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Polk County Iowa
TIMOTHY J. BRIEN RECORDER
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RETURN TO:

Prepared by and after recording return to: Streetar Cameron, 317 Sixth Avenue, Suite 300, Ankeny, Iowa 50309 (515) 243-8157

**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR
THE VILLAGE AT WHITE BIRCH TOWN HOMES**

This Declaration is made on this 19th day of October, 2004, by Triton Homes, L.C., hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Polk County, Iowa, which is more particularly described as:

Lots 1-118 and Outlot Z, The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

NOW, THEREFORE, Declarant hereby declares that all of the Properties described above shall be held, sold, and conveyed subject to all prior easements recorded and to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding upon all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.
Definitions

Section 1. "Association" shall mean and refer to "THE VILLAGE AT WHITE BIRCH TOWN HOME OWNERS ASSOCIATION", its successors and assigns, a nonprofit corporation organized pursuant to Chapter 504A of the Code of Iowa, 2003, as amended.

Section 2. "Association Maintenance Obligation" shall mean and refer to the obligation of the Association to provide and pay for all Exterior Maintenance of the Living Units, the maintenance of Outlot "Z" and all of the lawn mowing and landscaping work for the Lots within the Properties.

Section 3. "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Properties" shall mean and refer to that certain real estate described in Article II of this Declaration of Covenants, including any plat, division, or subdivision or portion thereof as may hereafter be brought within the jurisdiction of the Association, as well as any Properties that are subsequently added thereto pursuant to the terms of this Declaration.

Section 5. "Common Area" shall mean:

Outlot Z, The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, and any portions of Outlot Y, The Village at White Birch Plat 1, that may subsequently be added thereto.

It is understood that the ingress/egress area which allows access to the individual Lots is contained as a part of Outlot Z and any portions of Outlot Y, The Village at White Birch Plat 1, that may subsequently be added thereto. Outlot Z is to be owned by the Association at the time of the conveyance of the first lot to an owner. Outlot Z is to be maintained solely at the expense of the Association as a part of the Exterior Maintenance described below.

Section 6. "Living Unit" shall mean and refer to any portion of a residence situated upon a Lot designated and intended for use and occupancy as a residence by a single family.

Section 7. "Lot" or "lots" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of Outlot Z, whether or not the same is a platted.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9. "Declarant" shall mean and refer to Triton Homes, L.C., its successors and assigns, if they are designated as successor in any conveyance.

Section 10. "Exterior Maintenance" shall mean and refer to:

a. the residing, painting and staining of exterior surfaces as required from year to year, as well as all items of maintenance relating to the exterior of any of the Living Units including, but not limited to, roof replacement and repair, all replacement and repair relating to Outlot Z, all driveway replacement and repair, and sidewalk repair and replacement as may be determined necessary by the Board of Directors and which must be coordinated through the Board of Directors to insure an ongoing continuity of construction and harmony of architectural design and color scheme. **The Lot Owners shall be responsible at their own expense for the repair and replacement of items peculiar to the particular lot including, but not limited to, heating, ventilation and air conditioning (HVAC), decks and stoops. Such items shall not be considered exterior maintenance and the cost thereof shall not be included as part of any maintenance assessments.**

b. all lawn mowing and landscaping work necessary on any of the lots shall be the responsibility of the Association and the expense therefore shall be part of the Association Maintenance Obligation. In addition, all costs of repair and maintenance for the ingress/egress area including all improvements constructed thereon shall be a part of the Association Maintenance Obligation.

In addition to the above-described items, any walls which are built upon the dividing line between lots (lot line walls) and which are not open to the elements shall not be altered by the Lot Owner. Any cost of maintenance of such lot line walls shall also be part of the Association Maintenance Obligation, except that any maintenance of such lot line walls caused by the negligent or intentional act or omission of any Lot Owner shall not be a Association Maintenance Obligation

but shall be charged back to and be the expense of the Lot Owner causing such maintenance to be performed. Such lot line walls are intended to be constructed as walls in common pursuant to Chapter 563 Code of Iowa (2003). Any damage to such lot line walls that allows for their direct exposure to the outside elements shall be weatherproofed by the Association pending finalization of maintenance thereto. The Association shall be responsible for arranging for maintenance and/or replacement of all front doors and garage doors for each living unit, but the expenses relating thereto shall not be an Association Maintenance Obligation but shall, instead, be billed back directly to the particular living unit involved.

Section 11. "Capital Improvements" shall mean and refer to any construction of, reconstruction of, substantial alteration of, substantial repair of, or substantial addition to the physical amenities, utilities, and improvements upon the Properties.

Section 12. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions to which the Properties are subject.

ARTICLE II.

Property Subject to this Declaration

Section 1. The property which is subject to and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Polk County, State of Iowa, and is more particularly described as:

Lots 1-118 and Outlot Z, The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

Section 2. Option to Add Additional Property. The Declarant shall have the option to add additional property to the terms of this Declaration without the consent or joinder of any of the Owners, the Association, any holder of interest as security for an obligation, or any other person or entity so long as the additional Properties are one or more of the following Lots which may be added individually or in groups of two or more:

Outlot Y, The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa. (Or as it may be subsequently known after replatting)

a. Duration of Option. The option to add additional Properties as described above will expire on that date which is seven (7) years after the date upon which the Declaration is recorded. There are no circumstances that will terminate the option before the expiration of said seven (7) year period. However, the Declarant or anyone to whom Declarant has assigned said option as hereinafter set forth, may terminate said option as to any one or more of the above described additional Properties by executing a writing to such effect and recording the same in the same manner as a Deed.

b. Timing. Any of the additional real estate described above may be added at different times and in any order. Portions of any single lot may not be added.

c. Buildings. Any buildings that may be erected upon each additional lot as described above will be compatible with the buildings originally constituting the Association in terms of architectural style, quality of construction, principal materials employed in

construction and size.

d. Applicability of Restrictions. All restrictions in this Declaration effecting the use, occupancy and alienation of the lots will apply to all lots initially subject to this Declaration as well as those lots added to the terms of this Declaration. Each Lot added to the terms of this Declaration shall also be responsible for an undivided percentage of the Association Maintenance Obligation which percentage shall be fixed at the time that the Lot is added to the terms of the Declaration and which percentage shall thereafter be reallocated pursuant to Article V as other lots are added to the terms of this Declaration.

e. No Assurance of Addition. Nothing herein contained shall bind the Declarant to add any additional property to the terms of this Declaration or to adhere to any particular plan of development for any portion of the additional property that is not added to the terms of this Declaration. None of the terms of this Declaration shall apply in any way to any property not specifically added hereto.

f. Exercise of Option. Declarant may exercise its option to add one or more of the additional lots by executing and recording an Amendment to this Declaration in a form for recording, which Amendment shall specifically describe the additional real estate parcel or parcels being added to the terms of this Declaration pursuant to that Amendment. Such Amendment shall allocate one (1) vote in the Association to each such lot which shall automatically become subject to this Declaration and shall also entitle the lot owner of the additional lot to membership in the Association. Reallocation of the expenses of the Association shall also be made and the additional lots shall be subject to the payment thereof.

The Amendment as described above adding any additional lots may not be recorded unless the building being constructed on that Lot is substantially complete consistent with the floor plans and building materials relating to the original real estate subject to the terms of this Declaration. All installments of real estate taxes previously coming due and payable as well as accrued/prorated with respect to any additional lot and any special assessment levied against such additional lots shall be paid by Declarant prior to adding such parcel to the terms of this Declaration.

g. Assignment of Option. The option described in this Section may be assigned by Declarant insofar as it affects any lots herein described which have not previously been added to the terms of this Declaration. Any such Assignment shall be in writing, shall be recorded among the real estate records in the same manner as a conveyance of the additional property and shall be subject to all of the terms and conditions of this Section.

h. Reservation of Easements. In the event that some or all of the additional property described above is not added to the terms of this Declaration, Declarant hereby reserves the right to create the following perpetual, nonexclusive easements over, upon and under Outlot Z, as well as all lots located within the Properties provided that such easement reservation shall not be applicable to any portion of the lots that are improved by the construction of driveways and/or buildings or other structures, for the benefit of the additional lots that have not been added to the terms of this Declaration as follows:

1. Nonexclusive easements for the following purposes:

(a) to connect any improvements constructed on the additional lots, to any natural gas, storm sewer, water, sanitary sewer, electrical,

telephone or other utility line, pipe, wire, or other facilities;

(b) to obtain and use the utility line described above;

(c) to install, repair, maintain, operate and replace any such lines, connections and facilities provided that Declarant, and its successors or assigns shall be responsible for the restoration of any damage done or sustained in connection with the use of such easements.

(d) to grade, regrade, or make changes and/or improvements to the surface of the ground surrounding the living units for the purpose of adjusting, correcting any drainage issues that arise as a result of the construction of the living units, provided, however, that any areas disturbed by such work shall be returned to the condition that existed prior to such work being performed.

2. Nonexclusive easements for the purpose of affording the lots that are not added to the terms of this Declaration and any improvements constructed thereon or to be constructed thereon with access to and from the public road system through the ingress/egress easement relating to the Declaration as well as the opportunity to install, repair, maintain, surface, resurface, grade or replace any private drives, lanes, streets, roads or other right-of-way necessary to make full use of the ingress/egress easement provided, however, that Declarant shall be responsible for all costs in connection with this use.

3. Any such easements shall be specifically formalized by a writing signed by the Declarant and filed in the public records. Such filings shall not require the consent or joinder of any party.

4. As soon as the easements described herein are formalized, the Owners of all parcels of lots making use of such easements that are not lots subject to the terms of this Declaration, shall share all expenses of maintaining, repairing and replacing the private drives, lanes, streets, roads or right-of-ways as well as all of the utility lines and connections in the same proportion as if their lot had been added to the terms of the Declaration with such lot owners coordinating with the Association in order that reimbursement, as appropriate, may be made and such expenses may be promptly paid.

ARTICLE III.

Property Rights

Section 1. Reconstruction of Living Units. If a Living Unit is damaged or destroyed by any cause, the Lot owner shall be required to initiate repair, restoration or reconstruction of such Unit according to the plans and specifications for such Unit for which a Building Permit was issued for original construction within 30 days, with completion of such repair, restoration, or reconstruction to take no more than 180 days with the following exceptions:

a. If such repair, restoration or reconstruction is desired in a manner that differs from the plans and specification of original construction, such changes in plans must be approved by seventy-five percent (75%) of the Lot Owners and the City of Ankeny, Iowa.

b. Failure by the Lot Owner to initiate and complete repairs, restoration, or reconstruction of the Living Unit as described previously in this section shall permit the Association to initiate such repairs, restoration or reconstruction or if deemed necessary by the Board of Directors, the removal of said Living Unit and subsequent Lot improvements subject to the consent requirements of subsection (a) hereof, all at the Lot Owner's cost.

c. The Lot Owner of a damaged living unit shall be responsible for making arrangements for protection of the remaining living units from rain, snow, or other weather conditions immediately after any damage or destruction has occurred and during the entire time of any repair restoration or reconstruction in order that no further damage occurs to other living units. Failure of the Lot Owner of a damaged living unit to immediately provide such protection shall allow for the Association to provide such protection, with the cost thereof being a special assessment relating solely to the damaged living unit.

Section 2. Declarant's Reserved Rights. The Declarant shall have the following reserved rights as a Lot Owner:

- a. The right to create and dedicate easements for drainage or other utility purposes.
- b. The right to maintain a general sales and construction office in a Living Unit.
- c. The right to sell or transfer its rights and obligations to a successor or assign.

All reserved rights of the Declarant pursuant to this section, shall expire when the Declarant no longer has title interest in any Lot within the Properties. Exercise of the reserved rights shall not require the consent of The Village at White Birch Town Home Owners Association, its Board of Directors, or its membership.

Section 3. Easements.

a. Ingress/Egress Easement. The Declarant hereby grants a perpetual nonexclusive easement for ingress and egress over, across and through all portions of Outlot Z, The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, as shown on the plat drawing thereof, noted as the 50-foot ingress/egress easement, as well as from all such easements across the driveway up to the garage opening of each living unit, to all of the Lot Owners of the Association, as well as their invitees, tenants and guests and to the City of Ankeny, Iowa for the purposes of allowing all rescue, fire, and emergency vehicles to have access to all Living Units located within the property and for the purpose of obtaining access to the individual lots as well as for parking purposes, all of which easement rights, however, are subject to and conditioned upon the remaining terms, conditions, and restrictions of this Declaration. Maintenance of the Outlot Z access easement area granted herein, including the driveway areas described above, shall be performed by the Association as a part of the Association Maintenance Obligation. In the event that Outlot Y is subsequently added to the terms of this Declaration, a similar easement is hereby reserved for the same purposes over Outlot Y.

b. Irrigation Easement. The Declarant hereby reserves a perpetual nonexclusive easement in favor of the Association for the purpose of installation and

ongoing use and maintenance of an irrigation system. The location of this easement shall not interfere with any driveways, buildings or other structures constructed on the Properties. The easement described herein is intended to relate to Outlot Z and and potentially Outlot Y and shall give the Association the right to come on to Outlot Z and Outlot Y at reasonable times in order to repair and maintain the irrigation system, if one is installed, with all such repair and maintenance being an Association Maintenance Obligation as described previously herein.

c. Service Road Easement. The Declarant hereby grants a temporary nonexclusive easement for ingress and egress for service road purposes to allow for future construction activities over Outlot Z outside of the building footprint of any living unit, for the purpose of allowing the Declarant and its construction equipment and subcontractors to obtain access to the building sites within the property in order that the paved areas of Outlot Z are not damaged or destroyed thereby. At such time as construction has been completed on all living units in the development, Declarant agrees to grade the service road easement area in order that it blends with the surrounding landscaped portions of Outlot Z, and Declarant shall landscape such area as has been done on the remainder of the Properties, at the sole expense of Declarant. In the event that Outlot Y is subsequently added to the terms of this Declaration, a similar easement is hereby reserved for the same purposes over Outlot Y.

d. Utility Easement and Maintenance Agreement.

1. The Declarant hereby grants a perpetual non-exclusive easement and right-of-way under, over, on, through, across and within each of the lots within the Properties (known as "Easement Area"), for the purpose of the Association and/or the Lot Owners to reconstruct, repair, replace, enlarge, inspect and maintain any and all sanitary sewer and water services ("Utility Services"), along with all necessary structures and appurtenances thereto, which may be located within the Properties at any time. Declarant agrees to originally design and construct the Utility Services to be located within the Properties at Declarant's sole cost and expense. By acceptance of the Deed for any Lot within the Properties, the Lot Owners shall be deemed to have accepted the terms of this easement without any subsequent document or agreement being necessary, and such Lot Owner, by such acceptance, agrees to be obligated to perform all reconstruction, repair, replacement, enlargement, inspection and maintenance relating to the Utility Services that are located on each Lot Owner's lot, subject to the obligations of the Association set forth in sections (d)(3), and (4), hereinafter set forth.

2. **CHANGE OF GRADE PROHIBITED.** Declarant and its grantees, assigns and transferees shall not change the grade, elevation or contour of any area subject to the Utility Services contrary to the site plan relating to the Properties that has been approved by the City of Altoona without the prior written consent of the City of Altoona.

3. **RESPONSIBILITY.** Any work described herein that relates to any Utility Services shared in common between more than one Lot Owner shall be coordinated exclusively by the Association, and the Association is hereby appointed as attorney-in-fact for all Lot Owners of lots within the Properties, with such appointment being coupled with an interest, to accomplish such work.

4. **COSTS.** All costs associated with any work performed pursuant to this Easement shall be the obligation of the Association and shall be specially assessed by the Association in a prorata amount, equally against all lots within the Properties only.

5. **RIGHT OF ACCESS.** All Lot Owners and the Association shall have the right of access to the Utility Services wherever they may be located, whether inside or outside of any structure located on the Properties, and shall have all rights of ingress and egress reasonably necessary for the use and enjoyment of the easement granted herein from property adjacent thereto for an area reasonably necessary to allow for any work to be performed relating to the Utility Services.

6. **EASEMENT BENEFIT.** This Easement shall be for the benefit of all of the owners of lots within the Properties and their grantees, assigns, transferees and lessees.

7. **EASEMENT RUNS WITH LAND.** This Easement shall be deemed perpetual and shall run with the land and shall be binding on Declarant and Lot Owner's assigns and transferees.

8. **PROPERTY TO BE RESTORED.** Upon completion of any reconstruction, repair, enlargement or maintenance of any Utility Services or any appurtenance thereto, the party performing such work shall restore the disturbed area in good and workmanlike manner, including restoration of lawns by seeding to a condition comparable to its condition before the performance of such work.

e. Easement for Encroachments. An easement for encroachment purposes is hereby granted for any encroachment that may exist upon any Lot in the event that the improvements constructed upon that Lot encroach any other Lot as a result of construction, reconstruction, repair, shifting, settlement, or movement in any fashion. Such encroachments and the easements therefor shall not be considered or determined to be encumbrances for the purposes of marketability of title. In the event that any improvements are partially or totally destroyed and then rebuilt, every effort shall be made to correct any such encroachment.

ARTICLE IV.

Membership and Voting Rights in the Association

Section 1. **Membership.** Each owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. **NOTWITHSTANDING ANYTHING ELSE PROVIDED HEREIN, THE DECLARANT SHALL BE THE SOLE VOTING MEMBER OF THE ASSOCIATION UNTIL 120 DAYS AFTER DECLARANT HAS CONVEYED 75% OF THE TOTAL OF ALL LOTS WHICH ARE PRESENTLY A PART OF OR WHICH MAY HEREAFTER BE ADDED TO THE ASSOCIATION AS PREVIOUSLY DESCRIBED HEREIN, HAS SURRENDERED CONTROL OR NO LONGER OWNS ANY LAND IN THE PROPERTY (as per the Bylaws).**

ARTICLE V.
Covenants for Association Maintenance Obligation Assessments

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges,
- b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and
- c. Taxes or assessments levied by a government or quasi-governmental body on the Properties and spread by the Association or such body pursuant to the allocated percentage established for each Lot for the payment of expenses association Maintenance Obligations.
- d. The annual and special assessments, or governmental or quasi-governmental levies, together with interest, costs, and reasonable attorney's fees incurred in connection with the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of the Properties, and for the improvement and maintenance of the Living Units and buildings situated upon the Properties, including but not limited to the payment of taxes, special assessments for work performed by a governmental or quasi-governmental subdivision, insurance, water charges, utility charges, repair, replacement of, and additions to, the Properties, and for the cost of labor, equipment, materials, management and supervision.

Section 3. Initial Annual Assessment. Until the date that is one year after the recording of this document, the initial annual assessment shall be \$960.00.

- a. From and after the anniversary of the filing of this document, the annual assessment may be increased each year not more than 25% above the maximum assessment for the previous year without a vote of the membership.
- b. From and after the anniversary of the filing of this document, the annual assessment may be increased above 25% by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- c. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the amount described herein.
- d. The Board of Directors of the Association shall, after consideration of future

costs for Exterior Maintenance, establish a reserve fund for such purposes with the monies necessary for such reserve fund to be part of the annual assessment. The reserve fund shall be administered pursuant to the By-Laws of the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Properties, including fixtures and personal property related thereto, provided that any such assessment shall only be effective after it has secured a vote of 2/3 of the Members of each class described herein who vote in person or by proxy, at a meeting duly called for that purpose.

Section 5. Special Assessments for Public Roads or Other Public Purposes. In addition to the annual and special assessments authorized herein, the Association shall levy in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any special assessment obligation for public roads, public utilities, or other public purposes which a public, quasi public, or governmental authority may assess on any project even though the assessment boundaries may only cover a portion of the Properties falling within this Declaration. Any such special assessment shall be levied against the entire development as a whole with each Lot Owner paying its proportionate share pursuant to its percentage of Association Maintenance Obligation allocation.

The Association may enter into a petition and waiver to contract with the public, quasi-public, or governmental authority concerning any project involving a special assessment. If petition and waiver is used and adopted, the Association, on behalf of all Lot Owners and Members of the Association, shall execute all documents required in connection with said petition and waiver in the form generally required by the public, quasi-public, or governmental authority. The Association may execute such documents only after securing the affirmative vote of two-thirds (2/3) of the Members described herein who vote in person or by proxy, at a meeting duly called for that purpose.

Section 6. Rate of Assessment. All annual and special assessments shall be fixed for all Lots by the Board of Directors and shall be collected on a monthly basis and shall be uniform for each Lot.

Section 7. Date of Commencement of Annual Assessments.

a. Initial Lots: The annual assessments provided for herein shall commence as to each of the initial Lots subject to this Declaration on the first day of the month following the conveyance of such Lot to an owner other than the Declarant. During the time that the Declaration is the owner of any such lots, no assessments shall be due, provided, however, that the Declarant shall be responsible for any expenses of any sort relating to such lot prior to conveyance. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessment on a Lot is binding upon the Association as of the date of its issuance. At the

time of the initial closing of the conveyance of any Townhome from the Declarant, the purchaser thereof shall pay to the Association a working capital fund in an amount equal to two months estimated common area charges for the Townhome, which amount shall not be refundable.

b. Subsequently Added Lots. The annual assessments provided for herein shall commence as to all subsequently added Lots on the first day of the month following the conveyance of such Lot to an owner other than the Declarant. During the time that the Declaration is the owner of any such lots, however, no assessments shall be due, provided, however, that the Declarant shall be responsible for any expenses of any sort relating to such lot prior to conveyance. After such Lot has been added to the terms of this Declaration and is subject to assessment after conveyance, such Lot shall be assessed in a similar fashion and pursuant to the same procedures as the initial Lots with no further differentiation.

Section 8. Date of Commencement of Special Assessments. The due date of any Special Assessment under Section 4 of this Article shall be fixed in the Resolution authorizing such assessment.

Section 9. Effect of Nonpayment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum rate allowed by Iowa law at the time of such delinquency. In addition, a charge of \$25 shall be made for any monthly assessment received after the 15th of the month for which the payment is due. In addition to the collection of such delinquent amounts plus interest, the Association shall be entitled to recover any reasonable attorney fees and other costs involved with the collection of such delinquent amounts, which fees and costs shall also accrue interest as described above from the date of their incurrence. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a Mortgage pursuant to the Iowa Code.

BY ACCEPTANCE OF A DEED FOR ANY LIVING UNIT DESCRIBED HEREIN, EACH LOT OWNER SHALL BE DEEMED TO HAVE AGREED TO THE FOLLOWING LANGUAGE:

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY ACCEPTING A DEED FOR A LIVING UNIT IN THIS DEVELOPMENT, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS LIVING UNIT WITH RESPECT TO CLAIMS BASED UPON THIS DECLARATION.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to the issuance of the Sheriff's Deed or deed in lieu of foreclosure. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI.
Architectural Control

Section 1. No building, wall, room addition, deck, patio or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. No clothing, sheets, blankets, laundry or other articles shall be hung, displayed or stored outside the Living Unit (except within the garages located thereon) or which may be visible from the outside of the Living Unit (other than draperies, curtains or shades of a customary nature and appearance, and in any event, subject to the rules and regulations of the Board of Directors.) No Owner shall paint or decorate or adorn the outside of his Living Unit nor shall he install outside of his Living Unit any canopy, awning, hot tub, whirlpool bath, spa, permanent or temporary fencing around patios, outside radio or television antenna except that a satellite dish that is one meter or less in diameter may be installed pursuant to FCC guidelines. Any Lot Owner may, however, install flower planters and flower pots on any patio area owned by the Lot Owner so long as such planters and pots are no wider than 18 inches in diameter with plantings no taller than 5 feet from ground level. The use of the planters and pots described above shall be restricted to the planting and cultivating of flowers and ornamental bushes and shall not be used for the planting and cultivating of vegetables.

Section 3. No Lot Owner shall display, hang, store, or use any sign outside his Living Unit or which may be visible from the outside of his Living Unit without the prior written permission of the Board of Directors. The foregoing notwithstanding, any Lot Owner shall be permitted to display a sign of not more than three square feet in area advertising such Owner's lot for sale or lease with such sign being located in the area between said lot and the drive in front of such lot, all in accordance with the sign ordinance of the City of Ankeny, Iowa.

ARTICLE VII.
Covenants for Insurance

Section 1. Maintenance of Insurance.

a. The Association, on behalf of each Lot Owner, shall obtain and continue in effect adequate casualty and fire insurance, as the Board of Directors of the Association deems appropriate, in an amount equal to the full replacement value, without deduction for depreciation or coinsurance costs, of all of the Living Units, as well as all public liability insurance relating to each Lot and to Outlot Z. Such insurance shall name the Association and the Owners of all applicable Lots as insureds and loss payees, as their interests may appear. All losses shall be adjusted by the Association, as Trustee for the benefit of each affected Lot Owner, and for the benefit of any applicable mortgagee, with the proceeds from such adjustment to be used as is described herein concerning reconstruction of living units in Article III. The Association is hereby designated as attorney-in-fact(coupled with

an interest) for each Lot Owner for the purpose of adjusting any such losses. At the time of the initial closing of the conveyance of any Townhome from the Declarant, the purchaser thereof shall pay to the Association an amount equal to one year's insurance premium that is the obligation of the Association as set forth herein for such Townhome which amount shall not be refundable.

b. Each Lot Owner shall be allowed to obtain such additional insurance as they deem appropriate, including any insurance to cover appliances, carpet, furniture, and other personal belongings that may not be covered by the "Master Policy" obtained by the Association. **It shall be the responsibility of each Lot Owner to coordinate such insurance matters in order that each Lot Owner makes their own determination that their own personal possessions, furniture, and other interior items are adequately covered to their satisfaction.**

Section 2. Public Liability Insurance. The Association shall provide public liability insurance covering Outlot Z, in such amounts as may be determined at the discretion of the Association from time to time, as well as any other insurance that the Association may deem appropriate.

Section 3. Fidelity Bonds. The Association may also provide fidelity bonds and worker compensation insurance for employees and fidelity bonds and errors and omissions insurance for officers and directors in such amounts as is determined by the Association to be necessary from time to time. The Association may, from time to time, provide other forms of insurance as deemed necessary.

ARTICLE VIII.

Exterior Maintenance

Section 1. Exterior Maintenance. In addition to providing all lawn mowing and landscaping duties relating to the Properties, the Association will provide exterior maintenance upon each Lot and Living Unit which is subject to assessment under Article V and as defined in Article I, Section 10 as well as the removal of all snow from sidewalks and driveways on each Lot and Outlot Z. The following is a list of certain items that would be an example for the types of maintenance, repair, and replacement to be performed by the Association as part of the Association Maintenance Obligation. This list is not intended, however, to be all-inclusive in any respect:

- a. Private driveways.
- b. Garage floors, but not including repairs due to painting or sealing such floor or any damage caused by the Lot Owner (all garage doors shall be maintained by the Association, but the expenses therefore shall be billed back directly to the owner of the particular living unit as is described in Article I. In addition, all garage door openers shall be the sole responsibility of the Lot Owner).
- c. Sidewalks.
- d. Landscaping, including trees and shrubbery.
- e. Shingles
- f. Siding.
- g. Exterior lighting.
- h. Snow removal.
- i. Lawn mowing.
- j. All exterior doors and all windows shall be maintained by the

Association, but the expenses therefore shall be billed back directly to the owner of the particular living unit as is described in Article I.

No individual Lot Owner shall be allowed in any way to perform any maintenance, repair, or replacement that is to be performed by the Association. A Lot Owner may, however, tend to the potted flowers and potted bushes planted by the Lot Owner as previously described herein and the Association shall have no obligation for the maintenance thereof.

Section 2. Ingress/Egress Maintenance. The Association shall be responsible for performing all of the maintenance obligations relating to Outlot Z previously described herein which is subject to the ingress/egress access easement. The costs of such maintenance shall be an Association Maintenance Obligation.

Section 3. Assessment of Cost. The cost of all Association Maintenance Obligations shall be assessed against all of the Lot Owners and shall be added to and become a part of the annual maintenance assessment or charge to which all Lots are subject under Article V hereof. As part of such annual assessment or charge, it shall be a lien or obligation of the Owner and shall become due and payable in all respects as provided in Article V hereof, provided that the Board of Directors of the Association, when establishing the annual assessment against each Lot for any assessment year as required under Article V hereof, may add thereto the estimated cost of the exterior maintenance for that year but shall thereafter make such adjustment with the Owner as is necessary to reflect the cost thereof.

Section 4. Negligence in Maintenance. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject. Neglect of Lot or Living Unit repairs that did not rise to the level of exterior maintenance or capital improvements as those terms are defined herein and which repair is the responsibility of the Lot or Living Unit Owners relating to HVAC, decks, and stoops, shall permit the Association to cause such repairs to be made and assessed to the Lot Owner responsible after ten (10) days notice to repair has been given to the Lot Owner by the Association in writing.

Section 5. Easement for Access. For the purpose solely of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours of any day; provided, however, in the event that there is breakage or leakage in the water system or sewer system upon a Lot, no notice need to be given to enter upon the Lot for the purpose of repairing the water system or sewer system. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of the Properties. The Owner or occupant of a Lot shall neither erect nor permit erection of any building or structure of any kind nor permit any growth of any kind within said easement areas which might interfere in any way with the use and patrolling of any of the utility service and drainage located in the easement areas. In addition, an easement for maintenance is hereby granted in favor of the Association over and across each Lot for the purposes of the Association performing its duties under the terms of this Declaration.

ARTICLE IX.

Additional Restrictions

Section 1. Subject to the ability of the Declarant to own and/or occupy any of the living

units for model home, sales purposes or management office, each of the living units is intended to be used for residential purposes only, provided, however, that the Declarant shall be allowed to place a construction trailer or other similar construction-related facility on the property. No business or commercial use shall be permitted in any of the living units if such use generates more than two vehicle visits per day to the living unit, provided, however, that no daycare or child care facility shall be allowed at any time, and no music lessons or tutoring shall be performed at any time. Any home office that complies with the above restrictions shall be allowed, subject, however, to any city ordinance that may apply.

Section 2. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. Each living unit shall be permitted to have no more than two pets, such as one dog or one cat, or two cats, or two dogs, with no weight limitation, provided, however, that no pit bulls or Rottweilers shall be allowed in any case. In the event that any amendments are made to this Declaration which further restrict the keeping of pets, all pets that had existed at the time of such amendment shall be "grandfathered" and shall be allowed to remain in the living unit, provided, however, that no replacement pets acquired after the date of the amendment would be allowed if they violate any such amendment. All pets must be kept on a leash and each Owner shall be responsible for cleaning up all pet waste. Any damage done by any pets, including dragging chains, digging, scratching or chewing, shall be the responsibility of the owner of such pet, including, but not limited to, any such damage done to landscaping. No owner shall be allowed to chain or otherwise confine their pet in the common area at any time. The Association shall have the right to require removal of pets in the individual cases where such pets are or become legal nuisances and unreasonably disturb the quiet enjoyment of the Properties by the Owners. The Association may levy a \$25.00 per incident fine for any pet waste that is not cleaned up by the owner of such pet.

Section 3. No noxious or offensive activities not involving the maintenance of Lots shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood.

Section 4. Mailbox designs shall be only as approved by the Board of Directors, or the architectural control committee. No sign shall be placed upon any Lot except those customarily used to identify the name of the resident and the street address of the subject Lot, and real estate signs for the sale or rental of a Lot.

Section 5. No trash receptacles or garbage cans shall be permitted to be placed outside of a building or a structure on any Lot unless hidden by an attractive screen of suitable height and approved by the Board of Directors. This restriction shall not exclude the placement of waste containers outside of such area if required by governmental regulation or by terms of a contract with a commercial operator.

Section 6. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other building shall be used on any Lot at any time as a residence, or storage facility, either temporarily or permanently except for a sales trailer temporarily used by the Declarant.

Section 7. No commercial vehicles or commercial equipment of any kind shall be located, stored, or parked on any Lot, provided, however, that the Declarant shall be allowed to place a construction trailer or other similar construction-related facility on the property. No recreational vehicles, including but not limited to, boats, snowmobiles, and trailers, shall be parked or stored on any Lot for more than 7 days out of the year unless stored in the garage, provided, however,

that no such items shall be stored inside a garage unless the particular garage used for such storage is still used for the storage of the appropriate number of automobiles (i.e., one automobile in a one-car garage and two automobiles in a two-car garage. It is not intended that garages shall be used as storage areas, thus requiring automobiles that would otherwise be parked in the garage to be parked in the driveway or in other parking areas.

Section 8. No fence of any kind shall be allowed on any lot at any time, except for fences required/installed as part of the original site plan or as required at any time by the City of Ankeny, and except for any silt/erosion control fences or other fences installed by the Declarant as part of the construction of the Living Units.

Section 9. Lot Owners shall not be allowed to place any personal property, including, but not limited to, play equipment, portable or permanent basketball hoops or similar recreational equipment, storage sheds, animal runs or shelters, hot tubs, whirlpool baths, or spas on their lot or in their living unit unless located inside such living unit, provided, however, that normal and customary law and patio furniture shall be allowed.

Section 10. Any lease arrangement of a Townhome shall be required to provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association and any rules and regulations established by the Board of Directors; shall contain the agreement of the lessee to be bound by the terms of such documents and shall provide that any failure of the lessee to comply with the terms of such documents or rules shall be a default under the Lease or Rental Agreement. All leases shall be required to be in writing and any Owners leasing or renting a Townhome, shall, prior to the commencement of the Lease or rental term, deliver to the Secretary of the Association and to any management company involved for the Association a complete copy of the Lease or Rental Agreement. No Lease shall be for a period of less than thirty (30) days. Any Owner who leases their Townhome shall remain liable for all the actions of the tenant relating to this Declaration and any rules of the Association. Other than the foregoing, the Owners of the respective Townhomes shall have the absolute right to lease the same.

Section 11. Except as permitted by the Board of Directors, in its sole discretion, and except as provided herein relating to flower boxes and planters, no gardens, shrubs, flowers or other plants shall be planted by any Owner on any Common Element or Limited Common Element.

Section 12. Except as permitted by the Board of Directors of the Association, in its sole discretion, and except as provided herein relating to flower boxes and planters, no gardens, shrubs, trees, flowers or other plants shall be planted by any Owner on any portion of the Properties, including the Lot owned by such Lot Owner.

Section 13. No one shall be allowed to block access to any garage or driveway unless the living unit affected is owned by the individual creating such blockage.

Section 14. All visitor/guest parking is intended to be temporary in nature. All visitors and guests staying for extended periods are to park their vehicles in the driveway of their host. Parking in the common area shall be permitted only in designated areas. Parking in the ingress/egress easement area is subject to control by the Board of Directors, which may limit such parking in the Board of Directors' sole discretion. All designated parking areas in the common area are reserved for visitors and guests and shall not be used by Lot Owners.

ARTICLE X.
General Provisions

Section 1. Enforcement. The Association, and its Board of Directors, or any Lot Owner, or their successors and assigns, shall have the right to enforce, by any proceedings at law or equity any restrictions, conditions, covenants, reservations, liens, and charges and rules and regulations now or hereafter imposed by the provisions of this Declaration or by the Association as set forth in the By-laws. Any such enforcement shall allow for the reimbursement of reasonable attorney fees and costs to the successful enforcer.

Failure by the Association or any Lot Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Condemnation. The Association shall have control over any eminent domain or condemnation proceedings, negotiations, settlements and agreements, relating to the common area or any part thereof. The Association is hereby appointed attorney-in-fact for each of the Lot Owners for the purpose of handling all such matters.

Section 3. Severability. Invalidity of any one of these Covenants or Restrictions by judgment or court order shall in no way affect any other provisions of this Declaration which shall remain in full force and effect.

Section 4. Binding/Amendment. These Covenants shall inure to the benefit of the Lot Owners, the Association, and their successors and assigns, shall be deemed covenants running with the land and shall remain in full force and effect for a period of twenty-one (21) years after their original signing, prior to which time said Covenants may be extended for additional periods of twenty-one (21) years by filing a claim in accordance with Sections 614.24 and 614.25 of the Code of Iowa (2003) as amended, or any successor statute. **This Declaration may be amended** during the first twenty-one (21) year period described above by an instrument signed by not less than the Owners of ninety percent (90%) of the Lots and, thereafter, by an instrument signed by not less than the Owners of seventy-five percent (75%) of the Lots provided, however, that any such amendment to Article V must be consented to by the Declarant so long as the Declarant owns any lot that is a part of or may be added to the terms of this Declaration. Any amendment must be recorded. Notwithstanding anything to the contrary provided herein, however, the obligation of the Association to maintain Lot A and the ingress/egress access easement in a safe condition and in compliance with all applicable governmental regulations cannot be released by any amendment without the prior written consent of the City of Ankeny. Any amendment may be prepared and filed by the Declarant if it relates to correction of technical or typographic errors or for clarification only with such amendment not requiring the percentage votes as described above. No amendment that adds additional property to the terms of this Declaration pursuant to Article II herein, shall require the consent of any Owner other than the Declarant, as described in Article II. No Amendment to this Declaration shall change the ability to extend the effectiveness of these Covenants as described above, however.

Section 5. Violation. If a Lot Owner or the Association or any of them or their successors and assigns, or tenants shall violate or attempt to violate any of the Covenants or Restrictions herein contained, it shall be lawful for any person or persons owning any other Lots, the Association, or Declarant, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenant or Restriction and either to prevent

him or them from so doing or to recover damages for such violation. In the event of any such suit or proceeding, the prevailing party shall be entitled to recover from the nonprevailing party, an amount equal to all costs, including reasonable attorney fees, incurred by such prevailing party in the preparation for and prosecution of such suit or proceeding.

Section 6. Annexation. Additional residential property not previously described herein in Article II Section 2 may be annexed and added to the Properties with the consent of two-thirds (2/3) of the Members.

Section 7. Rules and Regulations. The Association may adopt, amend and revoke rules and regulations not inconsistent with the Articles of Incorporation, By-Laws or this Declaration in order to regulate the use of the Living Units and Lots and the conduct of the occupants which may jeopardize the health, safety and welfare of other occupants involving noise or other disturbing activity or which may cause damage to any of the Properties or the improvements located thereon, regulating or prohibiting animals, regulating the exterior appearance of the Properties including, by way of illustration and not limitation, balconies and patios, window treatments and signs and other displays, regardless of whether inside or outside an apartment, implementing the Articles of Incorporation, the By-Laws or this Declaration. After notice and an opportunity to be heard, the Association may impose reasonable sanctions, including the levying of reasonable fines, for violations of the Declaration, By-Laws and Rules and Regulations of the Association. Such fines shall not exceed the sum of Ten Dollars (\$10.00) per day unless agreed to by a majority vote of the Members of the Association. Such fine(s) may only be levied after a meeting of the Board of Directors of the Association has been held following the giving of the 10-day written notice to the offending Lot Owner to allow such Lot Owner an opportunity to be heard.

Section 8. Construction. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to context.

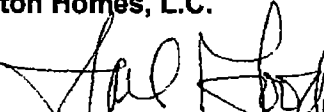
Section 9. Storm Water Discharge Permitting Requirements. Any construction or earth moving on any Lot(s) owned by the Lot Owner (whether greater or less than one acre in size) shall be in compliance with all laws relating to storm water discharge permitting. The Lot Owner understands and agrees that he/she is the sole responsible permittee for the lot(s) with respect to compliance with all terms, provisions and requirements of the NPDES Storm Water Discharge Permit No. 2 and the storm water pollution prevention plan which includes the Lot(s).

Lot Owner shall protect, defend, indemnify and hold Declarant and other Lot Owners harmless from any and all damages, claims, liabilities, fines, penalties, cleanup costs and/or attorneys and consultant fees caused by, or in any manner related to: 1) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from the lot(s) identified above; and/or 2) any alleged violation of any NPDES or storm water discharge rule or regulation, after the date of sale of the Lot(s), which occur while the Lot Owner owns the Lot.

IN WITNESS WHEREOF, Triton Homes, L.C. has caused this instrument to be executed
this 19th day of October, 2004.

Triton Homes, L.C.

By


Joel Goodman, Manager

STATE OF IOWA

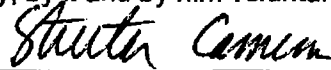
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COUNTY OF POLK

:

On this 19th day of October, 2004, before me, the undersigned, a Notary Public
in and for the State of Iowa, personally appeared Joel Goodman, to me personally known, who,
being by me duly sworn, did say that he is the Manager of Triton Homes, L.C., and that said
instrument was signed and sealed on behalf of said Triton Homes, L.C. by authority of its Members
and Managers; and the said Manager acknowledged the execution of the instrument to be the
voluntary act and deed of said limited liability company, by it and by him voluntarily executed.



Notary Public in and for the State of Iowa

**APPENDIX A
THE VILLAGE AT WHITE BIRCH TOWN HOMES
RULES AND REGULATIONS**

General Rules

1. All guests must be accompanied by a resident/owner.
2. Residents/owners are personally responsible and liable for any damage to the buildings, furniture, or equipment caused by any resident/owner or his guests.
3. Residents/owners are to leave all areas and facilities used in an orderly condition.
4. Residents/owners may use barbecue grills, provided the grills are placed five (5) feet or more from any buildings or any fences.
5. Personal property shall not be left unattended in any common areas other than the garage spaces.
6. For the safety of all residents/owners, please limit driving speeds through the complex to twenty-five (25) miles per hour.

Garages

1. Residents/owners shall use only the garage spaces which are allocated to their respective units.
2. Residents/owners are prohibited from using or storing any of the following items in the garages:
 - (1) Flammable materials and liquids;
 - (2) Combustible materials;
 - (3) Materials identified with hazardous labels; and
 - (4) Compressed gases.
3. Garage doors shall be kept closed when garages are not in use.

Outside Parking

1. Parking outside the buildings is permitted only in designated areas and, except for the driveway Limited Common Elements which are reserved for the Owners of the Units to which they are, respectively, allocated, are always on an unreserved basis unless otherwise prohibited.
2. Any abandoned vehicle will be towed at its owner's expense, without prior notice to the owner.
3. Any nonoperational vehicle parked outside of any garage for a period of more than seven (7) days will be towed at its owner's expense, without prior written notice to the owner.

4. Vehicles parked outside the buildings shall not obstruct the garages or driveways of others.

Pets

1. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. Each living unit shall be permitted to have no more than two pets, such as one dog or one cat, or two cats, or two dogs, with no weight limitation, provided, however, that no pit bulls or Rottweilers shall be allowed in any case. In the event that any amendments are made to this Declaration which further restrict the keeping of pets, all pets that had existed at the time of such amendment shall be "grandfathered" and shall be allowed to remain in the living unit, provided, however, that no replacement pets acquired after the date of the amendment would be allowed if they violate any such amendment.
2. Those residents/owners with pets shall be responsible for caring for their pets in such a way as to keep them from becoming a nuisance to other residents/owners.
3. Pets shall be leashed at all times when they are outside their Owner's unit.
4. Pet owners shall be responsible for cleaning up after their pets whenever their pets are outside their owner's unit. Failure to promptly clean up after a pet will subject the pet's owner to an assessment from the Association for the cost of such clean-up of \$25.00 per incident.

Fines

As is described in the Declaration, breach of these Rules and Regulations may subject the violator to a \$10.00 per day fine.

CONSENT TO COVENANTS

The undersigned, **WHITE BIRCH, L.L.C.**, as Fee Titleholder of the property legally described as:

Lot 89, White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa
(the "Property")

and to be platted and known as The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, hereby consents to the attached Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes and agrees that the Property shall be subject to such Declaration.


Dated this 18th day of October, 2004.

WHITE BIRCH, L.L.C., an Iowa Limited Liability Company

By 
Ted A. Grob, Manager

STATE OF IOWA :
: SS
COUNTY OF POLK :

On this 18th day of October, 2004, before me, a Notary Public, in and for said county and state, personally appeared Ted A. Grob, to me personally known, who, being by me duly sworn did say that he is the Manager of said limited liability company; that said instrument was signed on behalf of said limited liability company by authority of its managers; and the said Ted A. Grob acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.


Notary Public in and for the State of Iowa
Linda Aldrich
Notarial Seal - IOWA
Commission No. 188049
My Commission Expires 12-23-05

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Fee Amt: \$7.00 Page 1 of 1
Polk County Iowa
TIMOTHY J. BRIEN RECORDER
File# 2005-00057704
BK 10871 PG 73

RETURN TO:

Prepared by and after recording return to: Streetar Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

**AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR
THE VILLAGE AT WHITE BIRCH TOWN HOMES**

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE VILLAGE AT WHITE BIRCH TOWN HOMES is made on this 8th day of December, 2004, by **TRITON HOMES, L.C.** (hereinafter referred to as "Declarant") and relates to the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes dated October 19, 2004, filed November 17, 2004, in Book 10825, Page 590, of the records of the Recorder of Polk County, Iowa ("Original Declaration").

WHEREAS, the Original Declaration contains an incorrect reference to the City of Altoona on page 7, Article III, Section 3(d)2, which references should refer to the City of Ankeny, Iowa, and not the City of Altoona, Iowa.

NOW, THEREFORE, Declarant hereby amends the Original Declaration in order that any reference to the City of Altoona contained therein should refer to the City of Ankeny.

IN WITNESS WHEREOF, Triton Homes, L.C. has caused this instrument to be executed this 8 day of December, 2004.

Triton Homes, L.C.

By [Signature]
Joel Goodman, Manager

STATE OF IOWA :
: SS
COUNTY OF POLK :

On this 8th day of December, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Joel Goodman, to me personally known, who, being by me duly sworn, did say that he is the Manager of Triton Homes, L.C., and that said instrument was signed and sealed on behalf of said Triton Homes, L.C. by authority of its Members and Managers; and the said Manager acknowledged the execution of the instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.



[Signature]
Notary Public in and for the State of Iowa

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Fee Amt: \$22.00 Page 1 of 4
Polk County Iowa
TIMOTHY J. BRIEN RECORDER
File# 2006-00043857
BK 11362 PG 982-985

RETURN TO:

Prepared by and after recording return to: Streetar Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

**AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS FOR
THE VILLAGE AT WHITE BIRCH TOWN HOMES**

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE VILLAGE AT WHITE BIRCH TOWN HOMES is made this 31st day of August, 2005, by **TRITON HOMES, L.C.** (hereinafter referred to as "Declarant"). This Amendment relates to the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes ("CCR's"), which Declaration was dated October 19, 2004, and filed November 17, 2004, in Book 10825, Page 590, of the records of the Recorder of Polk County, Iowa.

WHEREAS, the CCR's provide for the ability of the Declarant to add additional properties thereto pursuant to Article II, Section 2; and,

WHEREAS, the Declarant now wishes to add the following described property to the CCR's, which property will be subject to all of the terms and conditions of the CCR's upon the filing of this Amendment.

NOW, THEREFORE, pursuant to the authority described in the above-referenced CCR's, the Declarant hereby adds the following described real estate to the terms and conditions of the CCR's, which property shall be subject to all of the terms and conditions of the CCR's:

Outlot "Y", The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

Pursuant to the Site Plan for The Village at White Birch Plat 2 attached hereto, it is contemplated that 118 lots will be added to the CCR's, and that, when these 118 lots are added to the 118 lots in The Village at Birch Plat 1, there will be a total of 236 lots in the overall

development, with each lot being allocated one vote in The Village at White Birch Town Home Owners Association matters, and with each lot being responsible for the payment of one annual assessment, all as set forth in the CCR's.

Outlot Y includes a monument sign and associated landscaping for the larger White Birch development that shall be the responsibility of The Village at White Birch Town Home Owners Association to maintain.

Ingress/Egress Easement. The Declarant hereby grants a perpetual nonexclusive easement for ingress and egress over, across and through all portions of Outlot Y, The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, as shown on the plat drawing thereof, noted as the ingress/egress easement, as well as from all such easements across the driveway up to the garage opening of each living unit, to all of the Lot Owners of the Association, as well as their invitees, tenants and guests and to the City of Ankeny, Iowa for the purposes of allowing all rescue, fire, and emergency vehicles to have access to all Living Units located within the property and for the purpose of obtaining access to the individual lots as well as for parking purposes, all of which easement rights, however, are subject to and conditioned upon the remaining terms, conditions, and restrictions of this Declaration. Maintenance of the Outlot Y access easement area granted herein, including the driveway areas described above, shall be performed by the Association as a part of the Association Maintenance Obligation.

TRITON HOMES, L.C.

By Robert Gibson
Joel Goodman, President
Robert Gibson, Vice President

STATE OF IOWA :
: SS
COUNTY OF POLK :

This instrument was acknowledged before me on the 31st day of August, 2005, by Joel Goodman as President of Triton Homes, L.C.
Robert Gibson Vice President

M Bosma
Notary Public in and for the State of Iowa



Prepared by and after recording return to: Streetar Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

**CONSENT BY MORTGAGEE TO
AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR
THE VILLAGE AT WHITE BIRCH TOWN HOMES**

LIBERTY BANK, F.S.B. hereby consents to the terms of the Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes filed November 17, 2004, and recorded in Book 10825 at Page 590 of the records of the Recorder of Polk County, Iowa, and hereby acknowledges that the lien of the mortgage held by Liberty Bank, F.S.B., dated August 6, 2004, filed August 13, 2004, in Book 10688 at Page 882 of the records of the Recorder of Polk County, Iowa, and the mortgage dated August 26, 2004, and recorded in Book 10707 at Page 179 of the records of the Recorder of Polk County, Iowa, shall be subordinate to the terms of the foregoing Amendment to Declaration.

LIBERTY BANK, F.S.B.

By John T. Walker, Jr. VP
Name: JOHN T. WALKER, JR.
Title: VICE PRESIDENT

STATE OF IOWA :
: SS
COUNTY OF POLK :

This instrument was acknowledged before me on the 7th day of August, 2005, by
John T. Walker, Jr. as Vice President of Liberty Bank, F.S.B.



Stephen C. Comes
Notary Public in and for the State of Iowa

Prepared by and after recording return to: Streetar Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

**CONSENT TO AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR THE
VILLAGE AT WHITE BIRCH TOWN HOMES**


The undersigned, **WHITE BIRCH, L.L.C.**, as Fee Titleholder of the property legally described as:

Outlot "Y", The Village at White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,

and to be platted and known as The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, hereby consents to the terms of the attached Amendment to the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes and agrees that the Property shall be subject to such Amendment.

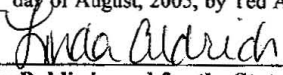
Dated this 12th day of September, 2005.

**WHITE BIRCH, L.L.C., an Iowa Limited
Liability Company**

By 
Ted A. Grob, Manager

STATE OF IOWA :
: SS
COUNTY OF POLK :

This instrument was acknowledged before me on the 12th day of August, 2005, by Ted A. Grob as Manager of White Birch, L.L.C.


Notary Public in and for the State of Iowa

**Linda Aldrich
Notarial Seal - IOWA
Commission No. 188049
My Commission Expires**

12-23-05

303036

STATE OF IOWA
04 DEC -1 AM 11:12
\$23.00 DMC
\$167.04 ART20

**ARTICLES OF INCORPORATION
OF
THE VILLAGE AT WHITE BIRCH
TOWN HOME OWNERS ASSOCIATION**

The undersigned, acting as incorporator of a corporation pursuant to the provisions of the Iowa Nonprofit Corporation Act, Chapter 504A of the Code of Iowa, adopts the following Articles of Incorporation:

ARTICLE I
Name and Principal Office

The name of the Corporation shall be: "The Village at White Birch Town Home Owners Association" (herein called the "Association").

ARTICLE II
Registered Office and Agent

The initial registered office of the Association shall be 317 6th Ave. Suite 300 Des Moines, Iowa 50309 and the initial registered agent at such address shall be Streetar Cameron.

ARTICLE III
Corporate Existence

The corporate existence of the Association shall begin upon the date these Articles are filed with the Secretary of State, and its duration shall be perpetual.

ARTICLE IV
Purposes and Powers

The Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for the preservation and architectural control of the lots and maintenance of common areas and town homes (hereinafter referred to as "Association Maintenance Obligations") as are defined in the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes (hereinafter referred to as "Declaration") to be located on land situated in the City of Ankeny, Iowa, as is referenced in such Declaration, and to promote the health, safety and welfare of the residents within The Village at White Birch Town Homes (hereinafter referred to as the "Property"). Thus, the Association shall be a "Mutual Benefit Corporation" as that term is defined under the Revised Iowa Nonprofit Corporation Act. For this purpose the Association shall have the authority to:

A. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration recorded or to be recorded in the office of the Recorder of Polk County, Iowa, and as the same

may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length; and

B. Exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Iowa may now or hereafter have or exercise, including the Revised Iowa Nonprofit Corporation Act.

ARTICLE V

Board of Directors

The Affairs of this Association shall be managed by a Board of at least three (3) but not more than eleven (11) Directors. The initial members of the Board of Directors as named below need not be members of the Association, thereafter, all members of the Board of Directors shall be members of the Association. The number of Directors within this range shall be established by the By-Laws of the Association. The names and addresses of the persons who are to act as the initial Directors until their successors are elected shall be as follows:

Brad Life
1802 S.E. Delaware Avenue, Suite 115
Ankeny, Iowa 50021

Stanton Grubb
1802 S.E. Delaware Avenue, Suite 115
Ankeny, Iowa 50021

Melissa Bosma
1802 S.E. Delaware Avenue, Suite 115
Ankeny, Iowa 50021

ARTICLE VI

Membership; Voting Rights

Each person who is a record owner of a fee or undivided fee interest or contract buyer of any lot which is subject to the above-described Declaration shall automatically be a member of the Association in the classes set forth below. The acceptance of a deed or other conveyance or installment real estate contract for any such lot shall be deemed to be that lot owner's consent or affirmative action evidencing consent to become a member of the Association. Membership in the Association shall be appurtenant to and shall not be separated from lot ownership in The Village at White Birch Town Homes. Property right interests in membership are not transferrable except in connection with the transfer by members of their respective lots. **Triton Homes, L.C., which is the owner of the Property, or its successor in interest or assignee pursuant to a document that specifically refers to this Class "A" membership transfer, shall be a Class "A" member of the Association and shall be the sole voting member of the Association until such time as (i) Triton Homes, L.C., or its successor in interest or assignee, no longer owns any land within the Property described in the Declaration; (ii) until Triton Homes, L.C., or its successor in interest or assignee, waives its right in writing to be the sole voting member of the Association; or (iii) until 120 days after Triton Homes, L.C. has conveyed 75% of the total of all lots which are presently a part of or which may hereafter be added to the**

Association as referenced in the Declaration, whichever first occurs. During the time that Triton Homes, L.C. is the sole voting member it shall have the right to elect all Directors of the Association. All other members shall be Class "B" members and shall not have any such voting rights. After Triton Homes, L.C., or its successor in interest or assignee, no longer owns any lot in the Property or waives its right to be the sole voting member or until 120 days after Triton Homes, L.C. has conveyed 75% of the total of all lots which are presently a part of or which may hereafter be added to the Association as referenced in the Declaration., all members shall automatically convert to Class "A" members and have full voting rights as established in the Declaration, as amended from time to time, regarding the affairs of the Association, including election of Directors. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

ARTICLE VII **By-Laws**

The initial By-Laws of the Association shall be adopted by its initial Board of Directors, and, thereafter, the By-Laws may be altered, amended or repealed only in the same manner and to the same extent as the Declaration.

ARTICLE VIII **Incorporator**

The name and address of the incorporator is: Streetar Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309.

ARTICLE IX **Transfer of Membership**

Membership in the Association may not be assigned or transferred except as follows:

A. With respect to the Class "A" membership of the Association, the membership may be assigned or transferred to any successor in interest or assignee of the Association pursuant to a document that specifically refers to this Class "A" membership transfer.

B. With respect to the Class "B" membership (and to that membership when it is converted to voting Class "A" membership as described in these Articles), the membership may only be assigned to a successor in interest or grantee of any lot owner within the Property. A conveyance of a lot by any lot owner shall be automatically deemed to be a transfer of membership to the grantee without the need for any further documentation.

ARTICLE X
Liability/Indemnification

A. No officer or any member of the Board of Directors of the Association shall be personally liable to the Corporation or its Members for money damages for any action taken, or any failure to take any action, as an officer or as a member of the Board of Directors, except liability for any of the following:

1. The amount of a financial benefit received by such person to which the person is not entitled.
2. An intentional infliction of harm on the corporation or its Members.
3. A violation of Section 504.834 of the Revised Iowa Nonprofit Corporation Act.
4. An intentional violation of criminal law.

B. The Corporation shall indemnify an officer or a member of the Board of Directors for liability, as defined in Section 504.851, subsection 5, of the Revised Iowa Nonprofit Corporation Act, to a person for any action taken, or any failure to take any action, as an officer or as a director except liability for any of the following:

1. Receipt of a financial benefit to which the person is not entitled.
2. An intentional infliction of harm on the corporation or its Members.
3. A violation of Section 504.834 of the Revised Iowa Nonprofit Corporation Act.
4. An intentional violation of criminal law.


ARTICLE XI
Capital Stock

The Corporation shall have no capital stock.

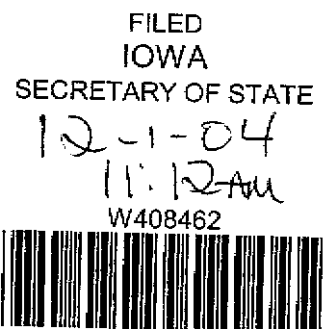
ARTICLE XII
Election to be Subject to Revised Iowa Nonprofit Corporation Act

Pursuant to Section 504.1701(3) of the Revised Iowa Nonprofit Corporation Act, the Corporation hereby elects to be subject to the provisions of the Revised Iowa Nonprofit Corporation Act.

Dated this 1st day of December, 2004.



Streetar Cameron, Incorporator
05577



Doc ID: 016317010003 Type: GEN
 Recorded: 02/09/2005 at 08:15:06 AM
 Fee Amt: \$17.00 Page 1 of 3
 Polk County Iowa
 TIMOTHY J. BRIEN RECORDER
 File# 2005-00071702

BK 10930 PG 680-682

17.00
 5/25
 Rx
 PREPARED BY

Return to; C.W.Geneser 2103 E. University D.M. 50317 Tel # 263-7216

RECORDING INFORMATION ABOVE

EASEMENT AGREEMENT

Limited Liability Company Easement

The undersigned ("Grantor") for and in consideration of \$ ONE DOLLAR and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto QWEST CORPORATION, a Colorado corporation ("Grantee"), whose address is 1801 California St., Suite 5200, Denver, CO 80202, and its successors, assigns, affiliates, lessees, licensees, and agents, a perpetual non-exclusive easement to construct, modify, add to, maintain, and remove such telecommunications facilities, electrical facilities, and other appurtenances, from time to time, as Grantee may require upon, over, under and across the following described property situated in the County of <POLK>, State of <IOWA>, which Grantor owns or in which Grantor has an interest; ("Easement Area"), to wit:

An easement, 30'X 30' within "OUTLOT 'Z', THE VILLAGE AT WHITE BIRCH PLAT 1", POLK COUNTY, ANKENY IOWA, more particularly described on exhibit "A" attached hereto and by this reference made a part thereof.

Grantor further conveys to Grantee the right of ingress and egress to and from the Easement Area during all periods of construction, maintenance, installation, reinforcement, repair and removal over and across Grantor's lands with the right to clear and keep cleared all trees and other obstructions as may be necessary for Grantee's use and enjoyment of the Easement Area.

Grantee shall indemnify Grantor for all damages caused to Grantor as a result of Grantee's negligent exercise of the rights and privileges herein granted. Grantee shall have no responsibility for environmental contamination, which is either pre-existing or not caused by Grantee.

Grantor reserves the right to occupy, use and cultivate the Easement Area for all purposes not inconsistent with the rights herein granted.

Grantor covenants that Grantor is the fee simple owner of the Easement Area or has an interest in the Easement Area. Grantor will warrant and defend title to the Easement Area against all claims.

Grantor hereby covenants that no excavation, structure or obstruction will be constructed, or permitted on the Easement Area and no change will be made by grading or otherwise that would adversely affect Grantee's use and enjoyment of the Easement Area.

The rights, conditions and provisions of this Agreement shall run with the land and shall inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

R/W # IA020305BG01

Page 1 of 2
 Initials S.E.C.

RECORDING INFORMATION ABOVE

Any claim, controversy or dispute arising out of this Agreement shall be settled by arbitration in accordance with the applicable rules of the American Arbitration Association, and judgement upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be conducted in the county where the Easement Area is situated.

Limited Liability Company Easement

GRANTOR:

<TRITON HOMES LC.>

By: [Signature]Print Name: STANTON E. GRUBBTitle: VICE PRESIDENT OF PRODUCTION

STATE OF IOWA)
) ss:
COUNTY OF POLK)

The foregoing instrument was acknowledged before me this 3rd day of February, 2005, by Stanton Grubb as [President] [Other Title] Vice President of Triton Homes, a [State of Iowa] limited liability company, on behalf of the company.

[NOTARY SEAL]



Witness my hand and official seal:

[Signature]
Notary PublicMy commission expires: May 22, 2006

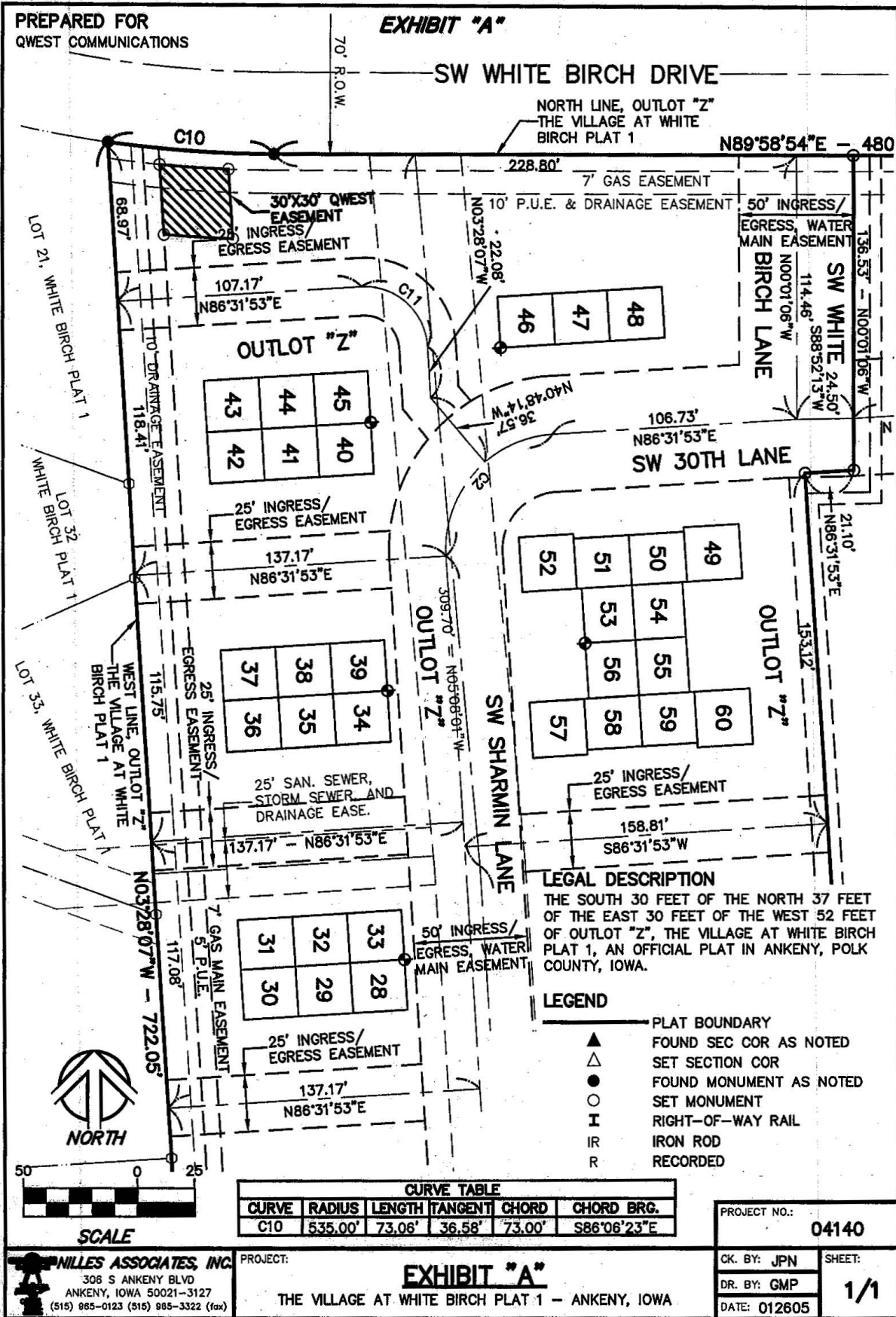
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Exchange ANKENY County POLK
NE 1/4 Section 34 Township 80N Range 24W

Page 2 of 2

Prepared By: John P. Nilles, L.S., Nilles Associates, Inc. 306 S. Ankeny Blvd., Ankeny, Iowa 50021 (515) 965-0123

PREPARED FOR
QWEST COMMUNICATIONS

EXHIBIT "A"



**BY-LAWS
OF
THE VILLAGE AT WHITE BIRCH TOWN HOME OWNERS ASSOCIATION
(An Iowa Non-Profit Corporation)**

**ARTICLE I
Incorporation**

Section 1. Name. The name of the corporation is THE VILLAGE AT WHITE BIRCH TOWN HOME OWNERS ASSOCIATION (hereinafter referred to as the "Association"). The Association is formed pursuant to Chapter 504A, Code of Iowa (2003), as amended, known as the "Iowa Non-Profit Corporation Act" (hereinafter referred to as the "Act"), and laws amendatory thereof and supplemental thereto. The terms used in these By-Laws shall have the same meaning as they have in the Act, except as otherwise specified herein.

Section 2. Articles of Incorporation. The Articles of Incorporation of the Association were filed in the Office of the Secretary of State of the State of Iowa on the 1st day of December, 2004.

Section 3. Membership and Voting. The membership of the Association shall consist of the Owners of the Lots subject to the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Town Homes located in Ankeny, Polk County, Iowa (hereinafter referred to as the "Town Homes"). Membership in the Association shall be appurtenant to, and shall not be separated from, Lot ownership in the Town Homes. A person shall cease to be a Member of the Association at such time as that person ceases to be an Owner of a Lot. Each Lot shall have one vote. Where there is more than one Owner of a Lot, all of such Lot Owners shall be Members of the Association and the vote allocated to the Lot in accordance with the Declaration and these By-Laws shall be cast as the Lot Owners among themselves may determine and signify in writing to the Association, but in no event shall more than one vote be cast with respect to any Lot nor shall the vote allocated to a Lot be split or otherwise cast separately by the Lot Owners. Where there is more than one Owner of a Lot, the Lot Owners thereof shall notify the Secretary of the Association, in writing, of the name of the Lot Owner who has been designated to cast the vote attributable to that Lot, on behalf of all the Lot Owners of that Lot. If the Owners of a Lot cannot agree on the Lot Owner who is to be designated to cast the vote attributable to the Lot owned by such Owners, or on the manner in which such vote is to be cast, the Lot Owners shall submit such dispute to the Board of Directors of the Association. The Board of Directors shall resolve such dispute in the manner determined by the Board of Directors to be fair and equitable and such determination shall be binding on said Lot Owners. Membership in the Association shall automatically pass when the ownership of a Lot is transferred in any manner.

Section 4. Registration of Owner. It shall be the duty of each Lot Owner to register with the Secretary of the Association in writing (i) the name and address of such Lot Owner; (ii) the nature and satisfactory evidence of such Lot Owner's interest or estate in a Lot; and (iii) the addresses at which such Lot Owner desires to receive notice of any duly called meeting of the Members. If a Lot Owner does not register as provided in this paragraph, the Association shall be under no duty to recognize the rights of such person hereunder, and shall not recognize such person's right to vote as provided herein, but such failure to register shall not relieve a Lot Owner of any obligation, covenant or restriction under the Declaration or these By-Laws. If there is more than one Lot Owner of a Lot, each must execute the registration as provided in this paragraph.

ARTICLE II

Members

Section 1. Place of Meeting. Meetings of Members and Directors of the Association may be held at such places within or outside the State of Iowa, as may be designated by the Board of Directors.

Section 2. Annual Meeting. The first annual meeting of the Members shall be held within one (1) year after the recording of the Declaration, on a date established by the first Board of Directors. Each subsequent regular annual meeting of the Members shall be held at least once each year on the same day of the same month of each year thereafter (unless the Board of Directors designates a different date for annual meetings), at such hour as may be designated by the Secretary in the notice of said meeting, as hereinafter provided. At each annual meeting, the Members shall, subject to the provisions of Section 2 of Article III hereof, elect members to the Board of Directors from among themselves and shall transact such other business as may properly come before the meeting.

Section 3. Special Meetings. Special meetings of the Members may be called for any purpose at any time by the President or by the Board of Directors, on their own initiative or upon the delivery of a written request signed by Owners of Lots to which is assigned 25% or more of the votes in the Association to either the President or the Secretary, stating the purpose of the special meeting. No business shall be transacted in a special meeting of the Members except as stated in the notice of the meeting, as hereinafter provided.

Section 4. Notice of Meetings. At least twenty-one (21) days in advance of any annual or regularly scheduled meeting, and at least seven (7) days in advance of any other meeting, the Secretary of the Association shall send to each Lot Owner a written notice of the time, place and complete agenda of the meeting which is the subject of such notice. Such notice shall be hand delivered or sent by United States mail, to all Lot Owners of record at the address of their respective Lots and to such other addresses as any Lot Owners may have designated in writing to the Secretary. Lot Owners of record shall be those Lot Owners who are registered with the Secretary as provided in Article I, Section 4, on a date specified by the Board of Directors (the "Record Date"). Such Lot Owners of record shall be entitled to notice of any duly called meeting of the Members; provided, that the Board of Directors may not specify a Record Date which is more than thirty-five (35) days prior to the date of an annual meeting or no more than twenty (20) days prior to the date of a special meeting. A Lot Owner may at any time waive notice of any meeting by a signed writing or by attendance at the meeting.

Section 5. Quorum and Adjournment. The presence of Members in person or represented by proxy who have the authority to cast ten percent (10%) of the total of the votes of all members of the Association shall be requisite for and shall constitute a quorum at all meetings of the Association for the transaction of business except that of adjourning the meeting to reconvene at a subsequent time and except as otherwise provided by law. If, however, such percentage shall not be present or represented at any such meeting, the Members entitled to vote thereat, present in person or by proxy, shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present, at which time any business may be transacted which might have been transacted at the meeting as initially called had a quorum then been present. The Quorum, having once been established at a meeting, shall continue to exist for that meeting, notwithstanding the departure of any member previously in attendance in person or by proxy.

Section 6. Voting Register. At the beginning of each meeting of the Members, the Secretary shall deliver to the Chairman for the meeting a written list of the Lot numbers, the respective name or names of the Lot Owners entitled to notice of such meeting, and the respective name of the person (in the case of multiple Lot Owners) authorized to vote.

Section 7. Order of Business. Subject to amendment by the Board of Directors, the order of business at annual meetings of the members, and at such other membership meetings of the Members as may be practical, shall be as follows:

- a. Presenting of Voting Register, proxy certification and establishment of a quorum.
- b. Appointment by the Chairman of inspectors of election as determined by the Chairman or when requested by a Member of the Board of Directors.
- c. Election of Members of the Board of Directors.
- d. New Business.
- e. Old Business.
- f. Adjournment.

Section 8. Manner of Voting. Proxies shall be allowed, shall be in writing, signed by the Member giving the Proxy, and filed with the Secretary of the Association prior to the meeting. All elections and all questions shall be decided by the vote of the Members who are entitled to cast a majority of the votes represented by all Members present in person or by proxy at a meeting, except as otherwise specifically provided in the Declaration, these By-Laws or the Act. Cumulative voting shall not be permitted. Every proxy shall be revocable and shall automatically cease upon the expiration of eleven (11) months from the date of its execution, the conveyance of the Member's Lot or by the Member's personal attendance at the meeting.

No vote in the Association shall be deemed to inure to any Lot during the time when the Lot Owner thereof is the Association.

Section 9. Action Taken Without a Meeting. Any action which might be taken at a meeting of the Lot Owners may be taken without a meeting if authorized in a writing or writings signed by all of the Lot Owners.

ARTICLE III **Board of Directors**

Section 1. Number and Qualification. The first Board of Directors shall consist of the persons designated as Directors in the Articles of Incorporation of the Association, who need not be Lot Owners. Upon the ending of the terms of the first Board of Directors, the Board of Directors shall be composed of five (5) Directors, all of whom shall be Members; or, in the case of ownership of a Lot by a partnership, shall be partners or employees of such partnership; or, in the case of ownership of a Lot by a corporation, shall be officers or employees of such corporations; or, in the case of ownership of a Lot by a fiduciary, shall be officers or employees of such fiduciary.

Section 2. Term of Office. Notwithstanding the right to remove a Director and notwithstanding anything else herein contained, **Declarant, as the Class "A" member of the Association shall be the sole voting member of the association until such time as Declarant or its successor in interest or assignee pursuant to a document that specifically refers to this Class "A" membership transfer, (i)no longer owns any land within the Property described in the Declaration; or (ii)until Declarant, or its successor in interest or assignee waives its right in writing to be the sole voting member of the Association, or (iii)until 120 days after Declarant has conveyed 75% of the total of all lots which are presently a part of or which may hereafter be added to the Association as referenced in the Declaration. During the time that Declarant is the sole voting member it shall have the right to elect all Directors of the Association.** Upon the happening of the earliest of said events, all Directors elected by the Declarant shall resign from the Board of Directors. Upon the resignation from the Board of Directors of all Directors elected by the Declarant, five (5) directors shall be elected, two (2) for a one (1) year term, and three (3) for a two (2) year term. At each annual meeting thereafter, two (2) or three (3) (as the case may be) Directors shall be elected, to a two (2) year term, as successors to the two (2) or three (3) (as the case may be) Directors whose term is then ending. The term of a member of the Board of Directors shall expire upon the election of a successor at an annual meeting of the Members. A Director shall hold office until he shall resign and his resignation shall have become effective, or until a qualified successor has been elected and shall have accepted the office, or until the Directors have been removed in accordance with the provisions of these By-Laws. The Board of Directors elected by the Declarant shall have the power to adopt the By-Laws of the Association, to elect officers, to establish a schedule of assessments and shall have generally the powers and duties of the Board of Directors as set forth herein and in the Declaration.

Section 3. Election. The five (5) Directors being elected upon the resignation from the Board of Directors of all Directors elected by the Declarant shall be elected in one (1) voting. Each Lot shall be entitled to cast five (5) votes. Such votes may not be used cumulatively and, if cast, must be cast for five (5) separate candidates. The candidates receiving the first, second and third highest number of votes shall have been elected to two (2) year terms and the candidates receiving the fourth and fifth highest number of votes shall have been elected to one (1) year terms. Thereafter, the two (2) or three (3) (as the case may be) Directors being elected at any annual meeting shall be elected in one (1) voting. Each Lot shall be entitled to cast two (2) or three (3) (as the case may be) votes. Such votes may not be used cumulatively and such two (2) or three (3) (as the case may be) votes, if cast, must be cast for two (2) or three (3) (as the case may be) separate candidates. The two (2) or three (3) (as the case may be) candidates receiving the highest number of votes shall have been elected to two (2) year terms.

Section 4. General Powers. The Board of Directors shall manage the property, affairs and business of the Association. Specifically, and without limited the generality of the foregoing, the Board of Directors shall have the power to:

- a. Adopt and publish administrative rules and regulations governing the operation and the use of the Common Areas, the use and occupancy of the Lots and the personal conduct of the Members and their tenants and guests thereon and therein, parking, matters of aesthetics affecting the Town Homes or any part thereof and such other matters as are necessary or desirable to the harmonious use and enjoyment of the Town Homes by the Lot Owners, copies of all of which rules and regulations shall be made available to all Lot Owners.

b. Supervise the operation, maintenance, repair and replacement of the Common Areas and all matters that relate to the Association Maintenance Obligations and the making of any additions or improvements thereto.

c. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by law or by other provisions of these By-Laws, the Articles of Incorporation or the Declaration.

d. Authorize the making of any contracts, leases, management contracts, employment contracts or leases of recreational areas or facilities on behalf of the Association, engage the services of and discharge a manager, managing agent, independent contractor or other employees as they deem necessary, and determine the duties and compensation of such persons. No such lease or contract shall be entered into on behalf of the Association whose term exceeds two (2) years; and any contract for professional management of the Property, or any other contract providing for services by the Declarant, shall be terminable by the Association or the other party thereto on sixty (60) days' written notice without cause and without the imposition of any penalty or termination fee and shall be terminable for cause by the Association on thirty (30) days' written notice.

e. Lease or purchase and mortgage any Lot, Lots or other residential quarters for management and maintenance personnel. All rental or debt service paid by the Association pursuant to such lease agreement or mortgage shall be an Association Maintenance Obligation.

f. Exercise the irrevocable right to have access to each Lot from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas therein or accessible therefrom, or at any time for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Lot or Lots and to perform all Exterior Maintenance needed pursuant to the Declaration.

g. Determine what shall constitute Association Maintenance Obligations required for the affairs of the Association, which shall include all ordinary or extraordinary and necessary expenses for the operation and the repair, replacement and maintenance of the Real Estate, and the establishment of a reserve for future repair, replacement and maintenance of those portions of the Common Areas which must be repaired, replaced or maintained on a periodic basis as well as for all Exterior Maintenance items.

h. Levy and collect the Association Maintenance Obligations from the Lot Owners.

i. Open bank accounts on behalf of the Association and designate signatories required therefor.

j. Obtain insurance for the Town Homes pursuant to the provisions of the Declaration.

k. Dedicate or transfer easements for public utilities or other public purposes consistent with the intended use of the Common Areas over any part of the Common Areas to any governmental subdivision or public agency or public utility.

Section 5. General Duties. In addition to and without limitation of the powers and duties assigned to the Board of Directors elsewhere herein, by the Declaration or by the Act, it shall be the duty of the Board of Directors to:

a. Contract for labor and materials needed to maintain, repair and replace the Common Areas and perform all Exterior Maintenance, pay for insurance, utilities and other expenses of operating the Common Areas and to perform all Exterior Maintenance and of performing the other duties of the Association as provided by law, the Declaration or herein, and assess the costs thereof against the Members of the Association in the manner provided for by the Act herein and in the Declaration. The Board shall include in the monthly assessments such amount as is necessary to accumulate an adequate reserve for the maintenance, repair and replacement of those Common Areas and to perform all Exterior Maintenance, that must be replaced, repaired or maintained on a periodic basis, and may accumulate an additional reserve from time to time in anticipation of extraordinary Association Maintenance Obligations.

b. Cause to be kept detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Areas and all Exterior Maintenance, specifying and itemizing the maintenance, repair and replacement expenses of the Common Areas and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the Lot Owners during normal business hours.

c. Prepare or cause to be prepared an annual report, a copy of which shall be provided to each Lot Owner with the notice of each annual meeting and shall be available to each Lot Owner at the annual meeting, showing the financial affairs of the Association, and containing at a minimum the following:

(i) A statement of any capital expenditure in excess of two percent (2%) of the current budget or Five Thousand Dollars (\$5,000.00), whichever is greater, anticipated by the Association during the current year or succeeding two (2) fiscal years;

(ii) A statement of the status and amount of any reserve or replacement fund and any portion of the fund designated by the Board for any specific project;

(iii) A copy of the Statement of Financial Condition for the Association for the last fiscal year;

(iv) A statement of the status of any pending suits or judgments in which the Association is a party;

(v) A statement of the insurance coverage provided by the Association; and

(vi) A statement of any unpaid assessments levied by the Association on individual Lots, identifying the Lot number, the amount of the unpaid assessment and its due date.

Any Member of the Association shall have the right, upon reasonable notice to the Treasurer, to review the accounts and financial records of the Association. If the Association does not elect to include an audit as a part of the Association Maintenance Obligations, one or more Members may call for an audit of the affairs of the Association by written notice to the President. If the audit shall disclose errors of three percent (3%) or greater in any figures contained in the most recent statements issued by the Board, the Association shall bear the expense of the audit. If no such error of three percent (3%) or greater shall be established by the audit, the member or members requesting the audit shall bear the entire expense thereof, which shall be a lien upon their individual Lots until paid.

Section 6. Limitation of Authority. Anything herein or in the Declaration to the contrary notwithstanding, unless specifically authorized herein or in the Declaration, the Board of Directors shall have no authority, except as may specifically be granted by the majority (or such higher number as may otherwise be required hereunder, by the Act or by the Declaration) of the Members present in person, or by proxy, at a meeting hereof, to do any of the following:

a. Purchase any Lot except that the Board of Directors may accept any Lot surrendered to it for unpaid assessments and may purchase a Lot at any sale held pursuant to foreclosure for unpaid assessments provided that the Board of Directors shall not, unless authorized by the members, bid, at any such foreclosure sale, any amount in excess of the total of the delinquent assessment on account of which the foreclosure sale is being held, any interest thereon and other costs related thereto which are, pursuant to the Declaration, the Act and hereunder, collectible from the Owner of such Lot.

b. Levy or assess as an Association Maintenance Obligation the cost of any capital improvement or acquisition, other than the repair or replacement of an existing portion of the Real Estate unless specifically authorized by not less than ninety percent (90%) of the total voting power of the Association.

Section 7. Resignation. A Director of the Association may resign at any time by giving written notice to the Board of Directors, such resignation to take effect at the time of such notice or at any later date or time specified therein. Unless otherwise specified therein, acceptance of a resignation shall not be necessary to make it effective.

Section 8. Vacancy. A vacancy in the Board of Directors caused by resignation, death, disqualification, removal or any inability to act shall be filled by the Board of Directors and such action shall be valid notwithstanding the fact that the number of Directors then in office is less than the number specified herein.

Section 9. Removal. Any Director or all Directors, except the members of the first Board of Directors, may be removed at any time with or without cause by a majority vote of a quorum of the Owners at any annual or special meeting of the Association. A Director shall be automatically

removed without a meeting or other action of the Owners on the date of closing of any sale or transfer of his/her Lot or on the date of transfer of possession thereof in connection with any such sale or transfer, whichever occurs earlier.

Section 10. Regular Meeting. The regular annual meeting of the Board of Directors shall be held without notice at the place, and immediately following the adjournment of the annual meeting of the Members of the Association, to transact such business as may properly come before the Board.

Section 11. Special Meetings of the Board of Directors. Special meetings of the Board of Directors shall be held upon written request of the President or of any Directors, stating the purpose or purposes thereof. Notice of such meeting shall be given by mail or telegraph to each Director, addressed to him at his residence or usual place of business at least three (3) days before the day on which such meeting is to be held. Every such notice shall state the time, place and purpose of the meeting. No business other than that stated in the notice shall be transacted at said meeting without the unanimous consent of the Directors.

Section 12. Quorum and Manner of Acting. Except as otherwise provided by statute, the Declaration or these By-Laws, a majority of the Directors in office at the time of any meeting of the Board of Directors shall constitute a quorum for transaction of business at such meeting and the act of a majority of the Directors present at any such meeting at which a quorum is present shall be the act of the Board of Directors. In the absence of a quorum, a majority of the Directors present may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum be had.

Section 13. Waiver of Notice. Notice of a special meeting may be waived by any member of the Board of Directors in writing and shall be waived by attendance at such meeting in person or by attorney.

Section 14. Action Taken Without a Meeting. Any action which might be taken at a meeting of the Board of Directors may be taken without a meeting if authorized in a writing or writings signed by all of the Directors.

Section 15. Fidelity Bonds. The Board may require that all officers, directors, employees and representatives of the Association, and all officers, employees and agents of any management agent employed by the Association, handling or responsible for the Association funds, furnish adequate fidelity bonds. Such fidelity bonds shall be in such amount as the Board of Directors deems appropriate, but it is suggested that they not be less than the greater of either the estimated maximum amount of funds (including reserve funds) in the custody of the Association or management agent at any given time or a sum equal to three (3) months assessments on all Lots plus reserve funds. Such bonds shall name the Association as an obligee, shall contain waivers of defenses based on exclusion of persons serving without compensation and shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association and each holder of a first mortgage on any Lot. The premiums on such bonds shall be an Association Maintenance Obligation.

Section 16. Compensation. No Director shall receive compensation for any service he may render in his capacity as a member of the Board of Directors unless such compensation is approved at a meeting of the Members. However, any Director may be reimbursed, by resolution

of the Board of Directors, for his actual expenses incurred in the performance of his duties as a Director.

ARTICLE IV **Officers and Their Duties**

Section 1. Officers. The officers of the Association shall be a President, Vice-President, Secretary and Treasurer, and such assistant or other officers as the Board of Directors may designate. Each officer shall be selected by a majority vote of the Board of Directors. One (1) person may hold the office and perform the duties of any two (2) of said officers; provided, however, that the same person shall not at the same time hold the offices of President and Secretary. The President shall be selected from among the Board of Directors. Each officer shall continue in office until:

- a. The next annual meeting of the Board and thereafter until a successor is elected; or
- b. He shall resign and his resignation shall have become effective; or
- c. He shall no longer be a Member of the Association (provided that officers selected by the first Board of Directors need not be Members of the Association); or
- d. He shall be removed as hereinafter provided. Vacant offices shall be filled by the Board.

Section 2. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for that purpose.

Section 3. Duties of Officers. The officers shall have the duties and responsibilities normally pertaining to their respective offices together with such specific duties as may be specified by the Articles of Incorporation, these By-Laws or the Board of Directors. The President shall preside over the meetings of the Board of Directors and of the Association of Lot Owners, shall have all of the general powers and duties which are normally vested in the office of President of a corporation and shall have the power to execute contracts and similar documents on behalf of the Association. The Secretary shall keep the minute book of the Association wherein minutes of all meetings and all resolutions and proceedings of the members and of the Board of Directors shall be recorded, and shall keep a record of the name and mailing address of each Lot Owner and the Lot or Lots in which he has an interest and shall give all notices required by the Articles of Incorporation of the Association, these By-Laws, the Declaration or the Act. The Treasurer shall keep the financial records and books of account of the Association. The Treasurer shall have custody of all intangible property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall deposit all moneys and other valuable effects in the name of or to the credit of the Association in such depositories as may be designated by the Board of Directors and shall disburse the funds of the Association as ordered by the Board of Directors and shall perform all other duties incident to the office of Treasurer. He shall furnish upon request of a Lot Owner, a statement as to the current account of the Lot Owner upon the assessment rolls of the Association. Officers shall serve without compensation except for reimbursement for out-of-

pocket expenses incurred in the performance of their duties. If desired by the Board, administrative tasks of the officers may be performed by a managing agent selected by the Board.

ARTICLE V

Operation of the Property

Section 1. Budget; Levy. The Board of Directors shall from time to time, and at least annually in advance of the beginning of the Association's fiscal year, prepare a budget of Association Maintenance Obligations for the Association and shall allocate, assess and levy such Association Maintenance Obligations among the Lot Owners in accordance with the percentages specified in the Declaration. Upon the vote of the Board of Directors adopting a resolution which sets forth the budget of Association Maintenance Obligations and the allocation thereof to the Lot Owners, the amount so allocated to the Lot Owners of each Lot shall, without further resolution by the Board of Directors, be levied as the annual assessment against such Lot, payable in equal monthly installments due on the first day of each month during the period covered by the Budget, without further resolution by the Board of Directors. The Association Maintenance Obligations shall include those Association Maintenance Obligations set forth in the Declaration and these By-Laws and may include such other amounts as the Board of Directors may deem proper for the operation and maintenance of the Property and as permitted by the Act and all laws amendatory thereof and supplemental thereto; provided, however, that the assessment for Association Maintenance Obligations shall include an adequate reserve fund for maintenance, repair and replacement of those Common Areas and Exterior Maintenance items that must be replaced on a periodic basis, and shall, when practicable, be payable in regular installments. Contributions to any reserve funds established by the Association may not be withdrawn by any Lot Owner. The Board of Directors shall advise all Lot Owners in writing prior to the beginning of the period covered by the budget as to the amount of the monthly assessment payable by each of them, and shall, upon request by the Lot Owner, furnish copies of each budget on which such Association Maintenance Obligations and the assessment are based to such Lot Owner and to his First Mortgage. The total of any budget shall be in the amount of the estimated Association Maintenance Obligations for the period covered thereby, including a reasonable allowance for contingencies and reserves, less the amounts of any unneeded Association Maintenance Obligations account balances existing from the previous period's budget, and less any estimated payments to be received by the Association from rental, licensing or other payments for the purpose of defraying the costs of the use of the Common Areas. If a budget is not made by the Board of Directors as required, a monthly assessment in the amount required by the last prior budget shall be due upon each monthly assessment payment date until changed by a new budget. In the event an annual or other budget proves to be insufficient, or in the event of extraordinary or unforeseen Association Maintenance Obligations, the budget and monthly assessments based thereon may be amended, or a special assessment levied, at any time by the Board of Directors. Any special assessment shall be assessed against the Lot Owners, shall be a lien on the Lots and shall be enforceable in the same manner as the monthly assessments. Special assessments shall be payable in installments or lump sum, all as designated by the Board of Directors.

Section 2. Payment of Association Maintenance Obligations. All Owners shall be obligated to pay the Association Maintenance Obligations assessed and levied by the Board of Directors pursuant to Section. An Owner may not avoid assessment for Association Maintenance Obligations by failing or waiving the right to the use or enjoyment of the Common Areas. Monthly assessments shall be due as provided in Section 1 of this Article and special assessments shall be due when designated by the Board of Directors. Any mortgagee acquiring a first mortgage interest from any Owner of a Lot may, as a condition of the loan, include in the mortgage note or deed a requirement that the mortgagor, upon execution of the mortgage deed, make a monthly

deposit with the mortgagee of an amount each month sufficient to pay when due and payable all Association Maintenance Obligations attributable to that Lot. The mortgage note or deed may further provide that a default in making such deposit shall be a default under the terms of the mortgage deed. In the event that mortgagee collects the monthly installments, such mortgagee shall remit the installments monthly on a current basis to the Association.

Section 3. Assessment Roll. The assessments against all Owners shall be set forth upon a roll of the Lots which shall be available in the office of the Association or of any managing agent retained by the Association for inspection at all reasonable times by Owners or their duly authorized representatives. Such roll shall indicate for each Lot the name and address of the Owner or Owners, the assessments for all purposes, and the amounts of all assessments paid and unpaid.

Section 4. Default In Payment of Association Maintenance Obligations. In the event any Owner does not make payment of a Association Maintenance Obligations assessment on or before the date when due, such Owners shall be obligated to pay interest on such assessment from the date due at the rate specified from time to time by the Board of Directors which shall not exceed the highest rate of interest which may be charged thereon pursuant to either the Act or the laws of the State of Iowa relative to usury. In addition, such Owner shall be obligated to pay all expenses, including reasonable attorneys' fees incurred by the Board in any proceeding brought to collect any such unpaid assessment, whether or not an action has been commenced with respect thereto. The right of a Lot Owner to pay the annual assessment in monthly installments is hereby made conditional on the prompt payment when due of such monthly installments. In the event of a default in the prompt payment of the monthly installments, the Board of Directors may, by written notice given to the default Owner, accelerate the entire unpaid portion of the annual assessment, whereupon the same shall become immediately due and payable. Additionally, the Board of Directors shall have the right to withhold services from any defaulting Owner. The Board of Directors, the Association and each individual Lot Owner shall have the right and duty to attempt to recover all assessments for Association Maintenance Obligations, together with interest thereon and the expenses of the proceeding, including reasonable attorneys' fees, in an action to recover the same brought against an owner, by foreclosure of the lien on a Lot pursuant to the Act, any statute amendatory thereof or supplementary thereto, or by another remedy available under the Act or hereunder.

Section 5. Records. The Board of Directors shall cause to be kept at the Registered Office of the Association, or at such other place as the Board of Directors may determine, records of the actions of the Board of Directors, minutes of the meetings of the Board of Directors, minutes of the meetings of the Members of the Association, names of the Lot Owners and names of any First Mortgagees who have requested the notice of default described in the Declaration and the Lot on which such First Mortgagee holds a mortgage, and detailed and accurate records, in chronological order, of the receipts and expenditures affecting the Common Areas and the Association Maintenance Obligations. Such records shall be available for examination by the Owners or mortgagees at convenient hours of weekdays. Separate accounts shall be maintained for each Lot, setting forth the amount of the assessments against the Lot, the date when due, the amount paid thereon and the balance remaining unpaid.

ARTICLE VI

Amendment to By-Laws

These By-Laws may be amended only in the same manner and to the same extent as the Declaration.

ARTICLE VII
Liability/Indemnification

Section 1. No officer or any member of the Board of Directors of the Association shall be personally liable to the Corporation or its Members for money damages for any action taken, or any failure to take any action, as an officer or as a member of the Board of Directors, except liability for any of the following:

- a. The amount of a financial benefit received by such person to which the person is not entitled.
- b. An intentional infliction of harm on the corporation or its Members.
- c. A violation of Section 504.834 of the Revised Iowa Nonprofit Corporation Act.
- d. An intentional violation of criminal law.

Section 2. The Corporation shall indemnify an officer or a member of the Board of Directors for liability, as defined in Section 504.851, subsection 5, of the Revised Iowa Nonprofit Corporation Act, to a person for any action taken, or any failure to take any action, as an officer or as a director except liability for any of the following:

- a. Receipt of a financial benefit to which the person is not entitled.
- b. An intentional infliction of harm on the corporation or its Members.
- c. A violation of Section 504.834 of the Revised Iowa Nonprofit Corporation Act.
- d. An intentional violation of criminal law.

ARTICLE VIII
Miscellaneous

Section 1. Notices. All notices required hereunder to be given to the Association or the Board of Directors shall be sent via U.S. Mail, to the Board of Directors at the office of the Association or to such other address as may be designated by him in writing from time to time to the Association. All notices to First Mortgagees of Lots shall be sent by U.S. Mail to their respective addresses as designated by them from time to time in writing to the Association. All notices shall be deemed to have been given when deposited in the U.S. Mail, postage prepaid, except notices of change of address, which shall be deemed to have been given when received.

Section 2. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision hereof.

THE VILLAGE AT WHITE BIRCH TOWN HOME OWNERS ASSN
B A L A N C E S H E E T
January 2025

		OPERATING	RESERVE	INS PROCEEDS	TOTAL
CURRENT ASSETS					
1010	ENTERPRISE BK/TR - CKG/ICS - PRIMARY	67,137.43			67,137.43
1015	SMARTSTREET-BOC - CKG/ICS - OPERATING	24,717.18			24,717.18
1102	SMARTSTREET-BOC - MM/ICS - RESERVE		37,600.01		37,600.01
1118	FIRST CITIZENS BK - CD 3/12/25 5.13%		247,118.04		247,118.04
1119	ENTERPRISE BK - CD 7/6/25 4.90%		165,834.15		165,834.15
1120	ALLIANCE BANK - CD 03/27/25 5.15%		51,063.16		51,063.16

		91,854.61	501,615.36	0.00	593,469.97
ACCOUNTS RECEIVABLE					
1210	ASSESSMENTS	38,536.54			38,536.54
1240	ASSESSMENTS - MISCELLANEOUS	120.00			120.00
1250	LEGAL FEES	13,090.02			13,090.02
1260	CREDIT RISK ALLOWANCE	(34,690.01)			(34,690.01)

		17,056.55	0.00	0.00	17,056.55
PREPAID ASSETS					
1310	PREMIER PKG INS 1/31/25-26 \$103,451.00	103,451.00			103,451.00

		103,451.00	0.00	0.00	103,451.00

	TOTAL ASSETS	212,362.16	501,615.36	0.00	713,977.52
=====					

THE VILLAGE AT WHITE BIRCH TOWN HOME OWNERS ASSN
B A L A N C E S H E E T
January 2025

	OPERATING	RESERVE	INS PROCEEDS	TOTAL
CURRENT LIABILITIES				
2010 ACCOUNTS PAYABLE	25.00			25.00
2130 PREPAID ASSESSMENTS	50,534.87			50,534.87
2139 PRIOR OWNER CREDITS	1,201.57			1,201.57
	-----	-----	-----	-----
	51,761.44	0.00	0.00	51,761.44
RESTRICTED EQUITY - RESERVES				
2215 RESERVES - INTEREST		1,920.10		1,920.10
2360 RESERVES - CONTINGENCY		499,695.26		499,695.26
SPENT FROM RESERVES				
	-----	-----	-----	-----
	0.00	501,615.36	0.00	501,615.36
OPERATING EQUITY				
2640 TRANSFER RESTRICTED RSV EQUITY TO OPER	92,000.00			92,000.00
2650 PRIOR YEAR SURPLUS (DEFICIT)	57,961.91			57,961.91
2670 CURRENT YEAR SURPLUS (DEFICIT)	10,638.81			10,638.81
	-----	-----	-----	-----
	160,600.72	0.00	0.00	160,600.72
	-----	-----	-----	-----
TOTAL LIABILITIES & EQUITY	212,362.16	501,615.36	0.00	713,977.52
	=====	=====	=====	=====

THE VILLAGE AT WHITE BIRCH PLAT 1

TYPICAL LOT CONFIGURATIONS
ALL ANGLES ARE 90°00'00"

LOT CONFIGURATION
FOR 3-PLEX

22.04'	22.04'	22.04'
53.0'	53.0'	53.0'
24.04'	24.04'	24.04'

LOT CONFIGURATION
FOR 4-PLEX

22.04'	22.04'	22.04'
53.0'	53.0'	53.0'
24.04'	24.04'	24.04'

LOT CONFIGURATION
FOR 6-PLEX

22.04'	22.04'	22.04'
53.0'	53.0'	53.0'
24.04'	24.04'	24.04'

LOT CONFIGURATION
FOR 12-PLEX

24.00'	24.00'	24.00'	24.00'	24.00'	24.00'
576.5'	576.5'	576.5'	576.5'	576.5'	576.5'
24.00'	24.00'	24.00'	24.00'	24.00'	24.00'

CURVE	RADIUS	LENGTH	CHORD	CHORD BEG.	CHORD END.
C1	150.00'	137.15'	71.36'	134.45'	145.30.56'E
C2	150.00'	137.15'	71.36'	145.30.56'E	156.26.02'W
C3	150.00'	137.15'	71.36'	156.26.02'W	167.11.47'W
C4	150.00'	137.15'	71.36'	167.11.47'W	177.96.93'W
C5	150.00'	137.15'	71.36'	177.96.93'W	188.82.39'W
C6	150.00'	137.15'	71.36'	188.82.39'W	199.67.85'W
C7	150.00'	137.15'	71.36'	199.67.85'W	210.53.31'W
C8	150.00'	137.15'	71.36'	210.53.31'W	221.38.77'W
C9	150.00'	137.15'	71.36'	221.38.77'W	232.24.23'W
C10	150.00'	137.15'	71.36'	232.24.23'W	243.09.69'W
C11	150.00'	137.15'	71.36'	243.09.69'W	253.95.15'W
C12	150.00'	137.15'	71.36'	253.95.15'W	264.80.61'W
C13	150.00'	137.15'	71.36'	264.80.61'W	275.66.07'W
C14	150.00'	137.15'	71.36'	275.66.07'W	286.51.53'W
C15	150.00'	137.15'	71.36'	286.51.53'W	297.37.00'W
C16	150.00'	137.15'	71.36'	297.37.00'W	308.22.46'W
C17	150.00'	137.15'	71.36'	308.22.46'W	319.07.92'W
C18	150.00'	137.15'	71.36'	319.07.92'W	329.93.38'W
C19	150.00'	137.15'	71.36'	329.93.38'W	340.78.84'W
C20	150.00'	137.15'	71.36'	340.78.84'W	351.64.30'W
C21	150.00'	137.15'	71.36'	351.64.30'W	362.49.76'W
C22	150.00'	137.15'	71.36'	362.49.76'W	373.35.22'W
C23	150.00'	137.15'	71.36'	373.35.22'W	384.20.68'W
C24	150.00'	137.15'	71.36'	384.20.68'W	395.06.14'W
C25	150.00'	137.15'	71.36'	395.06.14'W	405.91.60'W
C26	150.00'	137.15'	71.36'	405.91.60'W	416.77.06'W
C27	150.00'	137.15'	71.36'	416.77.06'W	427.62.52'W
C28	150.00'	137.15'	71.36'	427.62.52'W	438.47.98'W
C29	150.00'	137.15'	71.36'	438.47.98'W	449.33.44'W
C30	150.00'	137.15'	71.36'	449.33.44'W	460.18.90'W
C31	150.00'	137.15'	71.36'	460.18.90'W	471.04.36'W
C32	150.00'	137.15'	71.36'	471.04.36'W	481.89.82'W
C33	150.00'	137.15'	71.36'	481.89.82'W	492.75.28'W
C34	150.00'	137.15'	71.36'	492.75.28'W	503.60.74'W
C35	150.00'	137.15'	71.36'	503.60.74'W	514.46.20'W
C36	150.00'	137.15'	71.36'	514.46.20'W	525.31.66'W
C37	150.00'	137.15'	71.36'	525.31.66'W	536.17.12'W
C38	150.00'	137.15'	71.36'	536.17.12'W	547.02.58'W
C39	150.00'	137.15'	71.36'	547.02.58'W	557.88.04'W
C40	150.00'	137.15'	71.36'	557.88.04'W	568.73.50'W
C41	150.00'	137.15'	71.36'	568.73.50'W	579.58.96'W
C42	150.00'	137.15'	71.36'	579.58.96'W	590.44.42'W
C43	150.00'	137.15'	71.36'	590.44.42'W	601.29.88'W
C44	150.00'	137.15'	71.36'	601.29.88'W	612.15.34'W
C45	150.00'	137.15'	71.36'	612.15.34'W	623.00.80'W
C46	150.00'	137.15'	71.36'	623.00.80'W	633.86.26'W
C47	150.00'	137.15'	71.36'	633.86.26'W	644.71.72'W
C48	150.00'	137.15'	71.36'	644.71.72'W	655.57.18'W
C49	150.00'	137.15'	71.36'	655.57.18'W	666.42.64'W
C50	150.00'	137.15'	71.36'	666.42.64'W	677.28.10'W
C51	150.00'	137.15'	71.36'	677.28.10'W	688.13.56'W
C52	150.00'	137.15'	71.36'	688.13.56'W	698.99.02'W
C53	150.00'	137.15'	71.36'	698.99.02'W	709.84.48'W
C54	150.00'	137.15'	71.36'	709.84.48'W	720.69.94'W
C55	150.00'	137.15'	71.36'	720.69.94'W	731.55.40'W
C56	150.00'	137.15'	71.36'	731.55.40'W	742.40.86'W
C57	150.00'	137.15'	71.36'	742.40.86'W	753.26.32'W
C58	150.00'	137.15'	71.36'	753.26.32'W	764.11.78'W
C59	150.00'	137.15'	71.36'	764.11.78'W	774.97.24'W
C60	150.00'	137.15'	71.36'	774.97.24'W	785.82.70'W
C61	150.00'	137.15'	71.36'	785.82.70'W	796.68.16'W
C62	150.00'	137.15'	71.36'	796.68.16'W	807.53.62'W
C63	150.00'	137.15'	71.36'	807.53.62'W	818.39.08'W
C64	150.00'	137.15'	71.36'	818.39.08'W	829.24.54'W
C65	150.00'	137.15'	71.36'	829.24.54'W	840.10.00'W
C66	150.00'	137.15'	71.36'	840.10.00'W	850.95.46'W
C67	150.00'	137.15'	71.36'	850.95.46'W	861.80.92'W
C68	150.00'	137.15'	71.36'	861.80.92'W	872.66.38'W
C69	150.00'	137.15'	71.36'	872.66.38'W	883.51.84'W
C70	150.00'	137.15'	71.36'	883.51.84'W	894.37.30'W
C71	150.00'	137.15'	71.36'	894.37.30'W	905.22.76'W
C72	150.00'	137.15'	71.36'	905.22.76'W	916.08.22'W
C73	150.00'	137.15'	71.36'	916.08.22'W	926.93.68'W
C74	150.00'	137.15'	71.36'	926.93.68'W	937.79.14'W
C75	150.00'	137.15'	71.36'	937.79.14'W	948.64.60'W
C76	150.00'	137.15'	71.36'	948.64.60'W	959.50.06'W
C77	150.00'	137.15'	71.36'	959.50.06'W	970.35.52'W
C78	150.00'	137.15'	71.36'	970.35.52'W	981.20.98'W
C79	150.00'	137.15'	71.36'	981.20.98'W	992.06.44'W
C80	150.00'	137.15'	71.36'	992.06.44'W	1002.91.90'W
C81	150.00'	137.15'	71.36'	1002.91.90'W	1013.77.36'W
C82	150.00'	137.15'	71.36'	1013.77.36'W	1024.62.82'W
C83	150.00'	137.15'	71.36'	1024.62.82'W	1035.48.28'W
C84	150.00'	137.15'	71.36'	1035.48.28'W	1046.33.74'W
C85	150.00'	137.15'	71.36'	1046.33.74'W	1057.19.20'W
C86	150.00'	137.15'	71.36'	1057.19.20'W	1068.04.66'W
C87	150.00'	137.15'	71.36'	1068.04.66'W	1078.90.12'W
C88	150.00'	137.15'	71.36'	1078.90.12'W	1089.75.58'W
C89	150.00'	137.15'	71.36'	1089.75.58'W	1100.61.04'W
C90	150.00'	137.15'	71.36'	1100.61.04'W	1111.46.50'W
C91	150.00'	137.15'	71.36'	1111.46.50'W	1122.31.96'W
C92	150.00'	137.15'	71.36'	1122.31.96'W	1133.17.42'W
C93	150.00'	137.15'	71.36'	1133.17.42'W	1144.02.88'W
C94	150.00'	137.15'	71.36'	1144.02.88'W	1154.88.34'W
C95	150.00'	137.15'	71.36'	1154.88.34'W	1165.73.80'W
C96	150.00'	137.15'	71.36'	1165.73.80'W	1176.59.26'W
C97	150.00'	137.15'	71.36'	1176.59.26'W	1187.44.72'W
C98	150.00'	137.15'	71.36'	1187.44.72'W	1198.30.18'W
C99	150.00'	137.15'	71.36'	1198.30.18'W	1209.15.64'W
C100	150.00'	137.15'	71.36'	1209.15.64'W	1220.01.10'W
C101	150.00'	137.15'	71.36'	1220.01.10'W	1230.86.56'W
C102	150.00'	137.15'	71.36'	1230.86.56'W	1241.72.02'W
C103	150.00'	137.15'	71.36'	1241.72.02'W	1252.57.48'W
C104	150.00'	137.15'	71.36'	1252.57.48'W	1263.42.94'W
C105	150.00'	137.15'	71.36'	1263.42.94'W	1274.28.40'W
C106	150.00'	137.15'	71.36'	1274.28.40'W	1285.13.86'W
C107	150.00'	137.15'	71.36'	1285.13.86'W	1295.99.32'W
C108	150.00'	137.15'	71.36'	1295.99.32'W	1306.84.78'W
C109	150.00'	137.15'	71.36'	1306.84.78'W	1317.70.24'W
C110	150.00'	137.15'	71.36'	1317.70.24'W	1328.55.70'W
C111	150.00'	137.15'	71.36'	1328.55.70'W	1339.41.16'W
C112	150.00'	137.15'	71.36'	1339.41.16'W	1350.26.62'W
C113	150.00'	137.15'	71.36'	1350.26.62'W	1361.12.08'W
C114	150.00'	137.15'	71.36'	1361.12.08'W	1371.97.54'W
C115	150.00'	137.15'	71.36'	1371.97.54'W	1382.83.00'W
C116	150.00'	137.15'	71.36'	1382.83.00'W	1393.68.46'W
C117	150.00'	137.15'	71.36'	1393.68.46'W	1404.53.92'W
C118	150.00'	137.15'	71.36'	1404.53.92'W	1415.39.38'W
C119	150.00'	137.15'	71.36'	1415.39.38'W	1426.24.84'W
C120	150.00'	137.15'	71.36'	1426.24.84'W	1437.10.30'W
C121	150.00'	137.15'	71.36'	1437.10.30'W	1447.95.76'W
C122	150.00'	137.15'	71.36'	1447.95.76'W	1458.81.22'W
C123	150.00'	137.15'	71.36'	1458.81.22'W	1469.66.68'W
C124	150.00'	137.15'	71.36'	1469.66.68'W	1480.52.14'W
C125	150.00'	137.15'	71.36'	1480.52.14'W	1491.37.60'W
C126	150.00'	137.15'	71.36'	1491.37.60'W	1502.23.06'W
C127	150.00'	137.15'	71.36'	1502.23.06'W	1513.08.52'W
C128	150.00'	137.15'	71.36'	1513.08.52'W	1523.93.98'W
C129	150.00'	137.15'	71.36'	1523.93.98'W	1534.79.44'W
C130	150.00'	137.15'	71.36'	1534.79.44'W	1545.64.90'W
C131	150.00'	137.15'	71.36'	1545.64.90'W	1556.50.36'W
C132	150.00'	137.15'	71.36'	1556.50.36'W	1567.35.82'W
C133	150.00'	137.15'	71.36'	1567.35.82'W	1578.21.28'W
C134	150.00'	137.15'	71.36'	1578.21.28'W	1589.06.74'W
C135	150.00'	137.15'	71.36'	1589.06.74'W	1600.00.00'W

LEGAL DESCRIPTION

LOT 86, WHITE BIRCH PLAT 1, AN OFFICIAL PLAT IN ANDOVER, POLK COUNTY, IOWA, AS SHOWN ON THE POLK COUNTY RECORDS DATED 10/24/2001, PAGE 044.

REFERENCE POINTS

1. NE COR LOT 89
2. NE COR LOT 88
3. SW COR LOT 88
4. SW COR LOT 89
5. SW COR LOT 90
6. SW COR LOT 91
7. SW COR LOT 92
8. SW COR LOT 93
9. SW COR LOT 94
10. SW COR LOT 95
11. SW COR LOT 96
12. SW COR LOT 97
13. SW COR LOT 98
14. SW COR LOT 99
15. SW COR LOT 100
16. SW COR LOT 101
17. SW COR LOT 102
18. SW COR LOT 103
19. SW COR LOT 104
20. SW COR LOT 105
21. SW COR LOT 106
22. SW COR LOT 107
23. SW COR LOT 108
24. SW COR LOT 109
25. SW COR LOT 110
26. SW COR LOT 111
27. SW COR LOT 112
28. SW COR LOT 113
29. SW COR LOT 114
30. SW COR LOT 115
31. SW COR LOT 116
32. SW COR LOT 117
33. SW COR LOT 118
34. SW COR LOT 119
35. SW COR LOT 120
36. SW COR LOT 121
37. SW COR LOT 122
38. SW COR LOT 123
39. SW COR LOT 124
40. SW COR LOT 125
41. SW COR LOT 126
42. SW COR LOT 127
43. SW COR LOT 128
44. SW COR LOT 129
45. SW COR LOT 130
46. SW COR LOT 131
47. SW COR LOT 132
48. SW COR LOT 133
49. SW COR LOT 134
50. SW COR LOT 135
51. SW COR LOT 136
52. SW COR LOT 137
53. SW COR LOT 138
54. SW COR LOT 139
55. SW COR LOT 140
56. SW COR LOT 141
57. SW COR LOT 142
58. SW COR LOT 143
59. SW COR LOT 144
60. SW COR LOT 145
61. SW COR LOT 146
62. SW COR LOT 147
63. SW COR LOT 148
64. SW COR LOT 149
65. SW COR LOT 150
- 66.

RETURN TO:

Prepared by and after recording return to: Streetcar Cameroun, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

CONSENT TO PLAT

The undersigned, **WHITE BIRCH, L.L.C.**, as Fee Titleholder of the property legally described as:

Lot 89, White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,

and to be platted and known as The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, hereby states that the platting of the property is done with our free consent and open desire, pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

Dated this 18th day of October, 2004.

WHITE BIRCH, L.L.C., an Iowa Limited Liability Company

By 
Ted A. Grob, Manager

STATE OF IOWA

:
: SS

COUNTY OF POLK

:

On this 18th day of October, 2004, before me, a Notary Public, in and for said county and state, personally appeared Ted A. Grob, to me personally known, who, being by me duly sworn did say that he is the Manager of said limited liability company; that said instrument was signed on behalf of said limited liability company by authority of its managers; and the said Ted A. Grob acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.


Notary Public in and for the State of Iowa

Linda Aldrich
Notarial Seal - IOWA
Commission No. 188049
My Commission Expires

12-23-05

Prepared by and after recording return to: Streeter Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

CONSENT TO PLAT

The undersigned, **Triton Homes, L.C.**, as contract purchaser, pursuant to an unrecorded purchase agreement, of the property legally described as:

Lot 89, White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,

and to be platted and known as The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, hereby states that the platting of the property is done with our free consent and open desire, pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

Dated this 19th day of October, 2004.

TRITON HOMES, L.C., an Iowa Limited Liability Company

By 
Joel Goodman, Manager


STATE OF IOWA :

: SS

COUNTY OF POLK :

On this 19th day of October, 2004, before me, a Notary Public, in and for said county and state, personally appeared Joel Goodman, to me personally known, who, being by me duly sworn did say that he is the Manager of said limited liability company; that said instrument was signed on behalf of said limited liability company by authority of its managers; and the said Joel Goodman acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.




Notary Public in and for the State of Iowa

Prepared by and after recording return to: Streeter Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

CONSENT TO PLAT OF MORTGAGEE

The undersigned, **LIBERTY BANK, F.S.B.**, as Mortgagee of the property legally described as:

Lot 89, White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,

and to be platted and known as The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, pursuant to an Open-End Real Estate Mortgage given by White Birch, L.L.C., dated August 6, 2004, and filed August 13, 2004, in Book 10688, Page 882, of the records of the Recorder of Polk County, Iowa, and an Open-End Real Estate Mortgage given by White Birch, L.L.C., dated August 26, 2004, and filed August 27, 2004, in Book 10707, Page 179, of the records of the Recorder of Polk County, Iowa, hereby states that the platting of the property is done with our free consent and open desire pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

Dated this 21st day of October, 2004.

LIBERTY BANK, F.S.B.

By Brian Hillebrand (Name)
Vice President (Title)

STATE OF IOWA

:
: SS

COUNTY OF POLK

On this 21st day of October, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Brian Hillebrand, to me personally known, who, being by me duly sworn, did say that he/she is the Vice President of the corporation executing the within and foregoing instrument; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that Brian Hillebrand, as such officer, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by him/her voluntarily executed.



Kate Albert
Notary Public in and for the State of Iowa

Preparer Information: Michel J. Pogg, City of Ankeny, Iowa, 210 S Ankeny Blvd., Ankeny, IA 50021 Phone: 515-963-3558

RESOLUTION # 2004-357

**RESOLUTION ACCEPTING FINAL PLAT AND
A PERFORMANCE BOND FOR UNDERGROUND
IN THE VILLAGE AT WHITE BIRCH PLAT 1 FINAL PLAT**

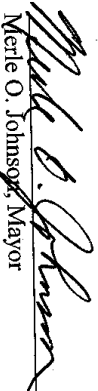
WHEREAS, the Plan and Zoning Commission of the City of Ankeny, Iowa, recommended approval of The Village at White Birch Plat 1 Final Plat on the 19th day of October, 2004; and

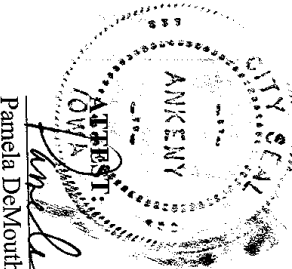
WHEREAS, the attorney's title opinion and a performance bond for underground improvements, have been submitted and approved by the City Engineer of the City of Ankeny, Iowa.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANKENY, IOWA:

1. That the final plat of The Village at White Birch Plat 1 Final Plat is hereby approved.
2. That a performance bond for underground improvements is hereby accepted.
3. That the private roads contained in The Village at White Birch Plat 1 Final Plat are hereby designated SW 30th Lane, SW Sharrin Lane, and SW 32nd Lane for the purpose of assigning property addresses.

PASSED AND APPROVED this 1st day of November 2004.


Merle O. Johnson, Mayor




Pamela DeMouth, City Clerk

CONNOLLY O'MALLEY LILLIS HANSEN OLSON LLP

ATTORNEYS AT LAW

WILLIAM J. LILLIS
RUSSELL J. HANSEN
MICHAEL W. O'MALLEY
EUGENE E. OLSON
STREETAR CAMERON
DANIEL L. MANNING
CHRISTOPHER R. POSE
ADAM C. VAN DIKE

BANK OF AMERICA BUILDING
317 SIXTH AVENUE, SUITE 300
DES MOINES, IOWA 50309-4127

TELEPHONE (515) 243-8157
FAX (515) 243-3919
www.connollylawfirm.com

JOHN CONNOLLY, JR. (1891-1975)
GEORGE E. O'MALLEY (1905-1982)
JOHN CONNOLLY III (1918-1998)
BERNARD J. CONNOLLY (1920-1970)
C. I. McNUTT (1901-1958)

ESTABLISHED IN 1917

Writer's Direct E-Mail: scameron@connollylawfirm.com

October 15, 2004

Triton Homes, L.C.
1802 S.E. Delaware Avenue, Suite 115
Ankeny, IA 50021

ATTORNEY'S TITLE OPINION
PURSUANT TO CHAPTER 354, CODE OF IOWA

Re: The Village at White Birch Plat 1

Dear Sir:

This letter will certify that I have examined the Abstract of Title last continued by American Abstract & Title Company in uncertified Pencil Notes No. 316130, Entry Nos. 1 through 77, from Root of Title to September 23, 2004, at 7:00 a.m.

**All Lots in White Birch Plat 1, an Official Plat now included in
and forming a part of the City of Ankeny, Polk County, Iowa;**

and Pencil Notes No. 327740, Entry Nos. 1 through 4, from September 23, 2004, at 7:00 a.m. to September 25, 2004, at 7:00 a.m. to the real estate legally described as follows:

**Lot 89 in White Birch Plat 1, an Official Plat now included in and
forming a part of the City of Ankeny, Polk County, Iowa;**

which Lot 89 is to be platted and known as The Village at White Birch Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

As of September 25, 2004, at 7:00 A.M., the proprietor and record fee titleholder to the property being platted as The Village at White Birch Plat 1 is **White Birch, L.L.C.**, subject to the following liens and objections:

CONNOLLY O'MALLEY LILLIS HANSEN & OLSON LLC

October 15, 2004

Page 2

1. Entry No. 57 of Pencil Notes No. 316130 discloses an Open-End Real Estate Mortgage given by White Birch, L.L.C. to Liberty Bank, F.S.B. securing the principal sum of \$210,450.00, dated August 6, 2004, filed August 13, 2004, and recorded in Book 10688 at Page 882.
2. Entry No. 59 of Pencil Notes No. 316130 discloses an Open-End Real Estate Mortgage given by White Birch, L.L.C. to Liberty Bank, F.S.B. securing the principal sum of \$5,700,000.00, dated August 26, 2004, filed August 27, 2004, and recorded in Book 10707 at Page 179.
3. The abstract indicates in a number of entries that direct access to Primary Road Number 415, and Northwest Polk City Drive are limited by the Iowa Department of Transportation.
4. Entry No. 66 of Pencil Notes No. 316130 discloses Restrictive Covenants for Lots 1 through 9, White Birch Plat 1. Entry No. 67 discloses Restrictive Covenants for Lots 13 through 88, White Birch Plat 1. Neither of these documents affects the property under examination, however.
5. The abstract discloses that all previously assessed special assessments have now been paid, and that all real estate taxes relating to the property as follows are paid in full:
 - a. Parcel 100-1-5
 - i. First Half - \$299.00 Paid; and
 - ii. Second Half - \$299.00 Paid.
 - b. Parcel 100-1-6
 - i. First Half - \$299.00 Paid; and
 - ii. Second Half - \$299.00 Paid.
 - c. Parcel 100-2
 - i. First Half - \$53.00 Paid; and
 - ii. Second Half - \$53.00 Paid.
6. No special assessments are shown in the abstract as relating to this property.
Dated this 15th day of October, 2004.

Sincerely,



Stuart Cameron
Sireetar Cameron
For the Firm

SC:cs

CERTIFICATE OF TREASURER OF POLK COUNTY, IOWA

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Mary Maloney, Treasurer of Polk County, having examined the records of my office, in accordance with the provisions of Section 354.11 of the Code of Iowa pertaining to real property, described as follows, to-wit:

LOT 89 WHITE BIRCH PLAT 1

to be hereinafter designated as:

THE VILLAGE AT WHITE BIRCH PLAT 1

an Official Plat, Polk County, Iowa

do hereby certify that same is free from all certified taxes,
special assessments and special rates and charges.

Nor are there any taxes due for Moneys and Credits, Bushels of Grain,
Industrial Machinery, Data Processing Equipment, Utilities or Buildings on Leased Land against:

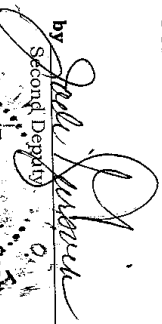
WHITE BIRCH, L.L.C.,

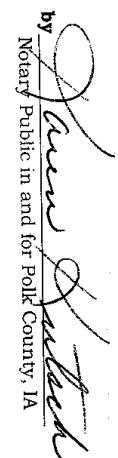
who is(are) the record title holder(s) of said real estate.

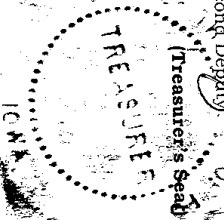
Dated at Des Moines, IA, Monday, October 18, 2004.

MARY MALONEY
POLK COUNTY TREASURER

Subscribed and sworn to before me on this
18th day of October, 2004.

by 
Second Deputy
(Treasurer's Seal)

by 
Notary Public in and for Polk County, IA
(Notary Seal)



PREPARED BY: Douglas T. Pitman, Property Description Technician

Page 1 of 1

RETURN TO:

Prepared by and after recording return to: Streetcar Cameron, 317 Smith Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

CONSENT TO PLAT

The undersigned, **WHITE BIRCH, L.L.C.**, as Fee Titleholder of the property legally described as:

Outlot "Y", The Village at White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,

and to be platted and known as The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, hereby states that the platting of the property is done with our free consent and open desire, pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

Dated this 12th day of September, 2005.

WHITE BIRCH, L.L.C., an Iowa Limited Liability Company

By *Ted A. Grob*
Ted A. Grob, Manager

STATE OF IOWA

:
: SS

COUNTY OF POLK

:

This instrument was acknowledged before me on the 12th day of August, 2005, by Ted A. Grob as Manager of White Birch, L.L.C.

Linda Aldrich

Notary Public in and for the State of Iowa

Linda Aldrich

Notarial Seal - IOWA

Commission No. 188049

My Commission Expires

12-23-05

Prepared by and after recording return to: Streeter Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

CONSENT TO PLAT

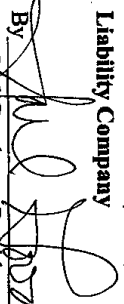
The undersigned, **Triton Homes, L.C.**, as contract purchaser, pursuant to an unrecorded purchase agreement, of the property legally described as:

Outlot "Y", The Village at White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,

and to be platted and known as The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, hereby states that the plating of the property is done with our free consent and open desire, pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

Dated this 1st day of September, 2005.

TRITON HOMES, L.C., an Iowa Limited Liability Company

By 
Joel Goodman, President

STATE OF IOWA

:
: SS

COUNTY OF POLK

:

This instrument was acknowledged before me on the 1st day of September, 2005, by Joel Goodman as President of Triton Homes, L.C.




Notary Public in and for the State of Iowa

Prepared by and after recording return to: Streeter Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50309 (515) 243-8157

CONSENT TO PLAT OF MORTGAGE

The undersigned, **LIBERTY BANK, F.S.B.**, as Mortgagee of the property legally described as:

Outlot "Y", The Village at White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa,
Iowa,

and to be platted and known as The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, pursuant to an Open-End Real Estate Mortgage given by White Birch, L.L.C., dated August 6, 2004, and filed August 13, 2004, in Book 10688, Page 882, of the records of the Recorder of Polk County, Iowa, and an Open-End Real Estate Mortgage given by White Birch, L.L.C., dated August 26, 2004, and filed August 27, 2004, in Book 10707, Page 179, of the records of the Recorder of Polk County, Iowa, hereby states that the plating of the property is done with our free consent and open desire pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

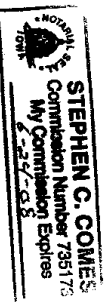
Dated this 7 day of September, 2005.

LIBERTY BANK, F.S.B.

By *[Signature]*
JEFF T. WALKER, JR. (Name)
Vice President (Title)

STATE OF IOWA :
COUNTY OF POLK : SS

This instrument was acknowledged before me on the 7th day of August, 2005, by Iskha T. Walker, Sr. as Vice President of Liberty Bank, F.S.B.



[Signature]
Notary Public in and for the State of Iowa

Prepared by and after recording return to: Streeter Cameron, 317 Sixth Avenue, Suite 300, Des Moines, Iowa 50319 (515) 243-8157

CONSENT TO PLAT OF MORTGAGEE

The undersigned, **Commercial Federal Bank, fsb**, as Mortgagee of the property legally described as:

Outlot "Y", The Village at White Birch Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa.

and to be platted and known as The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa, pursuant to a Construction Mortgage given by Triton Homes, L.C., dated September 29, 2005, and filed October 7, 2005, in Book 11328, Page 401, of the records of the Recorder of Polk County, Iowa, hereby states that the platting of the property is done with our free consent and open desire pursuant to the Code of Iowa and to the Ordinances of the City of Ankeny, Polk County, Iowa.

Dated this 25 day of Oct, 2005.

Commercial Federal Bank, fsb

By *Chris Watkins*
Chris Watkins (Name)
Vice President (Title)

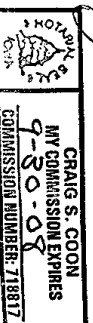
STATE OF IOWA :

: SS

COUNTY OF POLK :

This instrument was acknowledged before me on the 26th day of August, 2005, by Chris Watkins as Vice President of Commercial Federal Bank, fsb

Craig S. Coon
Notary Public and for the State of Iowa



Preparer Information: Michael J. Poggie, City of Ankeny, Iowa, 220 W First Street, Ankeny, IA 50023

Phone: 515-963-3558

RESOLUTION # 2005-423

RESOLUTION ACCEPTING FINAL PLAT, A LETTER OF CREDIT FOR SIDEWALKS, AND A LETTER OF CREDIT FOR EROSION CONTROL IN THE VILLAGE AT WHITE BIRCH PLAT 2 FINAL PLAT

WHEREAS, the Plan and Zoning Commission of the City of Ankeny, Iowa, recommended approval of The Village at White Birch Plat 2 Final Plat on the 6th day of September, 2005; and

WHEREAS, with resolution number 2005-393 the City Council accepted the performance and maintenance bonds for the underground improvements for the entire The Village at White Birch development; and

WHEREAS, the attorney's title opinion, a letter of credit for sidewalks, and a letter of credit for erosion control have been submitted and approved by the City Engineer of the City of Ankeny, Iowa.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANKENY, IOWA:

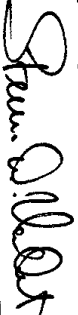
1. That the final plat of The Village at White Birch Plat 2 Final Plat is hereby approved.
2. That the private roads contained in The Village at White Birch Plat 2 Final Plat are hereby designated SW 30th Lane, SW Arlan Lane, and SW 32nd Lane for the purpose of assigning property addresses.

PASSED AND APPROVED this 19th day of September 2005.

ANKENY

ATTEST:

Steven D. Van Oort, Mayor Pro tem



Pamela DeMouth, City Clerk



CONNOLLY O'MALLEY LILLIS HANSEN OLSON LLP

ATTORNEYS AT LAW

WILLIAM J. LILLIS
RUSSELL J. HANSEN
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JOHN CONNOLLY, JR. (1891-1975)
GEORGE E. O'MALLEY (1905-1982)
JOHN CONNOLLY III (1918-1998)
BERNARD J. CONNOLLY (1920-1970)
C. I. MONTUTT (1901-1958)

ESTABLISHED IN 1917

Writer's Direct E-Mail: scameron@connollylawfirm.com

September 7, 2005

Triton Homes, L.C.
1802 S.E. Delaware Avenue, Suite 115
Ankeny, IA 50021

ATTORNEY'S TITLE OPINION
PURSUANT TO CHAPTER 354, CODE OF IOWA

Re: The Village at White Birch Plat 2

Dear Sir:

This letter will certify that I have examined the Abstract of Title last continued by American Abstract & Title Company in uncertified Pencil Notes No. 334819, Entry Nos. 1 through 5, to August 18, 2005, at 7:00 a.m.

**Outlot "Y", The Village at White Birch Plat 1, an Official Plat
now included in and forming a part of the City of Ankeny, Polk
County, Iowa;**

which Outlot "Y" is to be platted and known as The Village at White Birch Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

As of August 18, 2005, at 7:00 A.M., the proprietor and record fee titleholder to the property being platted as The Village at White Birch Plat 2 is **White Birch, L.L.C.**, subject to the following liens and objections:

1. Entry No. 57 of Abstract No. 316130 discloses an Open-End Real Estate Mortgage given by White Birch, L.L.C. to Liberty Bank, F.S.B. securing the principal sum of \$210,450.00, dated August 6, 2004, filed August 13, 2004, and recorded in Book 10688 at Page 882.

CONNOLLY O'MALLEY LILLIS HANSEN & OLSON LLC

September 7, 2005

Page 2

2. Entry No. 59 of Abstract No. 316130 discloses an Open-End Real Estate Mortgage given by White Birch, L.L.C. to Liberty Bank, F.S.B. securing the principal sum of \$5,700,000.00, dated August 26, 2004, filed August 27, 2004, and recorded in Book 10707 at Page 179.
3. The abstract indicates in a number of entries that direct access to Primary Road Number 415, and Northwest Polk City Drive are limited by the Iowa Department of Transportation.
4. Entry No. 66 of Abstract No. 316130 discloses Restrictive Covenants for Lots 1 through 9, White Birch Plat 1. Entry No. 67 discloses Restrictive Covenants for Lots 13 through 88, White Birch Plat 1. Neither of these documents affects the property under examination, however.
5. Entry No. 5 of Abstract No. 327740 discloses the Declaration of Covenants, Conditions, Easements and Restrictions for The Village at White Birch Townhomes filed November 17, 2004, in Book 10825, Page 590. This document allows the property under examination to be added to its terms.
6. Entry No. 13 of Abstract No. 327740 discloses an Underground Electric Line Easement given to Midamerican Energy Company filed March 22, 2005 in Book 10983 Page 650.
7. Entry No. 3 of the pencil notes discloses an Underground Electric Line Easement given to Midamerican Energy Company filed April 8, 2005 in Book 11009 Page 473.
8. The abstract discloses that all previously assessed special assessments have now been paid, and that the following real estate taxes relating to the property are unpaid:
 - a. Parcel 626-807-869
 - i. First Half - \$58.00; and
 - ii. Second Half - \$58.00.
9. No special assessments are shown in the abstract as relating to this property.

Dated this 7th day of September, 2005.

Sincerely,



Stuart Cameron
Secretary
For the Firm

SC:cs

CERTIFICATE OF TREASURER OF POLK COUNTY, IOWA

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Mary Maloney, Treasurer of Polk County, having examined the records of my office, in accordance with the provisions of Section 354.11 of the Code of Iowa pertaining to real property, described as follows, to-wit:

OUTLOT Y THE VILLAGE AT WHITE BIRCH PLAT 1

to be hereinafter designated as:

THE VILLAGE AT WHITE BIRCH PLAT 2

an Official Plat, Polk County, Iowa

do hereby certify that same is free from all certified taxes, special assessments and special rates and charges.

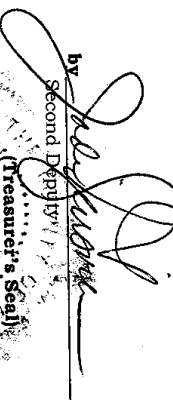
Nor are there any taxes due for Moneys and Credits, Bushels of Grain, Industrial Machinery, Data Processing Equipment, Utilities or Buildings on Leased Land against

WHITE BIRCH, L.L.C.,

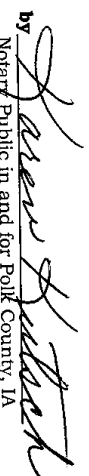
who is(are) the record title holder(s) of said real estate.

Dated at Des Moines, IA, Wednesday, September 07, 2005.

MARY MALONEY
POLK COUNTY TREASURER

by 
Second Deputy Treasurer
(Treasurer's Seal)

Subscribed and sworn to before me on this
7th day of September, 2005.

by 
Notary Public in and for Polk County, IA
(Notary Seal)



PREPARED BY: Douglas F. Pitman, Property Description Technician



New Owner Contact Request

Dear Owner,

Congratulations on the purchase of your new home. Sentry Management is honored to serve your community. After your closing, your title agent will provide us with a deed or settlement statement with your name and contact information so that we may create an account for you within the association's community records. Upon receipt of this information, we will create your new account and send you a welcome letter with important information, including your unique 16-digit account number, ways to access your free online Portal, and how to pay your assessments. To ensure that this information is sent to the correct location after your closing, we request that you provide your preferred contact information so that we can update the Association's records accurately.

PROPERTY INFORMATION

Name of Association: _____

Property Address: _____

NEW OWNER CONTACT INFORMATION

Buyer's Name(s): _____

Mailing Address: _____

Phone: _____ / _____ / _____

Email: _____ / _____

Buyer's Signature: _____
