MI.
48843

29/2

BUILDING AND USE RESTRICTIONS
AGREEMENT FOR DERBYSHIRE FARMS

THIS AGREEMENT, made this 9th day of November, 1999, by CAROLYN E. WILSON, Revocable Living trust U/A/D 2/11/92, whose address is 1100 W. Coon Lake Road, Howell, Michigan 48843 as the First Party, with all persons who hereafter become the Purchasers or Owners of a lot or lots in the following described property:

PARCEL NO. 9

Part of the Northwest ¼ of Section 27, T2N-R4E, Marion Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North ¼ Corner of said Section 27; thence along the North-South ¼ line of said Section 27, S 00 24' 38" E, 1012.50 feet; thence S 89 40' 06" W, 6.59 feet, to the POINT OF BEGINNING of the Parcel to be described; thence along the centerline of Triangle Lake Road (50 foot wide ½ Right-of-Way), S 00 02' 16" E, 886.49 feet; thence S 89 57' 44" W, 33.00 feet; thence along the North line of "McClatchey's Triangle Lake Estates", a subdivision as recorded in Liber 5 of Plats on Page 40 of the Livingston County Records, said line also being the Northerly line of Rubbins Road (66 foot wide Right-of-Way), on the following 3 courses:

- 1.) N 61 38' 00" W, 282.15 feet (recorded as 282.44 feet);
- 2.) Northwesterly on an arc left, having a length of 355.70 feet, a radius of 388.81 feet, a central angle of 52 25' 00" and a long chord which bears N 87 50' 30" W, 343.42 feet (recorded as 343.41 feet);
- 3.) S 65 57' 00" W, 741.36 feet (recorded as 741.37 feet);

thence N 00 11' 30" W, 1138.82 feet; thence N 89 40' 06" E, 597.22 feet; thence 00 19' 54" E, 104.70 feet; thence N 89 40' 06" E, 706.87 feet, to the POINT OF BEGINNING; Containing 26.21 acres, more or less.

EASEMENT "D" STORM DRAINAGE EASEMENT

Part of the Northwest ¼ of Section 27, T2n-R4E, Marion Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North ¼ Corner of said Section 27; thence along the North-South ¼ line of said Section 27 and the centerline of triangle Lake road (66 foot wide Right of Way), S 00 17' 38" W, 1012.51 feet; thence Due West, 706.87 feet; thence Due North, 104.70 feet; thence Due West, 422.33 feet, to the POINT OF BEGINNING of the Private Storm Drainage Easement to be described; thence continuing Due West, 175.00 feet; thence N 00 08' 24" E 75.00 feet; thence S 66 46' 47" E, 190.23 feet, to the POINT OF BEGINNING.

WHEREAS, SAID FIRST PARTY is the owner of the entire above described parcel of land and FIRST PARTY intends to subject all proposed lots within said parcel to certain Building and Use, Conditions, Obligations, reservations and Easements as hereafter set forth to which all Purchasers in said parcel of land shall be bound.

THEREFORE, for valuable considerations and in consideration of the plan and purpose of subdividing above parcel and to the end that said lots be restricted in their use so that they will develop into a residential community in order to make said building and use restrictions, conditions, obligations, reservations, rights, powers, charges and easements binding and of full force and effect on all of the above described parcel of land, and upon the present and future owners and occupants of the same, the FIRST PARTY declares that all of the above described parcels shall if and when conveyed, be conveyed sub-to, and charged with all of the building and use restrictions, conditions, obligations, reservations, rights, powers, charges and easements hereinafter set forth in this instrument in the office of the Register of Deeds of Livingston County,, Michigan shall be notice to all purchasers.

USES OF PROPERTY

1. No business of any kind shall be carried on upon said premises nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
2. No signs, poster, billboard or other advertising device or symbol shall be erected or displayed on the above parcels, except "FOR SALE" signs which shall not exceed dimensions of Six Square Feet.
3. There shall be no fences allowed, except for around a swimming pool or dog run, which must be approved in writing by the FIRST PARTY, herein after review of site plan for same.
4. All garbage and refuse origination or accumulating on any lots, shall be kept in properly covered metal, concrete or plastic containers and regularly disposed of in accordance with health regulations.
5. No animals shall be kept on these premises except those which may be termed as house pets, unless otherwise approved in writing by the FIRST PARTY.
6. Said lots shall be used for single family private residence only and each residence shall have an attached two or three car garage which shall be outside of the foundation of the residence.
7. No garage, trailer, basement, tent, shack, barn or other buildings shall at any time be used as a residence, temporary character be used as a residence, unless otherwise approved in writing by the FIRST PARTY.
8. No building or buildings shall be erected of second hand material (re-claim brick excluded) nor shall any old building or any portion thereof be moved to or placed on said parcels.
9. No building shall be erected on any part of said premises at any time, prior to the filing with the FIRST PARTY or her Agent one set of plans and specifications covering contemplated construction for it's approval. No construction work is to commence until such plans and specifications have been accepted in writing.
10. No noxious or offensive activity shall be carried on upon said premises, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood, likewise, no equipment, Motorhome, Trailer coaches, trash and unsightly materials shall be stored on these premises unless enclosed in an approved structure or otherwise approved in writing by the FIRST PARTY.
11. No building shall be built nearer than Seventy (70) feet to the Right of Way of the road nor nearer than Fifteen (15) feet to the side of said parcels, except by written consent of the FIRST PARTY, or her agent and Marion Township.
12. All building construction shall be completely finished on the exterior within Six (6) months from the time construction is started and no tar paper or other temporary materials shall be exposed for more than Six (6) months from the date construction is started.
13. The ground floor area of the main structure of any dwelling exclusive of enclosed porches, garage and overhanging bays, shall be not less than 1,400 square feet for a one story structure, 1,000 square feet on the grade level or 1,800 square feet combined both levels for a two story structure, 1,000 square feet on the grade level or 1,650 square feet combined for a one and a half (1 ½) story, 1,400 square feet for ground level and an additional 700 square feet per level for a tri-level or quad-level, except by written consent of the FIRST PARTY or her agent.
14. There shall be NO outbuildings, sheds or accessing structures permitted on said lots, unless approved in writing by the FIRST PARTY.
15. Owner agrees to install a lawn within Six (6) months after occupancy. Owner shall install between the road and the house, not less than the width of the combined house and attached garage, plus an additional Ten (10) feet on each side, and Fifty (50) feet in the rear of the house, said lawn to be kept neatly mowed. Also, the lot owner agrees to mow and maintain the remainder of the lot in the same manner as lawn area. No soil or trees to be removed from the premises without written approval from the FIRST PARTY or her agent.

16. At any time after the sale by the FIRST PARTY of the aforesaid lots, the Owner may appoint and constitute an Association of Lot Owners and shall exercise all rights, privileges and duties of supervision and control in connection with these restrictions which are reserved herein to the FIRST PARTY and the execution. Also, the FIRST PARTY shall not be liable for enforcement of these restrictions after sale of 80% of the lots herein.

17. See the attached Requirements for the Livingston County Health Department and the Livingston County Drain Commission for Lot 1 thru 17 inclusive and Storm water retention as aforementioned and contained in EXHIBIT "A" attached hereto and considered a part hereof.

VIOLATIONS

Violation of any restriction or condition or breach of any covenant or agreement herein contained shall give the FIRST PARTY in addition to all other remedies provided by law, the right to enter upon the lot as to which such violation or breach exists, and summarily to abate and remove, at the expense of the Owner thereof, any erection, thing or condition that may be or exist contrary to the intent and meaning of the provision hereof, and the FIRST PARTY shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

TERMS OF RESTRICTIONS

All of the restrictions, conditions, covenants, charges and agreements contained herein shall be covenants of Twenty Five (25) Years from the date of recording hereof and shall automatically be continued thereafter for successive periods of Fifteen (15) Years each, provided however, that after Twenty Five (25) Years from the date of recording hereof the owners of the fee of Two-thirds (2/3) or more of the lots in said subdivision may release all or part of said lots from all or any portion of these restrictions by executing and acknowledging an appropriate agreement of agreements in writing for such purposes and recording the same in the Office of the Register of Deeds for Livingston County, Michigan.

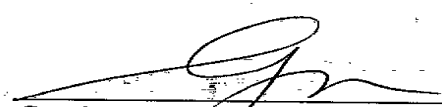
SEVERABILITY

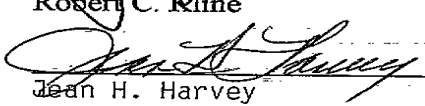
Each restriction herein is intended to be severable and in the event that any one covenant is for any reason held void it shall not effect the validity of the remaining covenants and restrictions.

IN WITNESS WHEREOF, the Parties hereto have hereunto executed this agreement the day and date first above written.

IN PRESENCE OF:


Robert C. Kline


Carolyn E. Wilson, Trustee of the Carolyn E. Wilson Revocable Living Trust U/A/D
2/11/92


Jean H. Harvey

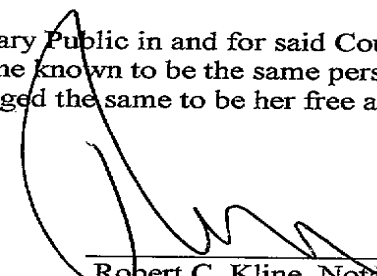
STATE OF MICHIGAN

SS

COUNTY OF LIVINGSTON

On this 9th day of November, 1999, before me a Notary Public in and for said County, personally appeared, CAROLYN E. WILSON, TRUSTEE, to me known to be the same person described in and who executed who within instrument and acknowledged the same to be her free act and deed.

My commission Expires: March 8, 2001


Robert C. Kline, Notary Public
Livingston County, Michigan

Prepared by:

Robert C. Kline
Kline Real Estate
9984 E. Grand River
Brighton, MI 48116

When Recorded Return to:

Robert C. Kline
Kline Real Estate
9984 E. Grand River
Brighton, MI 48116

EXHIBIT "A"
"DERBYSHIRE FARMS" DEED
RESTRICTIONS AGREEMENT
DATED NOVEMBER 1, 1999

The FIRST PARTY does hereby agree that the below Deed Restrictions cannot be changed without the written consent of the Livingston County Health Department or the Livingston County Drain Commission.

LIVINGSTON COUNTY HEALTH DEPARTMENT

1. No lot shall be used for other than a single family dwelling.
2. There shall be no future subdividing of any building lots which would utilize individual onsite sewage disposal and/or water supply systems.
3. "Derbyshire Farms", a platted Subdivision, has been approved for 17 individual lots as described in Boss Engineering's site plan Job #98241 dated August 19, 1999. The wells and septic shall be located in the exact area as indicated on the preliminary site plan.
4. All wells shall be drilled by a Michigan licensed well driller and be drilled to a depth that will penetrate a minimum of a 10 ft. protective clay barrier or be drilled to a depth of 100 ft. if adequate clay protection is encountered. The wells shall all be grouted the entire length of the casing.
 not
5. The test wells used to determine onsite water supply adequacy have been drilled on lots 4, 5, and 14. If these wells are not intended for the use as a potable water supply, then they must be properly abandoned according to Part 127, Act 368 of the Groundwater Quality Control Act.
6. The wells and septic shall be located in the exact area as indicated on the preliminary plans as submitted by Boss Engineering, last revision August 19, 1999, which is on file at the LCHD.
7. There shall be no underground utility lines located within the areas designated as active and reserve septic system areas.
8. The reserve septic locations as designated on the preliminary plan on file at the Livingston County Health Department must be maintained vacant and accessible for future sewage disposal uses.
9. Well access for lots 6, 7, and 8 may be difficult due to steep slopes in the proposed well locations. Therefore, prior to issuance of any permit a detailed diagram must be submitted regarding access to these proposed locations.
10. The onsite sewage disposal systems for lots 1, 3, 6-11, 13, 16, and 17 will require the excavation of slow permeable soils to a more permeable soil ranging between 4-9 ft. in depth. Due to the fact that unsuitable soils will be excavated in the area and replaced with clean sharp sand, the cost of the system may be higher than a conventional sewage disposal.
11. Lot 14 will require that the bottom of the stone be no deeper than 24 inches below original grade.
12. Lot 15 will require that the bottom of the stone be no deeper than 12 inches below the original grade.
13. Due to elevation differences between proposed house grades and septic locations, Lots 5, 6, 7, 8, and 15 may require a pump type sewage disposal system. If pumping is necessary, engineer specifications for a pump size and design must be submitted prior to permits being issued.
14. Lots 3-8, and 10-14 will require an enlarged system due to heavy soil structure witnessed on these lots. Please refer to the soil conditions on file at LCHD.
15. A 2550-3600 sq. ft. has been designated on each lot for the active and reserve sewage disposal systems to accommodate a typical three to four bedroom single family home. Proposed homes exceeding three to four bedrooms must show that sufficient area exists for both active and reserve sewage systems which meet all acceptable isolation distances.

APPROVED
 Livingston County Health Department
 Name Jim Healey
 Date 2-10-00

APPROVED

Livingston County Health Department

Name [Signature]

Date 2-10-08

- 16. There shall be no activity within the regulated wetlands unless permits have been obtained from the Michigan Department of Environmental Quality.
- 17. All restrictions placed on "Derbyshire Farms", a platted Subdivision, by the Livingston County Health Department are not severable and shall not expire under any circumstances unless otherwise amended or approved by the Livingston County Health Department.

**LIVINGSTON COUNTY DRAIN COMMISSION
DERBYSHIRE FARMS DRAIN DRAINAGE DISTRICT**

- 1. Attached as Exhibit "B" is an Agreement establishing the Derbyshire Farms Drain Drainage District, pursuant to Section 433 of Act No. 40 of the Public Acts of 1956, as amended. A copy of the 433 Agreement is recorded in the Livingston County Register of Deeds at Liber 2679 Page 334-339.
- 2. **Easements.** There shall exist easements as shown on the recorded Plat over lots, parks and common areas for purpose of construction, maintenance and improvement of storm water drainage and detention. The easements are granted in favor of the Derbyshire Farms Drain Drainage District. The Drainage District shall have the right to sell, assign, transfer or convey this easement to any other governmental unit. The Livingston County Drain Commissioner, and his agents, contractors and designated representatives shall have the right of entry on, and to gain access to, the easement property.

No lot owner shall disturb the grade or otherwise modify the areas within the easements in any way inconsistent with the Drain. No lot owner shall install, maintain, repair or replace landscaping materials located within the Drain easement areas lying within such lot owner's area in any way inconsistent with the use by the Drainage District. All lot owners shall release Grantee and its successors, assigns or transferees from any and all claims to damages in any way arising from or incidental to the construction and maintenance of the Drain, or otherwise arising from of incidental to the exercise by the Drainage District of its rights under said easements. All lot owners covenant not to sue the Drainage District for any such damages.

- 3. **Assessments for the Derbyshire Farms Drain.** All costs relating to the maintenance and improvement of the Derbyshire Farms Drain shall be borne by the Drainage District, and assessed to the lot owners pursuant to Act No. 40 of the Public Acts of 1956, as amended.

RECORDED

1999 NOV - 11 P 3: 13

 HEAVY HAVILAND
 REGISTER OF DEEDS
 LIVINGSTON COUNTY, MI.
 48978

EXHIBIT B

 AGREEMENT FOR THE ESTABLISHMENT OF A COUNTY
 DRAIN AND COUNTY DRAINAGE DISTRICT
 FOR THE DERBYSHIRE FARMS DRAIN DRAINAGE DISTRICT
 PURSUANT TO SECTION 433 OF ACT NO. 40 OF
 THE PUBLIC ACTS OF 1956, AS AMENDED

THIS AGREEMENT, made and entered into this 1st day of NOVEMBER 1999, by and between BRIAN JONCKHEERE, LIVINGSTON COUNTY DRAIN COMMISSIONER, hereinafter referred to as "Drain Commissioner" on behalf of the proposed Derbyshire Farms Drain Drainage District; and Carolyn Wilson, *as owner of land described in Exhibit A attached hereto, hereinafter referred to as "Landowner".

** 2300 E. Grand River, Howell, Michigan 48843
 WITNESSETH: *** 1100 W. Coon Lake, Howell, Michigan 48843

WHEREAS, Section 433 of Act No. 40 of the Public Acts of 1956, as amended authorizes the Drain Commissioner to enter into an Agreement with the Landowner and developer, if any, to establish a drain which was constructed by the Landowner or developer to service an area of its own land as a County Drain; and,

WHEREAS, Landowner, pursuant to Section 433 of Act No. 40 of 1956, as amended, wishes to provide drainage service to its own lands and has requested same to be established and dedicated as a County Drain under the jurisdiction of the Livingston County Drain Commissioner; and,

WHEREAS, Landowner has been advised and understands and agrees to assume the total cost of the construction of the drain to include engineering, inspection, easement acquisition, legal and administrative expenses and costs attendant to this Agreement; and,

When Recorded Return To:
 Brian Jonckheere
 2300 East Grand River
 Howell, Michigan 48843

WHEREAS, Landowner further understands that the Drain constructed, or to be constructed, pursuant to this Agreement, when finally accepted by the Drain Commissioner, will be known as the Derbyshire Farms Drain and that the land to be drained will be known and constituted as the Derbyshire Farms Drain Drainage District and will be subject to assessments, for costs of future operation, inspection, maintenance and improvement; and,

WHEREAS, Landowner has agreed to assume and pay all costs as set forth herein, and,

WHEREAS, Landowner has obtained, at its own expense, a certificate from a registered Professional Engineer satisfactory to the Drain Commissioner to the effect that the Drain has sufficient capacity to provide adequate drainage service without detriment to or diminution of the drainage service which the outlet currently provides, a copy of said certificate being attached hereto as Exhibit B,

NOW, THEREFORE, in consideration of the premises and covenants of each, the parties hereto agree as follows:

1. Landowner agrees to construct and/or has constructed, at its expense, the Drain in accordance with plans and specifications approved by the Drain Commissioner.
2. The Landowner agrees to pay the costs of construction of said Drain and drainage facilities including the acquisition of the necessary rights-of-way or easements, engineering, surveying, inspection, legal and administration costs. In addition, the Landowner has deposited with the Drain Commissioner an amount of money equivalent to Five (5%) percent of the costs of construction of the Drain, not to exceed Two Thousand Five Hundred and No/100 (\$2,500.00) Dollars, which monies are to be deposited in a special drain fund to be used for future maintenance of the Drain, hereinafter referred to as "Derbyshire Farms Drain Maintenance Fund."
3. That the Landowner shall secure, at its own expense, all easements or rights-of-way necessary for the construction of the Drain over and across the properties owned by Landowner and across such other lands as necessary for the construction of the Drain from the point of beginning at the outlet to the point of ending. Said easements or rights-of-way shall be secured in writing and in a form acceptable to the Drain Commissioner. The Landowner shall be responsible for all costs for the recording of said easements, as directed by the Drain Commissioner.
4. Landowner shall secure all necessary permits or authorizations as may be required by local, state or federal law and provide copies to the Drain Commissioner. The Drain Commissioner shall be provided copies of all correspondence and reports involving any governmental agency with respect to the Drain.
5. The Derbyshire Farms Drain Maintenance Fund is agreed and understood as being for the sole benefit of the Derbyshire Farms Drain and use thereof may be made by the Derbyshire Farms Drain Drainage District at large, or part thereof, and that such payment shall not relieve the subject property from any future assessments levied pursuant to the Drain Code of 1956, as amended.
6. Landowner agrees to indemnify and hold harmless the Drain Commissioner and the Derbyshire Farms Drain Drainage District for any and all claims, damages, lawsuits, costs and

expenses arising out of or incurred as a result of the Drain Commissioner assuming responsibility for the drain under federal, state and/or local environmental laws and regulations, including all future amendments to such laws or regulations and the administrative and judicial interpretation thereof except for liability arising out of the gross negligence or intentional wrongful conduct of the Drain Commissioner or its agents.

7. Modification, amendments or waivers of any provisions of the Agreement may be made only by the written mutual consent of the parties.

This Agreement shall become effective upon its execution by the Landowner and the Drain Commissioner and shall be binding upon the successors and assigns of each party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the duly authorized officers as of the day and year first above written.

In The Presence Of:

[Signature]
TED WESTMEIER
[Signature]
Sally K. Chrenka
Sally K. Chrenka

[Signature]
By: Brian Jonckheere, Commissioner
Livingston County Drain Commissioner

In The Presence Of:

[Signature]
ROBERT C. KLIEB
[Signature]
RICHARD A. MUNDY

[Signature]
By: Carolyn Wilson,
Landowner

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

On this 1st day of November, 1999, before me, a Notary Public in and for said County, personally appeared BRIAN JONCKHEERE, LIVINGSTON COUNTY DRAIN COMMISSIONER, to me known to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed.

[Signature]
Notary Public Sally K. Chrenka
Livingston County, Michigan
My Commission Expires: 3-12-04

STATE OF MICHIGAN)
) ss.
COUNTY OF LIVINGSTON)

On this 28th day of OCTOBER, 1999, before me, a Notary Public in and for said County, personally appeared Carolyn Wilson, to me known to be the person described in and who executed the foregoing instrument and acknowledged the same to be his/her free act and deed.

[Signature]
Notary Public ROBERT C. KLIEB
Livingston County, Michigan
My Commission Expires: MARCH 8, 2001

Instrument Drafted By:
Geoffrey H. Seidlein (P32401)
Stacy L. Hissong (P55922)
HUBBARD, FOX, THOMAS,
WHITE & BENGTON, P.C.
Attorneys for Drain Commissioner
5801 West Michigan
P.O. Box 30857
Lansing, MI 48908-0857
517/886-7176

EXHIBIT "A"

LEGAL DESCRIPTION OF DERBYSHIRE FARMS

Part of the Northwest $\frac{1}{4}$ of Section 27, T2N-R4E, Marion Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North $\frac{1}{4}$ Corner of said Section 27; thence along the North-South $\frac{1}{4}$ line of said Section 27 and the centerline of Triangle Lake Road (66 foot wide Right-of-Way), S $00^{\circ}17'38''$ W, 1012.51 feet to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the North-South $\frac{1}{4}$ line and the centerline of Triangle Lake Road, S $00^{\circ}17'38''$ W, 886.49 feet; thence along the North line of "McClatchey's Triangle Lake Estates", a subdivision as recorded in Liber 5 of Plats on page 40 of the Livingston County Records, the following 4 courses:

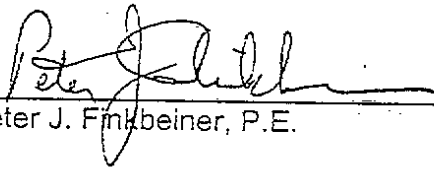
- 1) N $89^{\circ}42'22''$ W, 33.00 feet;
- 2) Along the North line of Rubbins Drive, N $61^{\circ}18'06''$ W, 282.15 feet (previously recorded as S $61^{\circ}38'$ E, 282.44 feet);
- 3) Along the North line of Rubbins Drive, Northwest on an arc left, having a length of 355.70 feet, a radius of 388.81 feet, a central angle of $52^{\circ}25'00''$ and a long chord which bears N $87^{\circ}30'36''$ W, 343.42 feet;
- 4) Along the North line of Rubbins Drive, S $66^{\circ}16'54''$ W, 741.36 (previously recorded as N $65^{\circ}57'$ E, 741.37 feet);

thence along the West line of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 27, as monumented, N $00^{\circ}08'24''$ E, 1138.82 feet; thence Due East 597.22 feet; thence Due South 104.70 feet; thence Due East, 706.87 feet, to the POINT OF BEGINNING; Containing 26.21 acres, more or less, and subject to the rights of the public over the existing Triangle Lake Road and Rubbins Drive. Also subject to any other easements or restriction of record.

EXHIBIT B

I, Peter J. Finkbeiner, a registered Professional Engineer in the State of Michigan, do hereby certify to the following for the Derbyshire Farms Drain Drainage District in Section 27 of Marion Township:

1. The above-mentioned lands to be developed naturally drain into the area served by the existing drains and that the existing drains are the only reasonable available outlet for the drainage from the lands to be developed.
2. To my knowledge, there is existing capacity in the existing drains to serve the lands to be developed without detriment or diminution of the sanitary sewer or storm drainage service provided or to be provided in the foreseeable future in the existing district. This statement is made with reliance upon consultation with the office of the Livingston County Drain Commissioner and upon review and approval of the construction plans by that office.



Peter J. Finkbeiner, P.E.

Date: 10/29/99