

DEED OF EASEMENT

THIS DEED OF EASEMENT, made as of this 30th day of June, 1998, by and between Seneca Crossing Section I Homeowners Association, Inc. (the "Grantor"), and The Maryland-National Capital Park and Planning Commission, a body politic, (the "Grantee").

WITNESSETH:

WHEREAS, Grantee is a body politic and instrumentality of the State of Maryland created by Maryland law for the purpose generally of preserving and maintaining a county park system in Montgomery County, Maryland; and

WHEREAS, a Site Plan Enforcement Agreement affecting certain real property known as Parcel D, Block T, shown on a plat recorded in Plat Book 173 at Plat 19463 among the Land Records of Montgomery County, Maryland (the "Property") required protection of the archaeological, historic, aesthetic, cultural and scenic character of a portion of the Property shown as "Archaeological Conservation Easement" on the aforementioned plat ("Easement Area");

WHEREAS, this Deed of Easement (this "Deed") will promote the preservation and maintenance of the Easement Area and its archaeological, aesthetic, historic, cultural, and scenic character; and

WHEREAS, Grantee is possessed with the power and duty to accept, hold and administer this Deed of Easement; and

WHEREAS, this Deed of Easement is exclusively for conservation and study purposes.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Recitals set forth above shall be incorporated herein and form a part hereof by reference.

2. Grantor hereby grants and conveys to Grantee an easement in the Easement Area shown as "Archeological Conservation Easement" on a plat entitled "Parcels D and E -- Block T, SENECA CROSSING", and recorded in Plat Book 173, at Plat 19463 among the Land Records of Montgomery County Maryland (the "Easement") known as the Noursi Site, Maryland Historical Trust Site No. 18-MO-323. Such plat identifying the Easement Area being attached hereto and incorporated herein as Exhibit "A".

RECORDED
MONTGOMERY COUNTY
JUL 20 1998 02:00 PM

98 JUL 20 P 3:48 PM

NO NET - MCEPFC

3. The terms of the Easement are as follows:

(A) Duration and Nature of the Easement. The Easement shall be perpetual in duration. The parties agree that the benefit of the Easement is and shall be considered an easement in gross and as such is inheritable and assignable. The parties further agree that the burden of the Easement is and shall run with the land as an incorporeal property interest in the Property enforceable by Grantee and its successors, transferees and assigns with respect to the Property and against Grantor and Grantor's successors, transferees and assigns, all of whom are collectively referred to herein as "Grantee" and "Grantor", respectively. The Easement is subject to any and all presently existing valid encumbrances, easements and rights-of-way upon the Property.

(B) Public Access. Grantor shall make the Easement Area open to the public on a minimum of 2 days per year from 9:00 a.m. to 4:00 p.m., and at other times by appointment as may be determined by Grantor.

(C) Maintenance and Administration. Grantor shall keep and maintain the Easement Area in good, clean and safe condition, subject to the rights of others set forth in Sections B, E, and F hereof. Grantor shall maintain, repair and administer the Easement Area in a manner to preserve the archaeological, historic, aesthetic, scenic and cultural character and appearance of the Easement Area. The maintenance, repair and administration of the Easement Area shall further conform to the requirements of Paragraph D below. This covenant does not require reconstruction of improvements, if any, which are destroyed in whole or in part by casualty loss unless insurance proceeds are available for such purposes.

Similarly, during Grantee's occupation of or presence on the Property and/or Easement Area, in accordance with the terms and provisions of this Easement, Grantee shall keep and maintain the same in good, clean and safe condition and shall maintain, repair, administer, and conduct itself, its programs, and its presence on the Property and/or Easement Area in a manner to preserve the archaeological, historic, aesthetic, scenic and cultural character and appearance of the Property and/or the Easement Area.

(D) Archeological Resources. Without the express prior written consent of the Grantee, Grantor shall not cause, permit any grading, excavation, plowing, subsoiling, drainage improvement, landscaping or other undertaking which would materially disturb the surface or subsurface of the ground within the Easement Area. Prior to granting such consent, the Grantee may require the Grantor to perform a survey in order to identify and determine the significance of archeological deposits. If subsequently deemed necessary by the Grantee, the Grantor shall conduct, or cause to be conducted, data recovery, excavation, curation, documentation and reporting of the affected deposits (collectively "examination"), all in a form and substance reasonably satisfactory to the Grantee. Said examination shall be limited in scope and duration to not unreasonably interfere with the intended use of the Property, the surrounding tracts, or the nearby lot owners' enjoyment and use of their respective properties. The costs of the examination borne by Grantor shall not exceed Three Thousand Dollars, to be adjusted annually

by the Consumer Price Index for the Washington D.C. Metropolitan Area. All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent or minimize damage to the historic, aesthetic and cultural character of the Easement.

(E) Inspection. Grantee shall have the right to enter the Property to access the Easement Area after reasonable advance, written notice to Grantor for the purpose of inspecting the Easement Area to determine whether there is compliance by the Grantor with the terms of the Easement.

(F) Study. Upon three business days written notice, Grantor shall allow Grantee staff to enter the Easement Area for study purposes. Grantee agrees, for itself, its successors, and assigns, to restore any disturbances to the Property or the Easement Area arising from the aforementioned study or inspection; such that the Property and Easement Area will be restored to its condition prior to the commencement of the study or inspection. Furthermore, Grantee will use its best efforts to maintain the Easement Area in a good, clean, and safe condition during the term of the study or inspection.

(G) Breach. Upon any breach of the terms of the Easement by Grantor, Grantee shall provide Grantor with written notice of the alleged breach. Grantor shall have thirty (30) days after receipt of the notice in which to commence a cure or respond to Grantee's notice; or Grantee may exercise any or all of the following remedies:

(i) institute suit(s) to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction;

(ii) demand that the Easement Area be restored promptly to the condition required by the Easement; and

(iii) enter upon the Easement Area, correct any breach, and hold Grantor responsible for the resulting cost.

Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantee at law or equity. If Grantor is found to have breached any of Grantor's obligations under the Easement, Grantor shall reimburse Grantee for any costs or expenses incurred by Grantee, including court costs and reasonable attorneys' fees.

Upon any breach of the terms of the Easement by Grantee, Grantor shall provide Grantee with written notice of the alleged breach. Grantee shall have thirty (30) days after receipt of the notice in which to cure or respond to Grantor's notice; or Grantor may exercise any or all of the following remedies:

(i) institute suit(s) to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction;

(ii) demand that the Easement Area and/or Property be restored promptly to the condition required by the Easement, or in the case of damage to the Property, to the condition immediately prior to the occurrence of the damage; and

(iii) enter upon the Easement Area or the Property, correct any breach, and hold Grantee responsible for the resulting cost.

Grantor's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantor at law or equity. If Grantee is found to have breached any of Grantee's obligations under the Easement, Grantee shall reimburse Grantor for any costs or expenses incurred by Grantor, including court costs and reasonable attorneys' fees.

(H) Waiver. No waiver of any term or condition of the Easement shall have any force or effect unless the waiver is in writing and approved by the parties hereto. No failure on the part of any party hereto to enforce any covenant or provision herein nor the waiver of any right thereunder shall discharge or invalidate such covenant or provision or any other covenant, condition, or provision hereof, or affect the right of the party to enforce the same in the event of a subsequent breach or default.

(I) Consent, Disapproval and Appeal. In any event where the terms of the Easement require the consent of the Grantee, such consent shall be requested by notice to the Grantee and consent shall be deemed to have been given within forty-five (45) days after receipt of notice by the Grantee, unless the Grantee gives notice to the Grantor of specific reason for disapproval within the forty-five (45) days. In any event where the Grantee gives such notice of disapproval, Grantor may appeal the disapproval to the Grantee for review by it or by such person or agency as may be designated by it to make such review. Appeal shall be made by notice to the Grantee given within forty-five (45) days of receipt of notice of disapproval from the Grantee.

(J) Insurance and Indemnification. Both parties shall maintain, at all times, appropriate property and liability insurance for all risks associated with their respective use of and interest in the Easement Area. Grantee agrees to hold Grantor harmless and to indemnify Grantor from and against any and all claims, charges, costs, assessments, expenses, suits, judgments, or injuries arising from Grantee's or Grantee's guests or invitees use of, presence on, or occupancy of the Property or the Easement Area pursuant to the terms of this Easement.

(K) Notice. Any notice required to be given by the Easement shall be in writing and may be given by certified or registered mail, with postage prepaid and return receipt requested, if to the Grantor, addressed to the Grantor as follows:

Seneca Crossing Section I Homeowners Association, Inc.
Chambers Management Company
12501 Tech Road, Suite B
Silver Spring, MD 20904

or, if Chambers Management Company is no longer serving as the management company or agent of Grantor, the last address registered with the State Department of Assessments and Taxation of Maryland, or if to the Grantee addressed to the Grantee as follows:

The Maryland National-Capital Park and Planning Commission
Director, Montgomery County Department of Parks
9500 Burnett Avenue
Silver Spring, MD 20901

or to the Grantee at such other address as the Grantee may from time to time designate by notice to the Grantor. Any notice given in the foregoing manner shall be deemed to have been given upon receipt thereof, which shall be presumed to be two (2) days after the day notice has been deposited with the United States Post Office.

(L) Construction. The Easement is for the purpose of promoting and shall be construed to promote the purposes of the statutes creating and governing Grantee and of Section 2-118 of the Real Property Article of the Annotated Code of Maryland and to preserve the archaeological, historic, cultural, scenic and aesthetic character of the Easement Area.

(M) Subsequent Conveyance. Grantor agrees that the restrictions of the Easement will be inserted, verbatim or by express reference, in any subsequent deed or other legal instrument by which the Grantor's fee simple title to the Property or any other possessory interest in the Property, or any part thereof, is divested or conveyed.

(N) Transfer of Ownership. The Grantor agrees for itself, its successors, transferees and assigns, to notify the Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is being transferred before or within forty-five (45) days of the time the transfer is consummated.

The Grantee agrees for itself, its successors, transferees and assigns, to notify the Grantor in writing of the names and addresses of any party to whom the Easement, or any part thereof, is being transferred before or within forty-five (45) days of the time the transfer is consummated.

(O) Conservation Purposes. Grantee agrees that it will hold this Deed of Easement exclusively for conservation purposes i.e., that it will not transfer this deed whether or not for consideration. However, subject to the provisions of any applicable federal law, Grantee may assign or transfer its interest in this deed of Easement to a government unit or organization which qualifies at the time of the transfer as an eligible donee of this deed of Easement under any pertinent provisions of federal law.


(P) Property Right. Grantor agrees that the donation of this Deed of Easement gives rise to a property right, immediately vested in the Grantee. Grantor agrees to remain responsible for and to satisfy all real estate taxes due and payable for the Easement Area.

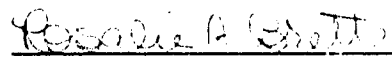
WITNESS THE FOLLOWING SIGNATURES AND SEALS:

ATTEST:

GRANTOR:

Seneca Crossing Section I Homeowners Association, Inc.

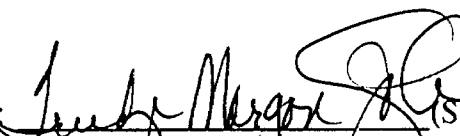

Secretary Jennifer Moren

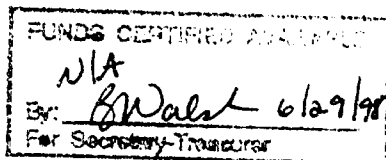
By:  (SEAL)
Rosalie A. Brett
Title: President

GRANTEE:

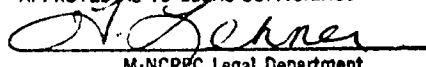
The Maryland-National Capital Park and Planning Commission


Secretary/Treasurer

By:  (SEAL)
Name: Trudye Morgan Johnson
Title: Executive Director



APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department
Date: 6/15/98

ACKNOWLEDGEMENTS TO FOLLOW

STATE of MARYLAND:

COUNTY OF MONTGOMERY: ss:

Prince Georges

I hereby certify that on this 34th day of June, 1998, before the undersigned, a Notary Public of the State of Maryland, and for the County aforesaid, personally appeared Rosalie A. Brett, who acknowledged herself to be the President of SENECA CROSSING SECTION I HOMEOWNERS ASSOCIATION, INC. being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

IN TESTIMONY WHEREOF, I have affixed my official seal.

Teresa L. Thomas
Notary Public

My Commission Expires: TERESA L. THOMAS
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 10, 1999



STATE of MARYLAND:

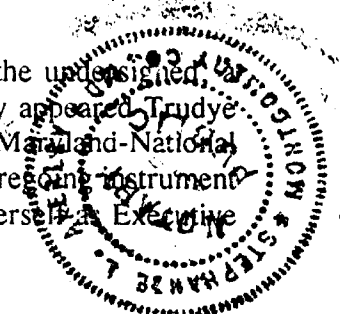
COUNTY OF MONTGOMERY: ss:

I hereby certify that on this 30th day of June, 1998, before the undersigned, Notary Public of the State of Maryland, and for the County aforesaid, personally appeared Trudy Morgan Johnson, who acknowledged herself to be the Executive Director of The Maryland-National Capital Park and Planning Commission, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the Commission by herself as Executive Director.

IN TESTIMONY WHEREOF, I have affixed my official seal.

Stephanie L. Atterley
Notary Public Stephanie L. Atterley

My Commission Expires: 11/19/00



This is certify that the within instrument was prepared by or under the supervision of the undersigned, attorney duly admitted to practice before the Court of Appeals of Maryland..

Susan M. Warrenfeltz
Susan M. Warrenfeltz, Esquire

AFTER RECORDING RETURN TO:

Mr. William E. Gries
Land Acquisition Specialist
The Maryland-National Capital Park
& Planning Commission
9500 Burnett Avenue
Silver Spring, Maryland 20901

BRINK ROAD PREVIOUSLY DEDICATED R/W - P.B. 172 P. 19330

DEDICATED R/W - 23,491 SQ. FT. OR 0.5393 AC.

SENECA CROSSING DRIVE

PARCEL E
580,399 SQ. FT.
OR
12.8650 AC.

NOTES:

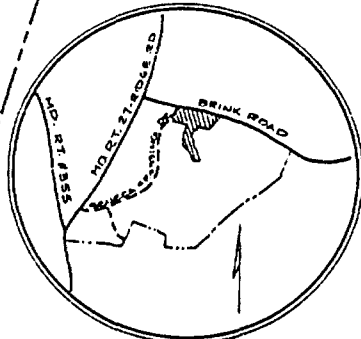
1. THIS LAND IS ZONED RE-2/TDR AND IS BEING DEVELOPED UNDER THE PROVISIONS OF SECT. 89-C-1.395, MONTGOMERY COUNTY ZONING ORDINANCE, USING THE STANDARDS OF THE R-30 ZONE (1990 OPTION). NO TIME IS REQUIRED FOR THIS PLAT.
2. DEVELOPMENT IS SUBJECT TO AN AGREEMENT WITH THE MONTGOMERY COUNTY PLANNING BOARD REGARDING ADEQUATE PUBLIC FACILITIES.
3. THIS DEVELOPMENT IS SUBJECT TO THE TERMS OF A SITE PLAN ENFORCEMENT AGREEMENT (M-NCPPC FILE NO. 8-91013).
4. THE OPEN SPACE PARCELS SHOWN HEREON ARE SUBJECT TO THE TERMS AND PROVISIONS OF COVENANTS RECORDED IN LIBER J2222, FOLIO 17.
5. OPEN SPACE PARCEL "M", SHOWN HEREON, IS DEDICATED TO THE USE OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION BY THIS PLAT. OPEN SPACE PARCEL "M" WILL BE CONVEYED TO THE SENeca CROSSING HOMEOWNERS' ASSOCIATION.
6. LIMITS OF ARCHAEOLOGICAL CONSERVATION EASEMENT.
7. SB - STREAM BUFFER LINE.
8. FP - LIMITS OF FLOOD PLAIN.
9. FPR - FLOOD PLAIN BUILDING RESTRICTION LINE.

NOTES:

10. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDED OF THIS PLAT, UNLESS EXPRESSLY CONTAINED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.
11. THIS DEVELOPMENT COMPLIES WITH CHAPTER 28-A OF THE MONTGOMERY COUNTY CODE TO PROVIDE MODERATELY PRICED HOUSING UNITS.

VICINITY MAP

SCALE: 1" = 2000' TAN MAP: FV122



OWNER'S DEDICATION AND CERTIFICATION

WE, THE UNDERSIGNED, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY DEDICATE THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES, DEDICATE THE STREETS TO PUBLIC USE, AND GRANT TO MONTGOMERY COUNTY, MARYLAND, SLOPE EASEMENTS 25 FEET WIDE, OR AS MAY BE SHOWN OTHERWISE HEREON, ADJACENT, PARALLEL AND CONTIGUOUS TO THE STREET RIGHT-OF-WAY LINES. SLOPE EASEMENTS SHALL BE AUTOMATICALLY EXTINGUISHED AFTER ALL REQUIRED PUBLIC IMPROVEMENTS ANYTHING SAME HAVE BEEN COMPLETELY COMPLETED AND HAVE BEEN ACCEPTED FOR MAINTENANCE BY MONTGOMERY COUNTY OR OTHER APPROPRIATE PUBLIC AGENCY.

WE HEREBY DEDICATE PARCEL "M" OF BLOCK "T", SHOWN HEREON, TO THE USE OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION. WE HEREBY GRANT TO THOSE PARTIES LISTED IN THAT CERTAIN DECLARATION RECORDED IN LIBER 3084 AT FOLIO 487 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, TEN (10) FEET WIDE PUBLIC UTILITY EASEMENTS, DESIGNATED HEREON AS "P.U.E.", SUBJECT TO THE TERMS AND PROVISIONS FOR PUBLIC UTILITY EASEMENTS INDICATED WITHIN SAID DECLARATION.

AS OWNERS OF THIS SUBDIVISION, WE, OUR SUCCESSORS AND ASSIGNS SHALL CAUSE PROPERTY CORNER MARKERS TO BE SET BY A REGISTERED MARYLAND LAND SURVEYOR, IN ACCORDANCE WITH SECTION 90-24 (H.2) OF THE MONTGOMERY COUNTY CODE.

THERE ARE NO SUITS, ACTIONS AT LAW, LEASES, LIENS OR TRUSTS ON THIS PROPERTY.

FOR WINCHESTER HOMES, INC.

Patricia Byrnes 4/15/94 *Sally M. Seiler* 4-15-94
DATE SALLY M. SEILER, ASSIST. V.P.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF AND INFORMATION AND THAT IT IS A SUBDIVISION OF PART OF THE 208.80 ACRES PARCEL OF LAND CONVEYED BY M.S. GERHARTMAN ASSOCIATES TO WINCHESTER HOMES, INC., BY DEED DATED DECEMBER 15, 1993 AND RECORDED IN LIBER 12133 AT FOLIO 621 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

I FURTHER CERTIFY THAT IRON PIPES WILL BE SET TO FINISHED GRADE IN ACCORDANCE WITH SECTION 90-24 (H.2) OF THE MONTGOMERY COUNTY CODE. THE TOTAL AREA OF THIS PLAT IS 740,440 SQUARE FEET OR 17.0032 ACRES OF LAND.

FOR DEWBERRY & DAVIS

Eric V. Davis
ERIC V. DAVIS
PROFESSIONAL LAND SURVEYOR
MARYLAND REGISTRATION NO. 10773

RECORD SUBDIVISION PLAT
PARCELS D AND E - BLOCK T

SENECA CROSSING
GAITHERSBURG (9TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

SCALE: 1" = 100' DATE: MAY 1992

INSET
ARCHAEOLOGICAL CONSERVATION EASEMENT

SCALE: 1" = 100'

PARCEL D
156,770 SQ. FT.
OR
3.5990 AC.

NOTE: ARCHAEOLOGICAL EASEMENT TO BE CONVEYED TO MNCPPC IN A DOCUMENT TO BE RECORDED.

THE APPROVAL OF THIS PLAT IS PREDICATED ON THE ADEQUACY AND AVAILABILITY OF PUBLIC WATER AND SEWER

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD

APPROVED: APRIL 21, 1994

Barbara C. Lippert
CHAIRMAN ASST. SECRETARY-TREASURER

M-NCPPC RECORD PLAT FILE NO. 523-70 294217

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF TRANSPORTATION

APPROVED: AUGUST 8, 1994

Robert D. Thompson
BY: FOR DIRECTOR

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION

APPROVED: AUGUST 12, 1994

Steve Hargis
BY: FOR DIRECTOR

RECORDED
9994

PLAT BOOK
173

PLAT NO.
19463

DEWBERRY & DAVIS

ARCHITECTS ENGINEERS PLANNERS SURVEYORS
804 WEST DIAMOND AVENUE
GAITHERSBURG, MARYLAND 20878
(301) 946-8300

COMPUTED BY: DRAWN BY: CHECKED BY: 28



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION9500 Brunett Avenue
Silver Spring, Maryland 20901Clerk of the Circuit Court
Judicial Center
Rockville, Maryland 20850

Dear Clerk:

Please record among the Land Records of Montgomery County, Maryland the attached document on behalf of The Maryland-National Capital Park and Planning Commission. The Commission is a State-created agency authorized to buy, sell and otherwise dispose of real property interests pursuant to Article 28 of the Annotated Code of Maryland and is exempt from transfer and recording fees.

Your cooperation in this regard is appreciated.

Sincerely,

A handwritten signature in cursive script, reading "William E. Gries".

William E. Gries
Land Acquisition SpecialistWEG/mk
enclosure