

For Exhibit See
Sec. # 1670210
Condominium Declaration

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Condominium Declaration for Fairway Meadows Condominium
attached hereto.

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**DECLARATION
OF
FAIRWAY MEADOWS CONDOMINIUM
Sheboygan Falls, Wisconsin**

DECLARATION OF FAIRWAY MEADOWS CONDOMINIUM

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CONDOMINIUM DECLARATION FOR FAIRWAY MEADOWS CONDOMINIUM

THIS DECLARATION is made pursuant to the Condominium Ownership Act of the State of Wisconsin, Chapter 703 of the Wisconsin Statutes (hereinafter sometimes referred to as the "Act") this 31st day of January, 2003, by PINEHURST FARMS GOLF DEVELOPMENT, L.P., a Delaware limited partnership (hereinafter referred to as "Declarant").

I. STATEMENT OF DECLARATION.

The purpose of this Declaration is to submit the lands hereinafter described and the improvements constructed or to be constructed thereon to the condominium form of ownership in the matter provided by the Act and this Declaration.

Declarant hereby declares that it is the sole owner of the real property described in Exhibit A attached hereto, together with all buildings and improvements thereon or to be constructed thereon (hereinafter referred to as the "Property") which is hereby submitted to the condominium form of ownership as provided in the Act and this Declaration. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter having any interest in the Property.

II. NAME.

The real estate described in Exhibit A and all buildings and improvements thereon and thereto shall be known as FAIRWAY MEADOWS CONDOMINIUM.

III. LEGAL DESCRIPTION.

The real estate as described in the condominium plat attached hereto as Exhibit A (the "Condominium Plat"), is hereby subjected to the provisions of this Declaration.

IV. DEFINITION AND DESCRIPTION OF UNITS.

1. **Number.** Nineteen (19) residential condominium units are hereby declared in the FAIRWAY MEADOWS CONDOMINIUM (individually a "Unit" and collectively the "Units").
2. **Definition.** A Unit is that separate area within a building to be constructed or already constructed pursuant to the requirements of this Declaration within the Unit boundaries, as identified within the Condominium Plat, for independent, private use, having outer boundaries formed by the interior surfaces of the perimeter walls, including but not limited to interior non-bearing walls, floors, heating and air conditioning facilities, ducts, water heater, appliances and ceilings, windows, window frames, doors and door frames of the Units, together with all fixtures and improvements therein contained, and including an enclosed parking garage.

V. DESCRIPTION AND LOCATION OF BUILDINGS.

There shall be eleven (11) main buildings on the Property for a total of nineteen (19) single-family residential condominium Units. The buildings shall be located on the Property and shall be built as indicated on the Condominium Plat and conform to the design specifications as determined by this Declaration and the Association. The buildings containing Units constructed upon the Property include an indoor parking garage as a part of each Unit. Floor plans of the Units are attached hereto as a part of the Condominium Plat.

VI. COMMON ELEMENTS AND FACILITIES.

1. **Description.** The common elements ("Common Elements") shall consist of all of the FAIRWAY MEADOWS CONDOMINIUM, except the individual Units and fixtures therein, as defined hereunder, and shall include, without limitation, the land on which the buildings are located; entranceway monuments and Condominium signage; the private roadways; building structures and exteriors; perimeter and bearing walls; walkways; building roofs; foundations; pipes; ducts; electrical wiring and conduits; utility services; public utility lines; master television cable or antenna lines; water mains and lines, sewer laterals; outside walls; girders, beams and supports; the landscaping on the Property not designated as Limited Common Elements below, on the Property; and all other exterior improvements and appurtenances.
2. **Unit Owner Easements.** Provided each Unit owner first obtains written consent from the Association or Declarant, each Unit owner shall have an easement to the space between the interior and exterior walls or common walls of his or her Unit for purposes of adding additional utility outlets, erection of non-bearing partition walls, and the like, where space between the walls may be necessary for such uses, provided that the Unit owner shall do nothing to impair the structural integrity of the building, and provided further that the Common Elements be restored to their former condition by the Unit owner at his or her sole expense upon completion or termination of the use requiring the easement. Easements are hereby granted and declared for the benefit of the Unit owners and the Association (hereinafter described) for the installation, maintenance and repair of common utility services in and on any part of the Common Elements or Units.

VII. LIMITED COMMON ELEMENTS.

3. **Description.** A portion of the Common Elements are designated as "Limited Common Elements". Such Limited Common Elements shall be reserved for the exclusive and personal use of the owner or occupant of the Unit to which they are appurtenant, to the exclusion of all other Units in FAIRWAY MEADOWS CONDOMINIUM. Such Limited Common Elements shall include any exterior lights, mailbox, chimney, patios, decks, any fences or plantings separating the Units, and landscaped areas adjacent to or attached to a Unit which are appurtenant and reserved exclusively for the use of that Unit whether or not

located immediately adjacent to a Unit or within the boundary lines of a Unit and any other exterior variation which is customized to a Unit and approved by Declarant or the Association.

4. **Use.** The manner of use of the Limited Common Elements shall be governed by the By-Laws of, and such rules and regulations as may be established by, the Association. Each Unit owner shall maintain the Limited Common Elements that exclusively service such Unit owner's Unit at the Unit owner's sole expense. No Unit owner shall alter, remove, repair, paint, decorate, landscape or adorn any Limited Common Element, or permit such, in any manner contrary to such By-Laws and rules and regulations. No structural changes or major alterations shall be made by any Unit owner to any of the Limited Common Elements without the prior written approval of the Association, which approval may be given upon such terms and conditions as the Association deems appropriate.

VIII. OWNERSHIP OF UNIT AND PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS.

Each Unit owner shall own a fee simple interest in his or her Unit. Each Unit owner shall also own an undivided interest in the Common Elements as a tenant in common with all other Unit owners and, except as otherwise limited in this Declaration, shall have the right to use and occupy the Common Elements for all purposes incident to the use and occupancy of his or her Unit as a place of residence, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with his or her Unit, or such uses as permitted by the Association.

The initial percentage of such undivided ownership interest in the Common Elements relating to each Unit, for all purposes, including voting and proportionate payment of common expenses, shall be determined by dividing the number one (1) by the number of Units.

IX. ASSOCIATION OF UNIT OWNERS.

5. **Membership, Duties and Obligations.** Every Unit owner is a member of an association of Unit owners to be known as Fairway Meadows Condominium Association, Inc. (the "Association") which shall be responsible for carrying out the purposes of this Declaration, including the management and control of the Common Elements and Limited Common Elements. Such Association shall be incorporated as a non-stock corporation under the laws of the State of Wisconsin. Each Unit owner and the occupants of the Units shall abide by and be subject to all of the rules, regulations, duties and obligations of this Declaration and the By-Laws and rules and regulations of the Association.
6. **Voting Rights.** Each Unit shall be entitled to one (1) vote at the meetings of the Association. Only one membership and one vote shall exist for each Unit; if title to a Unit is held by more than one person, the co-owners of a Unit shall provide written notice to the Association indicating which individual is entitled to cast the

vote on behalf of all co-owners of said Unit and if no such notice is received by the Association, the first individual of majority age listed on the deed to the co-owned Unit shall be designated as the individual to cast any vote on behalf of the Unit. The Declarant shall be entitled to cast the votes pertaining to any Unit or Units declared as a part of FAIRWAY MEADOWS CONDOMINIUM but not constructed or sold, until such time as the respective Units are constructed and sold by Declarant or its successors or assigns.

7. **Declarant Control.** Notwithstanding any other provisions herein contained, Declarant, its successors and assigns, shall have the right, at its option, to appoint and remove the members of the Board of Directors and officers of the Association and to amend the By-Laws or rules and regulations of the Association, until the earlier of: (a) three (3) years from the date of first sale of a Unit by Declarant to a person other than Declarant; (b) thirty (30) days after the conveyance of seventy-five percent (75%) of the Common Element interest to purchasers by Declarant; or (c) until such earlier time as may be determined by Declarant, subject in each case to provisions of the Act. The percentage in (c) above shall be calculated with the assumption that all Units to be completed are included in the Condominium. Each owner of a Unit in FAIRWAY MEADOWS CONDOMINIUM shall be deemed by acceptance of any deed to any Unit to agree, approve, and consent to the right of Declarant to so control the Association.
8. **Association Personnel.** The Association may obtain and pay for the services of any person or entity to manage its affairs to the extent it deems advisable, and may hire such other personnel as it shall determine to be necessary or advisable for the proper operation of FAIRWAY MEADOWS CONDOMINIUM. The Association may contract for common services or utilities as may be required for each Unit.
9. **Association Records.** The Association shall have current copies of this Declaration, the Articles of Incorporation and the By-Laws of the Association, the Condominium Plat, any rules or regulations affecting FAIRWAY MEADOWS CONDOMINIUM, and the Association's books, records and financial statements available for inspection during normal business hours by Unit owners or by holders, insurers or guarantors of first mortgages secured by condominium Units in FAIRWAY MEADOWS CONDOMINIUM. Upon written request, the Association shall provide a written financial statement for the preceding fiscal year to any such holder, insurer or guarantor of a first mortgage secured by a Unit in FAIRWAY MEADOWS CONDOMINIUM. The Association shall make available to prospective purchasers, during normal business hours, current copies of the Declaration, By-Laws of the Association, any rules and regulations affecting FAIRWAY MEADOWS CONDOMINIUM and the most recent financial statement of the Association.

X. RESIDENTIAL PURPOSE.

The condominium buildings and the Units therein contained are intended for and restricted exclusively to residential uses as governed by the terms and conditions contained herein and the By-Laws of the Association. Notwithstanding the forgoing, the Declarant reserves the right, at its option and in its sole discretion, to use and occupy various Units, selected by the Declarant, or its agents, as "model" Units and/or sales offices to conduct sales activities on the Property, and to designate reserved parking spaces to be used in connection with Declarant's sale activities and to direct prospective buyers to parking areas, until such time that all Units have been sold, or until such earlier time as may be determined by Declarant.

XI. REPAIRS AND MAINTENANCE.

- 10. Individual Units.** Each Unit owner shall be responsible for keeping the interior of his or her Unit and all of the equipment, fixtures and appurtenances related thereto in good order, condition and repair and in a clean and sanitary condition, and shall be responsible for interior decorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his or her Unit, all as is more fully set forth in the By-Laws or rules and regulations of the Association. Without in any way limiting the foregoing, in addition to decorating and keeping the interior of the Unit in good repair, each Unit owner shall be responsible for the maintenance, repair or replacement of all doors and windows (including, replacement of broken glass), patio and balcony doors, garage doors, screens and screening, lighting fixtures, refrigerators, ranges, heating and air conditioning equipment, including appurtenant compressor and equipment, plumbing fixtures, dishwashers, disposals, laundry equipment such as washers and dryers, water heaters, interior electrical wiring and fixtures, doorbells, or other equipment which may be in, or connected with, the Unit or the Limited Common Elements appurtenant to the Unit. For purposes of uniformity of external appearance and quality, the Declarant or the Association may specify the type, color and quality of materials to be used in replacing, repairing, painting or maintaining external fixtures such as entry doors, garage doors, lighting fixtures and other items which may be determined from time to time by the Board of Directors of the Association.
- 11. Common Elements.** Except as provided for in this Declaration for Limited Common Elements, the Association shall be responsible for the management and control of the Common Elements and shall cause the same to be kept in good, clean, attractive and sanitary condition, order, and repair unless otherwise indicated in this Declaration. Without in any way limiting the foregoing, this shall include all routine painting, repair, and maintenance of building exteriors, including walls and roof, garage exteriors, and repair and maintenance of the private drive and curbs and all curb cuts, walkways and driveways, as is all more fully set forth in the By-Laws and any rules and regulations adopted by the Association. All expenses of maintenance of the Common Elements shall be a common expense of the Association. The Association shall have control over all additions, improvements and alterations to Common Elements and Limited

Common Elements. Individual Unit owners may not make alterations or additions to Common Elements or Limited Common Elements, without prior written approval by the Association. Individual Unit owners shall be responsible at their sole expense for maintenance, repair and upkeep of all such individual additions, improvements, alterations and changes made to the Common Elements by the Unit owner in accordance with this Declaration, the By-Laws or rules and regulations of the Association. In the event any repair or maintenance of the Common Elements is necessitated by reason of the negligence or misuse by a Unit owner or the guest or agent of a Unit owner, such expense shall be charged and specially assessed against the responsible Unit owner except to the extent the Association receives insurance proceeds for such damage.

12. **Limited Common Elements.** Each Unit owner shall maintain and generally keep the Limited Common Elements appurtenant to his or her Unit, in a good, clean, sanitary and attractive condition at the Unit owner's sole cost and expense. The Association shall have the right to remedy any breach by a Unit owner of this Section by spending the amounts necessary to cure such breach and assessing such amounts against the breaching Unit owner's Unit, as provided in this Declaration or the By-Laws.
13. **Prohibition Against Structural Changes by Owner.** A Unit owner shall not, without first obtaining the written consent of the Association, make or permit to be made any structural alterations, changes or improvements to his or her Unit or to the exterior of any building or any Common Elements or Limited Common Elements, or make or install any improvements or equipment which may affect other Units or the owners of other Units. A Unit owner shall not perform, or allow to be performed, any act or work which will impair the structural soundness or integrity of the Units, or the safety of the Property, or impair any easement or property right without the prior written consent of the Association.
14. **Entry for Repairs.** The Association may enter any Unit at reasonable times and under reasonable conditions when necessary in connection with any maintenance, construction or repair of public utilities or for any other matters for which the Association is responsible. Such entry shall be made with prior notice to the affected Unit owners, except in the case of an emergency when injury or property damage will result from delayed entry, and with as little inconvenience to said Unit owners as practical, and any damage caused thereby shall be repaired by the Association and treated as a common expense except as allocable to an individual Unit or Units, in the discretion of the Board of Directors.
15. **Decorating.** Each Unit owner shall have the exclusive right to carpet, paint, repaint, tile, panel, paper or otherwise refurbish and decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of his or her Unit and all walls, ceilings, floors and doors within such boundaries.

XII. NO SUBDIVISION.

No Unit in FAIRWAY MEADOWS CONDOMINIUM may be subdivided or separated and no relocation of boundaries between adjoining Units shall be allowed except pursuant to such standards as may be promulgated by and with the written consent of the Association.

XIII. DESTRUCTION AND RECONSTRUCTION.

In the event of a partial or total damage or destruction of a building or buildings or any other part of the Common Elements, such shall be repaired and rebuilt as soon as practicable and substantially to the same design, plan and specifications as originally built so as to be compatible with the remainder of FAIRWAY MEADOWS CONDOMINIUM.

On reconstruction, the design, plan and specifications of any building or Unit may vary from that of the original upon approval of the Association, provided, however, that the number of square feet of any Unit may not vary by more than five percent (5%) from the number of square feet for such Unit as originally constructed, and the location of the building shall be substantially the same as prior to damage or destruction. The proceeds of any insurance provided by the Association and collected for such damage or destruction shall be available to the Association for the purpose of repair or reconstruction, as provided in this Declaration. The Association shall have the right to levy assessments as a common expense against all Unit owners in the event that the proceeds of any insurance collected are insufficient to pay the estimated or actual costs of repair or reconstruction.

XIV. INSURANCE.

16. **Units.** Individual Unit owners shall provide insurance for the interior of their respective Units and Limited Common Elements and all fixtures and improvements contained therein. Premiums for such insurance shall be an individual expense of the respective Unit owners.
17. **Common Elements.** The Association shall provide and maintain fire and broad form extended coverage insurance on the buildings, improvements, and any other Common Elements, except for Limited Common Elements, in an amount not less than the full replacement value thereof from time to time. Such insurance shall be obtained in the name of the Association as trustee for each of the Unit owners and their respective mortgagees in the percentages established in this Declaration, as their interests may appear. The Association shall also provide public liability insurance covering the Common Elements, except for the Limited Common Elements, as may be determined at the discretion of the Association from time to time. The Association may also provide workman's compensation insurance, directors' and officers' liability insurance and fidelity bonds on such officers and employees in such amounts and with such coverage as is determined by the Board of Directors to be necessary or advisable from time to time. Insurance premiums paid by the Association shall be a common expense. Notwithstanding anything contained in this Declaration to the contrary, the insurance to be provided by the Association hereunder shall exclude: (i) coverage on any personal property

located within a Unit or property that is for the exclusive use of an owner (including Limited Common Elements), except to the extent included as a standard coverage in the policy that the Association acquires; and (ii) liability coverage on an occupant or owner, its guests, invitees, employees or tenants, arising out of any occurrence within a Unit, Limited Common Element or relating in any way to an owner's personal property. It is the sole responsibility for each owner to obtain any insurance coverages that are excluded from the Association insurance.

In the event of partial or total destruction of a building or buildings and the repair or reconstruction of such building or buildings in accordance with this Declaration, the proceeds of such insurance shall be paid to the Association, as trustee, to be applied to the cost thereof. If it is determined not to reconstruct or repair, then the insurance proceeds together with the net proceeds of sale, shall be distributed to the Unit owners and their mortgagees, if any, as their respective interests may appear, in the manner provided by the Act.

18. **Combined Insurance.** If insurance coverage is available to combine protection for the Association and the Unit owner's individual Unit, the Board of Directors is hereby given discretionary power to negotiate such combination of insurance protection on an equitable cost-sharing basis under which the Unit owner would be assessed individually for the amount of insurance which he or she directs the Board of Directors to include in such policies for his or her additional protection. Copies of all such policies shall be provided to each mortgagee.
19. **Terms of Insurance.** To the extent possible, the insurance to be obtained by the Association and the Unit owner as provided in this Declaration shall provide that the insurer waives its rights of subrogation as to any claim against Unit owners, the Association, and their respective agents, invitees and guests, and that the insurance cannot be cancelled, invalidated nor suspended on account of conduct of any one or more Unit owners, or the Association, or their agents, invitees and guests, without thirty (30) days prior written notice to the Association giving it opportunity to cure the defect within that time. The amount of protection and the types of hazards to be covered shall be reviewed by the Board of Directors at least annually and the amount of coverage may be increased or decreased at any time it is deemed necessary as determined by the Board of Directors to conform to the requirements of full insurable value.

XV. LIABILITY FOR COMMON EXPENSES.

The costs of administration of the Association, insurance, repair, maintenance and other expenses associated with the Common Elements (excluding the Limited Common Elements) and common services provided to the Unit owners such as professional management services, snow removal, and repair and maintenance of landscaping, walkways, private roadways, driveways, driveway lights, and parking areas, shall be paid for by the Association. The Association shall make assessments against the Unit owners and the Units for such common expenses in

accordance with the percentage of the undivided interest in the Common Elements relating to each Unit in the manner provided in the By-Laws of the Association. No Unit owner may exempt himself or herself or his or her Unit from liability for his or her contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Elements or services or by abandonment of his or her Unit or because of a dispute over services provided or not provided by the Association. No conveyance shall relieve the Unit owner grantor or his or her Unit of such liability and he or she shall be jointly, severally and personally liable along with his or her grantee in any such conveyance for the common expenses incurred up to the date of sale, until all expenses charged to his or her Unit have been paid. The Association shall be responsible for the management and control of the Common Elements and no Unit owner shall have any "self help" rights regarding the Common Elements or any right to reimbursement from the Association for any purported benefit conferred upon any of the Common Elements by any Unit owner without the explicit consent of the Association.

All assessments, when due, shall immediately become a personal debt of the Unit owner and also a lien, until paid, against the Unit to which charged, as provided in the Act. Assessments shall be made against the Unit owners and the Units at the beginning of each fiscal year of the Association to meet estimated common expenses of the Association for the ensuing year, however, if prorated and paid in installments, the assessments shall not be considered due until the respective installment payment dates. In the event of delinquency in payment, the Association may assess penalties and interest, and may accelerate annual assessments remaining unpaid with respect to such delinquent Unit for purposes of collection or foreclosure action by the Association. Notwithstanding any provision within this Declaration to the contrary, Declarant shall not be liable for any assessment (annual, monthly or special) as to any Unit which has not been sold by the Declarant.

If a Unit owner defaults in any payment, the Association shall take appropriate measures as provided by law. The defaulting Unit owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including the Association's actual attorneys' fees plus interest (at 12% per annum) and court costs. Unit owners shall be personally liable for assessments and a lien shall be imposed against such owner's Unit for same; provided, however, such lien shall be subordinate to the lien of a first mortgage recorded prior to the due date of the delinquent assessment. Liens for unpaid assessments as provided in the Act shall also extend to and secure, interest at 12% per annum, fines and reasonable costs of collection including attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a Unit upon the foreclosure of its lien. A lien for assessments will not be affected by the sale or transfer of a Unit, provided that the foreclosure of a first mortgage lien shall have priority over the lien for any assessments payable prior to such foreclosure sale.

XVI. PARTITION OF COMMON ELEMENTS PROHIBITED.

There shall be no partition of the Common Elements through judicial proceedings or otherwise, except as otherwise provided in this Declaration, until this Declaration is terminated and the Property is withdrawn from the terms of the Act. No Unit may be subdivided or separated except pursuant to such standards as may be promulgated by and with the consent of the Association.

XVII. CONVEYANCE TO INCLUDE INTERESTS IN COMMON ELEMENTS.

The percentage of undivided interest in the Common Elements shall not be separated from the Unit to which it pertains. No Unit owner shall execute any deed, mortgage, lease or other instrument affecting title to such Unit ownership without including therein both his or her interest in the Unit and his or her corresponding percentage of ownership in the Common Elements so as to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

XVIII. EASEMENTS, RESERVATIONS AND ENCROACHMENTS.

20. **Utilities.** Easements are hereby declared and granted for the benefit of the Unit owners and the Association and reserved for the benefit of the Declarant for utility purposes, including the right to install, lay, maintain, repair and replace water lines and pipes, sewer lines, gas mains, telephone wires and equipment, master television antenna system or cable wires and equipment, and electrical conduits and wires and equipment, including power transformers, over, under, along and on any part of the Common Elements, to service the Property. The Association or the Declarant has the right to grant easements for utilities as provided above under, through or over the Common Elements which are reasonably necessary to the ongoing development and operation of FAIRWAY MEADOWS CONDOMINIUM.
21. **Encroachments.** In the event that by reason of the settlement, movement or shifting of any approved Unit building or if any Unit, any part of the Common Elements, encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements which or any portion of any Unit encroaches upon any part of any other Unit, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit. Provided, however, that in no event shall a valid easement for any encroachment be created in favor of the owner of any Unit or in favor of the owner or owners of the Common Elements, if such encroachment occurred due to the willful or negligent conduct of the encroaching owner or owners or is unsafe based on reasonable standards.
22. **Rights of Ingress and Egress.** Each Unit owner shall have an unrestricted right of ingress and egress to and from his or her Unit that shall be perpetual and pass with the Unit upon transfers of ownership.
23. **Binding Effect.** All easements and rights described in this Declaration are easements appurtenant, running with the land, and are subject to the reasonable control of the Association. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on, the undersigned, its successors and assigns, and on all Unit owners, purchasers and

mortgagees and their heirs, personal representatives, successors and assigns. The Association or the Declarant shall have the authority to execute and record all documents necessary to carry out the intent of this Section.

XIX. RIGHTS OF ACTION; FAILURE OF ASSOCIATION TO INSIST ON STRICT PERFORMANCE NOT WAIVER.

24. **Rights of Action.** If any Unit owner fails to comply with this Declaration, the By-Laws or decisions made by the Association, the Association or any other Unit owner may sue such Unit owner for damages (including reasonable attorneys' fees) caused by the failure or for injunctive relief. In addition, the Association shall have the enforcement authority contained in the By-Laws of the Association. If the Association fails to comply with this Declaration or the By-Laws, any Unit owner may sue the Association for damages (including reasonable attorneys' fees) caused by such failure.
25. **No Waiver.** The failure of the Association to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of payment of any assessment from a Unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Association.

XX. CONSTRUCTION OF UNITS

26. **Declarant Approval.** Each Unit constructed shall comply with this Declaration and one of the floor plans attached to the Plat. No Unit, structure or improvement of any kind (collectively "Improvement") shall be installed, erected, constructed or placed on the Condominium (or altered or changed with respect to layout, location or exterior design, appearance, color or material composition) without: (i) prior submission to the Declarant of detailed plans and specifications appropriate for its review and approval (prepared by a qualified home designer or architect if the Improvement involves construction of a Unit or other structure) showing dimensions, composition and color of exterior materials and equipment, if any; and a survey showing the location of the Improvement with respect to other buildings and improvements, finished grade elevations, topography, driveways and other data pertinent to such review by the Declarant, as may be reasonably requested; and (ii) acquisition of prior written approval from Declarant based on said plans and specification for said Improvements. The Declarant shall have the exclusive right to deny or withhold approval of any proposed construction of a

Unit, structure or any other Improvement, if Declarant, in its sole judgment, determines that the requirements of this Declaration have not been satisfied in regard to any proposed Improvement and the decision of the Declarant shall be final and conclusive. ANY UNIT OWNER WHO CAUSES OR ALLOWS ANY IMPROVEMENTS TO BE CONSTRUCTED, INSTALLED, PLACED OR ALTERED WITHOUT PRIOR WRITTEN APPROVAL OF THE DECLARANT MAY BE REQUIRED TO PROMPTLY REMOVE SUCH IMPROVEMENT, IN ITS ENTIRETY, AND RESTORE THAT PORTION OF THE CONDOMINIUM DISTURBED BY SUCH IMPROVEMENT AT THE UNIT OWNER'S SOLE EXPENSE. The Declarant shall have the right to bring an action at law or equity to remove or correct any part of an Improvement, constructed or installed by a Unit owner which is not in compliance with this Declaration. The Declarant shall have the right to hire an architect or other qualified professional to review documents submitted to Declarant for a proposed Improvement and any reasonable costs associated with Declarant hiring such professional shall be paid by the Unit owner prior to Declarant's written approval of any such proposed Improvement. The Declarant further has the right to assign its right to approve any proposed Improvement to the Association at any time.

27. **Declarant's Right to Repurchase Undeveloped Units.** By acceptance of a deed for an undeveloped Unit, each owner of an undeveloped Unit site covenants to commence and complete construction of a Unit building in accordance with the following timetable: each such Unit owner shall commence construction within twelve (12) months after the date of the initial conveyance of the undeveloped Unit site by Declarant to each such Unit owner ("Initial Conveyance Date"), and shall complete construction of a Unit within two (2) years after the Initial Conveyance Date (the "Construction Schedule"). For purposes of this Section, a Unit shall be deemed complete upon the issuance of an occupancy permit by the City of Sheboygan Falls. If any such Unit owner fails to comply with the Construction Schedule, Declarant may, at its option, at any time after such Construction Schedule's one or two year period (whichever is applicable) expires, prior to completion of such Unit building, repurchase that site for a repurchase price equal to:
- a. the initial purchase price of the undeveloped Unit site paid by the Unit owner, without interest and less Declarant's selling expenses and administrative costs of such initial sale of the undeveloped Unit to the Unit owner, plus
 - b. ninety percent (90%) of the value of any Improvements, whether completed or uncompleted, existing on the Unit site as of the date of reconveyance to Declarant. The value of such Improvements shall be the fair market value as determined by a qualified appraiser selected by the Declarant and the Unit owner (individually the "Party" and collectively the "Parties"). The cost of such appraisal shall be split equally between the Parties. If the Parties cannot agree on the choice of an appraiser, each Party shall select an appraiser, and the two appraisers so selected shall

select a third appraiser. All three appraisers shall render an appraisal of the fair market value of the Improvements and the value of the Improvements shall be the average of the two appraisals that are closest to each other in amount. Each Party shall pay the costs of the appraiser selected by such Party and fifty percent (50%) of the cost of the third appraiser. If the failure of a Unit owner to complete construction of a Unit building in accordance with such Unit owner's Construction Schedule is due to circumstances (other than financial) beyond the control of such Unit owner, such Unit owner may request in writing to Declarant that Declarant grant an extension of such Construction Schedule. Such request shall state the circumstances that caused the construction delay and the estimated time necessary to complete construction of the Unit. Declarant shall grant such request if he finds the request to be bona fide, in Declarant's sole judgment, but in no event shall Declarant be required hereunder to grant an extension exceeding six (6) months. Declarant's right to repurchase an undeveloped Unit under this Section shall be subordinate to and shall not impair, hinder, or otherwise affect the rights of any mortgagee or purchasers from Declarant's mortgagee.

Except as provided in the preceding paragraph, no conveyance of an undeveloped Unit site by a Unit owner (other than Declarant) to a purchaser (other than Declarant) shall toll, reinstate, or in any other way affect the running of the time periods set forth in the Construction Schedule, or any extension thereof, established for the undeveloped Unit site subject to the Construction Schedule established for such undeveloped Unit site and Declarant's right to repurchase such undeveloped Unit site as hereunder provided.

Each Unit owner of an undeveloped Unit site, by acceptance of a deed thereto, covenants to reconvey such undeveloped Unit site to Declarant pursuant to the terms and conditions of this Section, by warranty deed, free and clear of all liens and encumbrances except any in existence prior to the Unit owner's ownership of the undeveloped Unit site.

- 28. Grading, Landscaping, and Drainage.** All grading, landscaping and Improvements described below shall be completed (in accordance with the plans approved by the Declarant or its assigns) within twelve (12) months following the issuance of the occupancy permit for the Unit building by the City of Sheboygan Falls. Declarant shall cause the common areas to be landscaped in a good and workmanlike manner. Unit owner shall cause the following to be paid for and completed in a good and workmanlike manner: removal of all soil and debris related to construction, rough grading surrounding Unit for drainage consistent with all applicable grading plans, driveways (asphalt), walks and patios (brick, stone or concrete), decks, fences, walls (stone), landscape lights, water features (if any approved), stepping stones, boulders, drain tile, all of which shall be pursuant to plans and specifications agreed to by Declarant and pursuant to the terms of the Declaration or other Condominium documents.

Final grading elevations and drainage easements must conform with the approved grading plan for the Unit and the master grading plan for FAIRWAY MEADOWS CONDOMINIUM, if any. To avoid a substantial increase in surface water drainage onto adjoining Units, the landscaping plans shall provide for adequate drainage, storage, and surface water toward adjoining streets and away from adjoining Units if natural drainage is to be or has been altered by grading or landscaping by the Unit owner.

29. **Driveways.** Each Unit shall be served with a blacktop asphalt driveway (which may be shared between side by side Units), extending from the street to the garage, which shall be substantially completed within the twelve (12) months following the issuance of an occupancy permit for the Unit by the City of Sheboygan Falls.

XXI. AMENDMENTS TO DECLARATION.

30. **General.** Except as otherwise provided by the Act with respect to termination of the condominium form of ownership, and as provided below, this Declaration may be amended only with the written consent of Unit owners with not less than two-thirds (2/3) of the votes in the Association. A Unit owner's written consent is not effective unless it is approved by the mortgagee of the Unit, if any. Prior to completion of construction and initial sale of all Units by Declarant, the consent in writing of the Declarant, its successors or assigns, shall also be required. No amendment shall alter or abrogate the rights of Declarant as contained in this Declaration. Amendments shall be executed by the President of the Association and shall become effective when recorded in the Office of the Register of Deeds for Sheboygan County, Wisconsin. A copy of the amendment shall be recorded with the Office of the Register of Deeds for Sheboygan County, and a copy of the amendment shall also be mailed or personally delivered to each Unit owner at his or her address on file with the Association.

XXII. MORTGAGEE RIGHTS.

31. The holder, insurer or guarantor of any first mortgagee or land contract on a Unit in FAIRWAY MEADOWS CONDOMINIUM ("Mortgagee"), upon the submission of a request to the Association in writing delivered to the Resident Agent (an "Eligible Mortgagee"), shall be entitled to receive written notice from the Association of the following matters:
- c. Any condemnation or casualty loss that affects either a material portion of FAIRWAY MEADOWS CONDOMINIUM or the Unit securing its mortgage note;
 - d. Any ninety (90) day delinquency in the payment of assessments owed by the owner of the Unit on which it holds a mortgage or any breach of the provisions of any instrument or rule governing FAIRWAY MEADOWS

CONDOMINIUM which is not cured by such owner within sixty (60) days of such owner's receipt of notice of such breach;

- e. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
 - f. Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees as specified below or otherwise in this Declaration.
32. Except as provided by the Act, in the case of condemnation or substantial damage to or destruction of all or any part of the Property, the Association shall not, unless two-thirds (2/3) of the Eligible Mortgagees (based on one vote for each mortgage owned) have given their prior written consent:
- g. Change the undivided percentage interest in the Common Elements of FAIRWAY MEADOWS CONDOMINIUM appurtenant to any Unit, or the manner of making assessments for common expenses or the allocation of the distribution of insurance proceeds or condemnation awards based upon such percentage;
 - h. Partition or subdivide any Unit or Common Elements of FAIRWAY MEADOWS CONDOMINIUM;
 - i. By act or omission seek to abandon or terminate FAIRWAY MEADOWS CONDOMINIUM or encumber, sell, transfer or convey any part of the Common Elements of FAIRWAY MEADOWS CONDOMINIUM; or
 - j. Use hazard insurance proceeds for losses to any Units or Common Elements for other than the repair, replacement or reconstruction of such Units or Common Elements.
33. The termination of the legal status of FAIRWAY MEADOWS CONDOMINIUM or removal of the Property from the provisions of the Act, for reasons other than substantial destruction or condemnation, shall not be effective unless agreed to by Eligible Mortgagees that represent at least two-thirds (2/3) of the mortgaged Units, provided that such agreement may be deemed given in the event any Eligible Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives notice of the proposal, provided the notice was delivered by certified or registered mail return receipt requested.
34. To be entitled to receive notification as provided for herein and become an Eligible Mortgagee, an Eligible Mortgagee must send a written request to the Resident Agent of the Association, stating its name, address and the Unit number or address on which it has a mortgage, insurance policy or guaranty.
35. A Mortgagee having a first mortgage and acquiring title to a Unit pursuant to remedies provided in its mortgage or by a deed in lieu of foreclosure following an

owner's default under the mortgage shall be liable for such Unit's unpaid assessments accruing prior to the Mortgagee's acquisition of title to the Unit.

XXIII. NOTICES.

All notices and other documents required to be given by this Declaration or the By-Laws of the Association shall be sufficient if given to one (1) registered owner of a Unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the Agent specified for receipt of process herein. All Unit owners shall provide the Secretary of the Association with an address for the mailing or service of any notice or other documents and the Secretary shall be deemed to have discharged his or her duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him or her.

XXIV. RESIDENT AGENT.

The resident agent for the Condominium ("Resident Agent") shall be David H. Bachmann, Jr. at 1 Long Drive, Sheboygan Falls, Wisconsin 53085 or such other person or entity as may be designated from time to time by the Board of Directors of the Association, which designation shall be filed with the Secretary of State of the State of Wisconsin. A designation of a Resident Agent in replacement of said Agent shall be filed by the Association within thirty (30) days after the date Declarant has relinquished control of the Association as provided herein or sold all Units in the Condominium. The Association may designate successors to the Resident Agent by affirmative vote of the Unit owners with a majority of the votes present or represented by proxy at a meeting of the Association at which a quorum is in attendance.

XXV. NUMBER AND GENDER.

Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

XXVI. CAPTIONS.

The captions and section headings herein are inserted only as matters of convenience and for reference, and in no way define nor limit the scope or intent of the various provisions hereof.

XXVII. SEVERABILITY AND ASSIGNMENT.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of the remaining portion of said provision or of any other provision hereof. Declarant may freely assign any and all rights provided to Declarant herein.

IN WITNESS WHEREOF, Declarant, has caused this document to be executed at Sheboygan, Wisconsin as of the date first set forth above.

**PINEHURST FARMS GOLF DEVELOPMENT,
L.P.**

By: PINEHURST FARMS GOLF CORP., a
Wisconsin corporation, as General Partner

By: 
David H. Bachmann, Jr., President

STATE OF WISCONSIN }
 } ss.
SHEBOYGAN COUNTY }

On this 30th day January of 2003, personally appeared before me the above named DAVID H. BACHMANN, JR., known to me to be the person who executed this Declaration as President of Pinehurst Farms Golf Corp.


Notary Public, Sheboygan County, Wisconsin
My Commission: permanent

EXHIBIT A
FAIRWAY MEADOWS CONDOMINIUM
CONDOMINIUM PLAT

.

CITY OF SHEBOYGAN FALLS, SHEBOYGAN COUNTY, WISCONSIN

NORTH LINE OF THE NE 1/
S89.33'24"W 2689.75'

1570163

Seal of the Wisconsin Land Surveyor, David H. Jacob, No. 5-2488, Field Bu. Ltd. WI.

DECLARANTE:

SOUTH
264.77

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R=180.00
ARC=226.60
CH=N 51.4519° W
CL=211.93
T = 131.09

FAIRWAY MEADOWS CONDOMINIUM

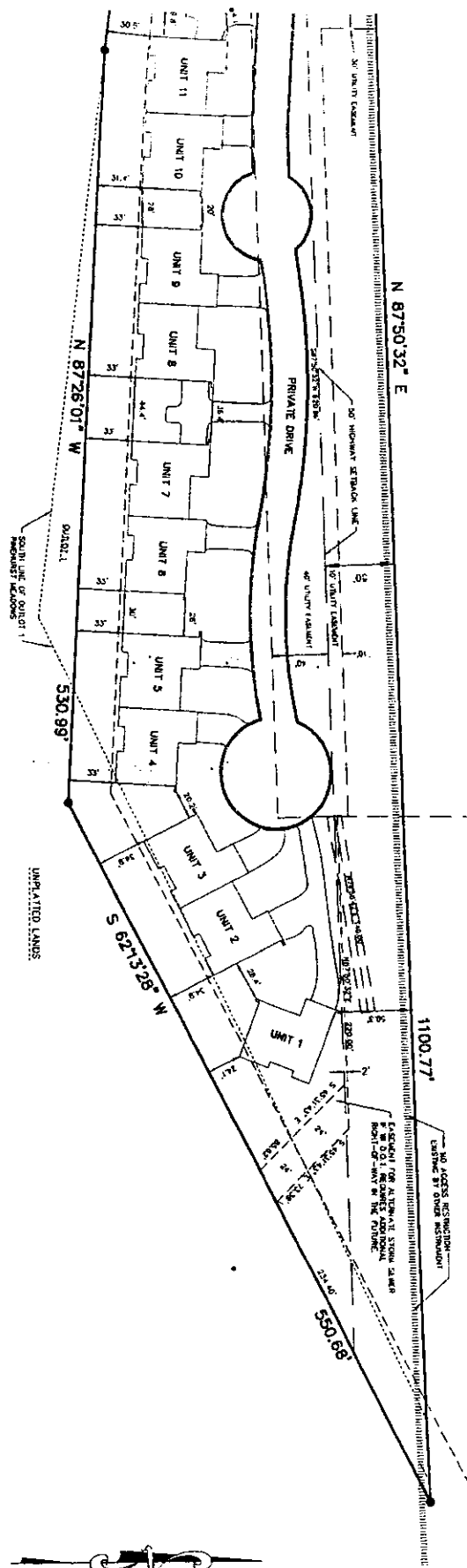
CITY OF SHEBOYGAN FALLS, SHEBOYGAN COUNTY, WISCONSIN.

NORTH LINE OF THE NE 1/4 OF SEC. 1-14-22
SBR35744W 2689.75

NE COR.
SEC. 1-14-22
SBR35744W
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E 2581.537 696



S.T.H. 28

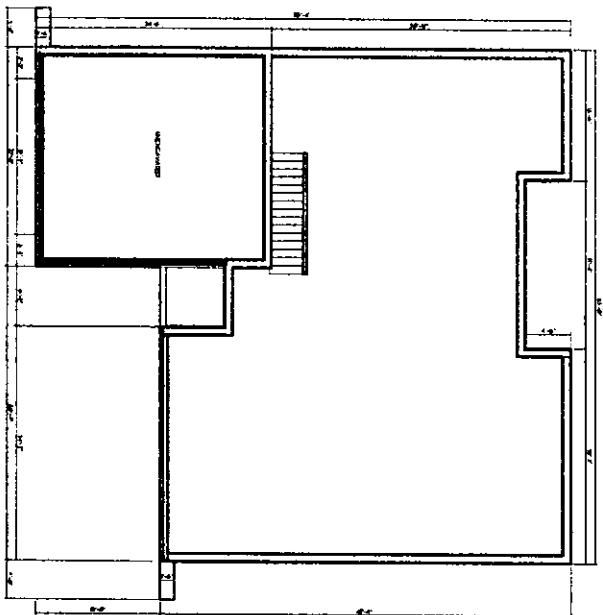


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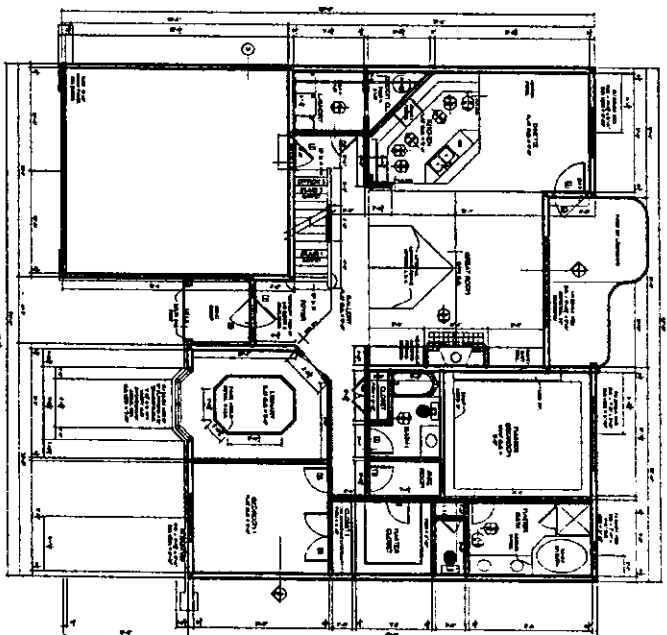
EXCEL
ENGINEERING INC.
100 CAMDEN BLVD.
SHEBOYGAN, WI 53081-1000
TEL: (920) 532-8800
FAX: (920) 532-8801



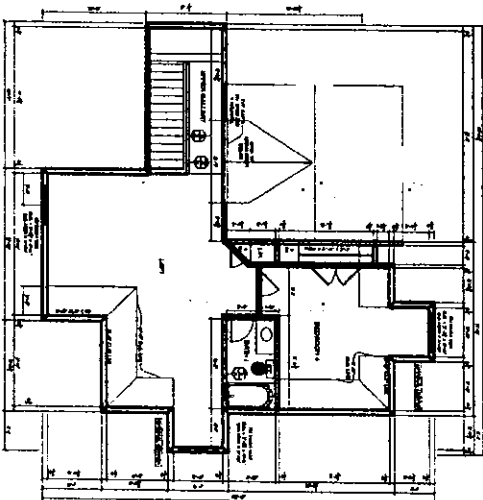
SHEET 2 OF 5 SHEETS



BASEMENT PLAN
INT 1 & 2
INT 1 & 2 (PROPOSED)



FIRST FLOOR PLAN
(DATE 1/9
UNIT D (IMPROVED))



SECOND FLOOR PLAN
UNITS 1, 1B
(UNIT 1B (774900000))

**FAIRWAY MEADOWS
CONDOMINIUM**
CITY OF SHEBOYGAN FALLS, SHEBOYGAN COUNTY, WISCONSIN.

CITY OF SHEBOYGAN FALLS, SHEBOYGAN COUNTY, WISCONSIN.

THE PRESTWICK



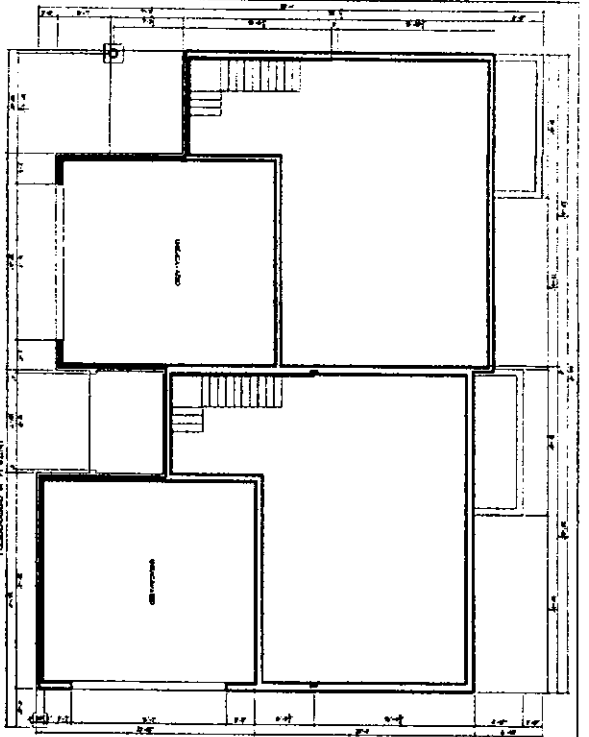
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EXCEL
ENGINEERING INC.

100 CHARLOTTE DRIVE
FARMINGDALE, NY 11735
PH: (516) 842-8800
FAX: (516) 842-8801

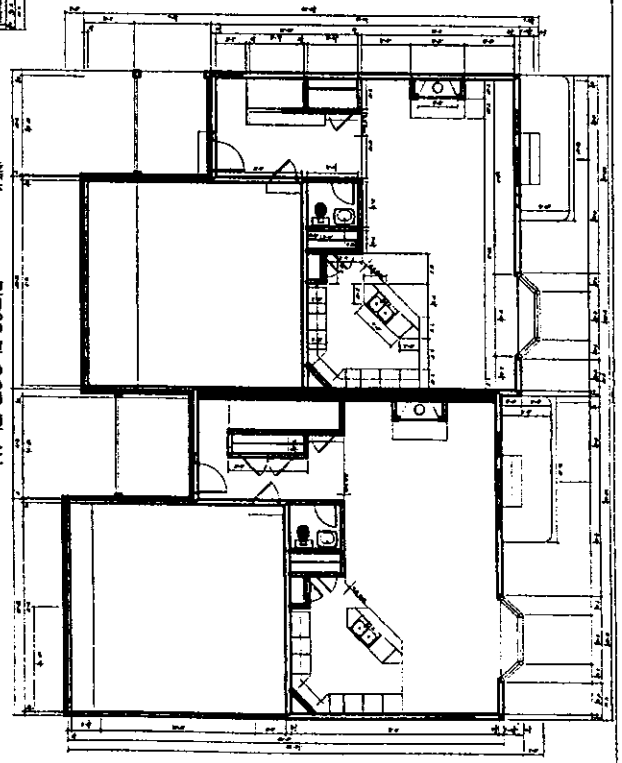
SHEET 3 OF 5 SHEETS





UNIT 1A (PROPOSED) UNIT 1B (PROPOSED)

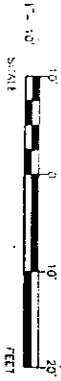
UNIT 1C (PROPOSED) UNIT 1D (PROPOSED)



UNIT 1A (PROPOSED) UNIT 1B (PROPOSED) UNIT 1C (PROPOSED) UNIT 1D (PROPOSED)

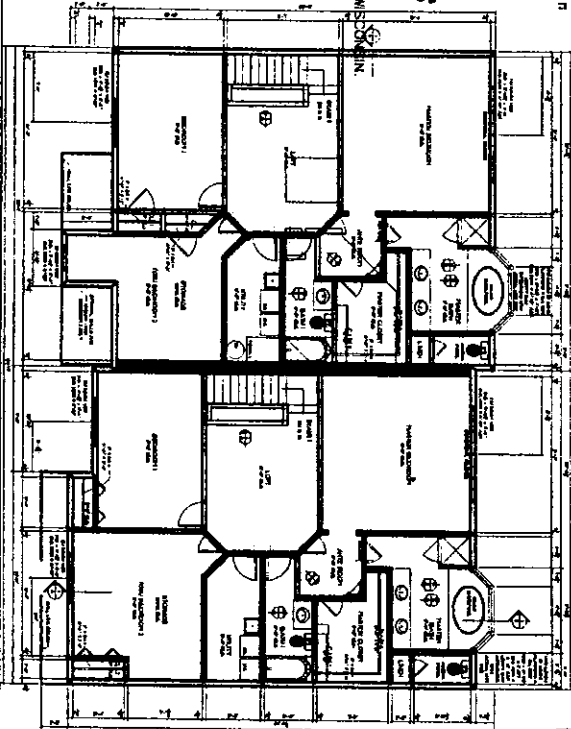
FAIRWAY MEADOWS CONDOMINIUM

CITY OF SHEBOYGAN FALLS, SHEBOYGAN AREA, WISCONSIN



PROJECT NO. 107200

EXCEL
ENGINEERING INC.
100 SOUTH 10TH
SHEBOYGAN, WI 53081
TEL: (920) 834-1000
FAX: (920) 834-1001



UNIT 2A (PROPOSED) UNIT 2B (PROPOSED) UNIT 2C (PROPOSED) UNIT 2D (PROPOSED)

SECOND FLOOR PLAN

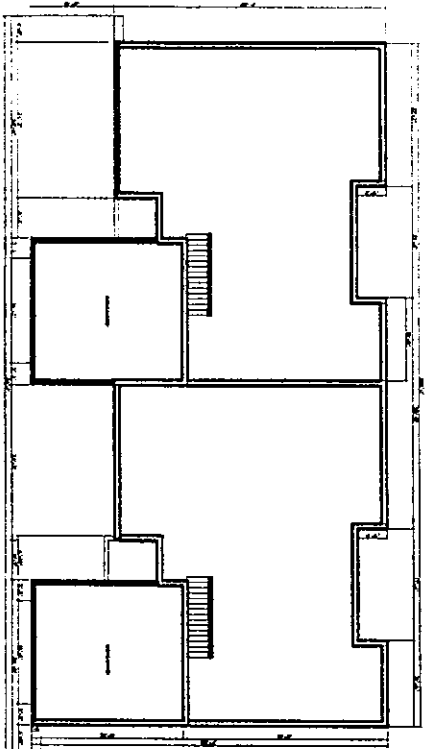
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SHEET 4 OF 9 SHEETS

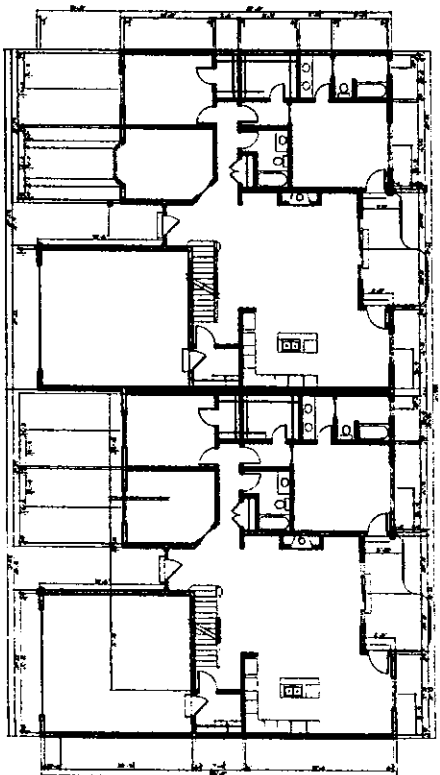


FAIRWAY MEADOWS CONDOMINIUM

CITY OF SHEBOYGAN FALLS, SHEBOYGAN COUNTY, WISCONSIN



UNIT 4 & 5
UNIT 3 & 6 (THROWAWAY) BASEMENT PLAN UNIT 2 & 7 (THROWAWAY)



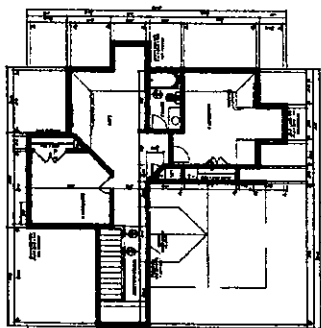
UNIT 4 & 5
UNIT 3 & 6 (THROWAWAY) FIRST FLOOR PLAN UNIT 2 & 7 (THROWAWAY)

THE NEWPORT

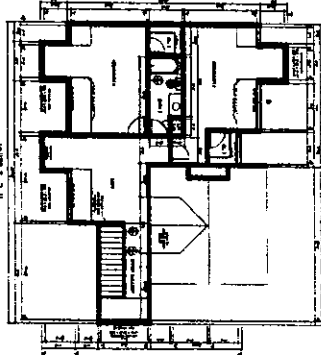


INCHES 1/8" = 1'-0"

EXCEL
ENGINEERING INC.
100 MAIN ST., SUITE 200
SHEBOYGAN, WI 53081
TEL: (920) 224-4800
FAX: (920) 224-4801



UNIT 4 & 5
UNIT 3 & 6 (THROWAWAY)



UNIT 4 & 5
UNIT 3 & 6 (THROWAWAY)

SECOND FLOOR PLAN

SHEET 5 OF 5 SHEETS

