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AMENDMENT TO DECLARATION TO PROVIDE STORM WATER DETENTION TO HERITAGE GLEN SUBDIVISION

This Amendment to the Declaration to provide storm water detention to Heritage Glen Subdivision ("Declaration"), is entered into this 7<sup>th</sup> day of May, 1997, by the Declarant, Oberer Development co. Successor to Spring Valley Associates, pursuant to the right to amend by the Declarant provided for in the Declaration at paragraph 14 thereof. Said Declaration is recorded at Microfiche #94-0623 D10 of the Deed Records of the Recorder of Montgomery County, Ohio.

The Declarant has secured the entry of the Heritage Glen Subdivision into the Gander Creek Association, a storm water management association, ("Gander Creek Association").

As a consequence of the entry of Heritage Glen Subdivision into the Gander Creek Association the necessity for on-site storm water retention/detention is reduced .

Accordingly the Declarant hereby amends the Declaration as follows:

A. The description of property being Common Area as contained in the Declaration is hereby amended to include only that property more fully described in Exhibit "A" attached.

B. New paragraph 10.a. shall be added as follows:

10.a. The Association is hereby made the responsible party for and on behalf of all Owners of lots in Heritage Glen Subdivision for purposes of membership in and responsibility for compliance with all of the terms and conditions of the Gander Creek Association, and, as a Common Expense, shall pay any and all annual assessments allocated to it based upon the formula for assessments to be paid on a prorata basis by all properties in the Gander Creek Association, as more fully set forth in the Declaration of Covenant, Conditions and Restrictions for Gander Creek Association as recorded at Microfiche #88-0771 B03 of the Deed Records of the Recorder of Montgomery County, Ohio. The property subject to the Gander Creek Association assessments is more fully set forth in Exhibit B, attached hereto and made a part hereof. All of said property is included within Sections 1, 2, 3, 4, 5, 6, \_\_\_\_\_, \_\_\_\_\_, of Heritage Glen Subdivision.

B. Existing paragraph 13.a. shall be deleted in its entirety and in its place and stead the following shall be added:

13.a. Payment. The Declarant shall pay such initial development costs and such incidental costs for maintenance of the Common Area until it shall transfer or assign the Common Area to the Association. Thereafter, each

NO TRANSFER NEEDED  
97 JUN -6 PM 2:06  
A.J. WAGNER  
AUDITOR

Lot Owner, subject to the provisions of this Declaration, shall pay to the Association, the allocated assessments for the Common Expenses, including for the Common Area, as payment is called for, but which shall be not more often than on a quarterly basis, in advance, and not less often than annually, in advance.

To the extent of any conflict between this Amendment to the Declaration and the Declaration this Amendment to the Declaration shall govern. In all other and further respects the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands this 7<sup>th</sup> day of May, 1997.

OBERER DEVELOPMENT CO.

Jana L McDonald  
Witness

By: George R Oberer, Jr  
Declarant  
JOY A. CLARK  
RECORDER

Lou Brock  
Witness

24 97 JUN -6 PM 2:11  
E MONTGOMERY CO. OHIO  
RECORDED

STATE OF OHIO

SS:

MONTGOMERY COUNTY

BE IT REMEMBERED that on this 7<sup>th</sup> day of May, 1997, before me, OBERER DEVELOPMENT CO., by George R. Oberer, Jr, acknowledged the signing thereof to be its voluntary act and deed and the free act and deed of his personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Jana L McDonald  
Notary Public

JANA L. McDONALD, Notary Public  
In and for the State of Ohio  
My Commission Expires: March 29, 1999

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Prepared by Rickel, Schaeffer + Ebeling.



EXHIBIT A

Description of: Heritage Glen Section One

Contains: 3.222 Acres

Date: September 27, 1994

Situated in Section 11, Town 2, Range 5 in Miami Township, Montgomery County, Ohio and being part of the land conveyed to the Spring Valley Association in Deed Microfiche # 90-016E11 of the Deed Records of Montgomery County, Ohio and being a tract of land more particularly described as follows:

Beginning at the intersection of the centerline of Spring Valley Pike and the west line of the east half of said Section 11, thence with said Spring Valley Pike centerline for the next three courses, South 82° 12' 44" East for a distance of 459.73 feet to a point;

thence South 82° 13' 50" East for a distance of 579.50 feet to a point;

thence South 82° 14' 53" East for a distance of 317.64 feet to a point being the southwest corner of a tract of land conveyed to the NCR Corporation in Deed Microfiche #88-275C01 of the Deed Records of Montgomery County, Ohio;

thence with the west line of said NCR Corporation tract North 05° 17' 36" East for a distance of 45.04 feet to the True Point of Beginning of this description;

thence with a new division line through said Spring Valley Associates tract for the next five courses, North 82° 14' 53" West for a distance of 317.27' to a point;

thence North 82° 13' 50" West for a distance of 2.93 feet to a point;

thence North 07° 45' 48" East for a distance of 243.03 feet to a point;

thence North 31° 16' 56" East for a distance of 116.90 feet to a point;

thence North 51° 31' 22" East for a distance of 357.56 feet to a point on the west line of said NCR Corporation tract;

thence with the west line of said NCR Corporation tract, South 05° 17' 36" West for a distance of 608.98 feet to True Point of Beginning of this description.

Contains 3.222 acres, be it the same, more or less, subject to all legal conditions, easements and right-of-ways of record.



# HERITAGE GLEN

CONTAINS 102.3647 AC.  
AS SHOWN

(TOTAL AREA INCLUDES  
15.2076 AC. SIMM'S TRACT  
AND 16.5811 AC. TO BE  
PURCHASED FROM MEAD)

EXHIBIT B



0005788

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Book 22

SUPPLEMENTAL FILING TO  
DECLARATION TO PROVIDE STORM WATER DETENTION  
TO HERITAGE GLEN SUBDIVISION

WHEREAS, Oberer Development Co. (the "Declarant") recorded the Declaration to Provide Storm Water Detention to Heritage Glen Subdivision (the "Declaration") on October 6, 1994 at 11:27 p.m. and recorded at Microfiche Number 94-0623 D10 of the Montgomery County, Ohio Records.

WHEREAS, pursuant to said Declaration, Declarant is authorized to annex additional property, and subject said additional property to the terms and conditions of the Declaration.

WHEREAS, the Declarant recorded the Amendment to Declaration to Provide Storm Water Detention to Heritage Glen Subdivision on June 6, 1997 at 2:06 p.m. and as recorded in Microfiche Number 97-0386 A07 of the Montgomery County, Ohio Records.

WHEREAS, the Declarant recorded Heritage Glen Section 2 record plan on February 6, 1996 and recorded at Plat Book 163, Page 3 of the Montgomery County, Ohio Plat Records.

WHEREAS, the Declarant recorded Heritage Glen Section 3 record plan on August 5, 1996 and recorded at Plat Book 164, Page 40 of the Montgomery County, Ohio Plat Records.

WHEREAS, the Declarant recorded Heritage Glen Section 4 record plan on April 23, 1997 and recorded at Plat Book 167, Page 33 of the Montgomery County, Ohio Plat Records.

WHEREAS, the Declarant recorded Heritage Glen Section 5 record plan on October 8, 1997 and recorded at Plat Book 169, Page 38 of the Montgomery County, Ohio Plat Records.

WHEREAS, the Declarant recorded Heritage Glen Section 6 record plan on February 5<sup>th</sup>, 1999 and recorded at Plat Book 174, Page 41 of the Montgomery County, Ohio Plat Records.

NOW THEREFORE, the Declarant, with full right, power and authority to do so, annexes as additional property the lots of Heritage Glen Section 2, Heritage Glen Section 3, Heritage Glen Section 4, Heritage Glen Section 5 and Heritage Glen Section 6 of the Declaration.

IN WITNESS WHEREOF, the undersigned have set forth their hands this 15<sup>th</sup> day of February, 1999.

Signed and Acknowledged  
In the Presence of:

Michele D. Poole  
Michele D. Poole

Mark G. Stenger  
Mark G. Stenger

DECLARANT  
Oberer Development Co.

Robert M. McCann  
Robert M. McCann, Treasurer

NO TRANSFER RECORDED  
99 MAR 24 AM 10:55  
A.J. WAGNER  
AUDITOR  
JOY A. CLARK

99 MAR 26 PM 3:34

STATE OF OHIO )  
 )  
COUNTY OF MONTGOMERY ) ss:

The foregoing instrument was acknowledged before me this 15th day of February, 1999 by Robert M. McCann, Treasurer of Oberer Development Co., an Ohio Corporation, on behalf of the corporation.

Michele D. Poole  
Notary Public

MICHELE D. POOLE, Notary Public  
In and for the State of Ohio  
My Commission Expires Aug. 4, 2001

THIS INSTRUMENT PREPARED BY:  
Oberer Development Co.  
4324 Webster Street  
Dayton, Ohio 45414  
Phone: (937) 278-0851