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BARBARA A. WIEDENBEIN
CLERK OF COMMON PLEAS COURT
CLERMONT COUNTY, OH

**IN THE COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO**

**CINCINNATI NATURE CENTER,
4949 Tealtown Road
Milford, Ohio 45150**

Case No.: _____

Judge _____

and

2018 CVH 01675 JUDGE BROCK

**COMMITTEE TO PROTECT AVEY'S
WAY
4664 Rustic Way
Cincinnati, Ohio 45245**

and

**MARIA JO KERI
4664 Rustic Way
Cincinnati, Ohio 45245**

**COMPLAINT FOR DECLARATORY
JUDGMENT**

and

**ANNE ROBINSON
1092 Valleywood Drive
Batavia, Ohio 45103**

Plaintiffs,

v.

**UNION TOWNSHIP, CLERMONT
COUNTY, OHIO,
4350 Aicholtz Road
Cincinnati, Ohio 45245**

and

**BOARD OF TRUSTEES OF UNION
TOWNSHIP,
4:350 Aicholtz Road
Cincinnati, Ohio 45245**

and

**ANGELEKE TSIRIBAS SANSALONE
C/O Camden MGMT
PO Box 960
Milford, Ohio 45150**

Defendants.

Plaintiffs, the Cincinnati Nature Center, the Committee to Protect Avey's Way, Maria Jo Keri, and Anne Robinson, for their complaint for declaratory judgment against Defendants, Union Township, Clermont County, Ohio; Board of Trustees of Union Township; and Angeleke Tsiribas Sansalone, hereby state as follows:

NATURE OF THE ACTION

1. This action arises from the proposed development of the real property consisting of approximately 271 acres located on the east and west sides of Rumpke Road and north of Deervalley Drive and Surrey Trail in Union Township, Clermont County, Ohio (the "Property"), as described in more detail on Appendix A, that is contrary to the current zoning designation of the Property as set forth in the Zoning Resolution for Union Township, Ohio (Clermont County) and a recorded Agreed Judgment Entry and Consent Decree.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff Cincinnati Nature Center ("CNC") is a registered corporation for non-profit under the laws of the state of Ohio. Its principal place of business is 4949 Tealtown Road, Milford, Ohio 45150.

3. Plaintiff Committee to Protect Avey's Way is a Legislative Campaign Fund committee organized under the laws of the state of Ohio. It has been organized to promote a

referendum petition challenging the rezoning of the Property. Its address is 4664 Rustic Way, Cincinnati, Ohio 45245.

4. Plaintiff Maria Jo Keri is a resident and property owner within Union Township, Clermont County, Ohio. Such property is located at 4664 Rustic Way, Cincinnati, Ohio 45245.

5. Plaintiff Anne Robinson is a resident and property owner within Union Township, Clermont County, Ohio. Such property is located at 1092 Valleywood Drive, Batavia, Ohio 45103.

6. Defendant Union Township is a township organized under the laws of the State of Ohio located in Clermont County, Ohio.

7. Defendant Board of Trustees of Union Township (“Board of Trustees” or “Trustees”) is the governing body for Union Township, Clermont County, Ohio.

8. Defendant Angeleke Tsiribas Sansalone is the owner of the Property.

9. Defendant Trustees have the authority to regulate the zoning of property located in the unincorporated areas of Union Township which is governed by strict compliance with Chapter 519 of the Ohio Revised Code.

10. Plaintiff CNC owns property in Union Township that is adjacent to the Property and as such is an interested party under any Union Township resolution affecting its property or the Property. R.C. §2721.03.

11. Plaintiffs Mari Jo Keri, Anne Robinson, and the members of Committee to Protect Avey’s Way own property in Union Township and as such are interested parties under any Union Township resolution. R.C. §2721.03.

12. This Court has jurisdiction over this matter based on Ohio Revised Code § 2721.01 *et seq.*

13. Some of the claims alleged herein arise under the First, Fifth and Fourteenth Amendments to the Constitution of the United States and are actionable through 42 U.S.C. §1983.

14. This Court has jurisdiction over those claims pursuant to 42 U.S.C §1983 and *Martinez .v. California* (1980), 444 U.S. 277.

15. Venue is proper before this Court because all or part of the activity that gave rise to the claims occurred within Clermont County, the Property involved in the claims is located in Clermont County, and because the Township Defendants are, or are part of, Union Township which is located within Clermont County.

ALLEGATIONS

16. According to the Clermont County Auditor, the Property was initially owned by the Coolock Corporation. It was transferred from the Coolock Corporation to the Sisters of Mercy of Clermont in 1997, then to Anthony M. Sansalone, Trustee in 1998, and once more to the current owner, Angeleke Tsiribas Sansalone, in 2009.

17. CNC is the owner of real property, known as “Rowe Woods”, located at 4949 Tealtown Road, Milford, Ohio 45150. Rowe Woods is located adjacent to and borders the Property and spans over 1016 acres (including 65 Acres of Old Growth Forest) offering more than 16 miles of hiking trails. It is a natural gem for Union Township and the entire region; it attracts 220,000 visitors to the area yearly. In August of 1993, John Sansalone (“Sansalone”), a developer, sought to develop the Property. The initial development plan consisted of 497 residential dwelling units. In order to accomplish this plan, Sansalone submitted an application to Union Township to change the zoning designation of the Property from “R-1” and “S-1” to “R-4”. The R-1 district provides for single family detached homes with a minimum lot area of

20,000 square feet. The S-1 district provides for single family detached homes with a minimum lot area of two acres. Sansalone sought to rezone the property in order to allow for the development of townhouses, condominiums, and apartments on the Property rather than restricting it to single-family detached homes.

18. Through public hearings and written objections, the residents of Union Township voiced their overwhelming disapproval of the proposed rezoning and development of the Property. The major concerns consisted of increased traffic and inefficient traffic patterns, extra stress on emergency services, sewage runoff and other contamination of Rowe Woods, and the development being incompatible with the surrounding homes due to the proposed smaller lot sizes and shared-wall dwellings.

19. On August 9 and 16, 1993, the Union Township Zoning Commission held public hearings on the proposed development. At the conclusion of the August 16 meeting, the Zoning Commission recommended that the proposed amendment be denied.

20. On September 21, 1993, the Board of Trustees held a public meeting, and adopted the Zoning Commission's recommendation to reject the proposed amendment.

21. As a result of the denial, the owners of the Property brought a lawsuit against Union Township in the Clermont County Court of Common Pleas to challenge Union Township's denial of the proposed zone change. In or about 1996, the Court upheld Union Township's rejection of the development. Sansalone appealed that ruling to the 12th District Court of Appeals, who affirmed the lower court's decision to uphold Union Township's rejection of the development. *See Rumpke Rd. Dev. Corp. v. Union Twp. Bd. of Trustees*, 115 Ohio App. 3d 17.

22. The owners of the Property then presented a development plan to divide the Property and sought a variance to reduce the minimum lot size requirements which was denied by the Union Township Board of Zoning Appeals. The owners of the Property appealed the denial to the Clermont County Court of Common Pleas and the 12th District Court of Appeals, both of whom affirmed the decision of the Board of Zoning Appeals to deny the variance. *See Rumpke Rd. Dev. Corp. v. Union Twp. Bd. of Zoning Appeals*, 1997 Ohio App. LEXIS 611.

23. In 1998, Rumpke Road Development Corporation and Anthony M. Sansalone, Trustee, as successors in interest to the Property and Sansalone, filed a complaint for a declaratory judgment and money damages in the United States District Court for the Southern District of Ohio against Union Township, the Union Township Board of Trustees, and the Union Township Board of Zoning Appeals.

24. The plaintiffs in the 1998 law suit challenged the constitutionality of the zoning designation of the Property. At that time, the Property was zoned as "R-1" Single Family Detached Residential Structure Zone and "A-1" Agricultural Conservation Zone, which became known as the "ER" Estate Residential District pursuant to the Zoning Resolution of Union Township. Both the "A-1" and "ER" designations allow for, "[s]ingle family dwellings such that there shall be a restriction of one single-family detached dwelling unit per lot." Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Sections 610.

25. Similar to the previous lawsuits, the plaintiffs in the 1998 action desired to develop the Property as a planned single family housing residential community.

26. The parties of the 1998 lawsuit settled the case, the terms of which were memorialized in an Agreed Judgment Entry and Consent Decree ("Consent Decree") approved

by the court on June 26, 2000, and recorded in the Clermont County real property records at Book 1274, Page 1867, Instrument number 200000020370, and attached hereto as Appendix B.

27. The Consent Decree identified the Property and established that the Property was zoned as "R-1" Single Family Detached Residential Structure Zone and "A-1" Agricultural Conservation Zone, known as "ER" Estate Residential District. [Appendix B, Page 3]. Due to "the special characteristics and unique special features" of the Property, the Consent Decree reduced certain restrictions on lot area, lot width and setbacks contained in the "R-1" and "ER" zoning districts as they applied to the Property. [Appendix B, Page 3]. However, the Consent Decree specifically memorialized and explicitly affirmed the fact that the "R-1" and "ER" designations remained on the property. By reducing the required lot areas, lot widths, and setbacks required by the zoning district, the Consent Decree permitted the plaintiffs to develop the Property as a single family detached housing residential community of varying lot sizes, recreational facilities, and open spaces that were otherwise in accordance with the "R-1" and "ER" zoning designations. [Appendix B, Page 4]. More specifically, the settlement plan attached to the Consent Decree provided for building not more than 575 detached units with lots of varying sizes, such lots being no less than 20,000 square feet in some areas and no less than 30,000 square feet in others. [Appendix B, Page 4]. Additionally, there were restrictions as to the size of the houses to be built, 1400 square feet to 1700 square feet, as well as age requirements for the occupants of homes built within specific areas. [Appendix B, Page 5]. Further requirements of the development were listed throughout the Consent Decree such as the installation of roads, traffic signals, and the donation of portions of the Property to Union Township or to the CNC to be used by the public. [Appendix B, Page 5-8].

28. The clear intent of the Consent Decree was to allow development of the Property that would be consistent with the current zoning and the existing uses of the surrounding area, single family detached homes with large lots, and prohibit development of multi-family homes and structures with shared walls that would be incompatible with the community and against the wishes of its residents.

29. The Consent Decree also specified how changes could be made to the settlement plan: “[a]ny changes, amendments, or revisions to the terms and provisions hereof shall be in writing and shall be subject to the approval of both Plaintiff and Defendant neither of whom shall unreasonably withhold its consent.” [Appendix B, Page 8]. For minor changes:

“[n]otwithstanding the foregoing, any minor modifications to the Settlement Plan, Exhibit “B” hereto, can be approved by Defendant’s Director of Planning and Zoning, said minor modifications being anything that does not increase the number of approved dwelling units, materially decrease any required setback, materially change the layout as shown on Exhibit “B” hereto, or eliminate any of the open space shown on Exhibit “B” hereto.

[Appendix B, Page 8-9].

For other changes, “[m]ajor changes to the Settlement Plan, Exhibit “B” hereto, proposed by Plaintiff may be approved by Defendant in its reasonable discretion”. [Appendix B, Page 9].

30. Furthermore, the Consent Decree did not limit Union Township’s ability to re-zone the Property in the future, rather it affirmed it. It states,

“Nothing herein shall affect or impair Defendant’s right to zone or rezone property, to amend its zoning text or zoning map, or to bind future elected officials of Union Township with respect to the zoning of the Property.” [Appendix B, Page 9].

However, further zoning of the Property would not affect the plaintiffs under the 1998 action from developing the Property according to the Consent Decree.

31. By including within the Consent Decree the ability of Union Township to change the zoning of the Property in the future, the parties affirmed that, other than the items specifically addressed in the Consent Decree, all other zoning requirements applied to the property. Nothing in the Consent Decree “unzoned” the property, rather the Consent Decree validated the current zoning, specifically finding that the Township, through the Trustees, obtains its “authority to regulate zoning in the unincorporated area of Union Township, Clermont County, Ohio, pursuant to Chapter 519 of the Ohio Revised Code.” [Appendix B, Page 3]. Nothing in the Consent Decree exempted this property or relieved the Township and the Trustees from following the mandatory procedures for zoning and rezoning property as outlined in R.C. §519.12. Modifications to the Consent Decree should be limited to minor changes and limited major changes that would be consistent with the development plan approved in the Consent Decree.

32. At some point in time following the execution of the Consent Decree, and without following the rezoning procedure set forth in the Ohio Revised Code, Union Township changed the zoning designation of the Property on its official zoning map from “R-1” and “ER” districts, to the “R-4” Single Family Variable Structure Residential Zone. Union Township has explained

that it chose this designation because it most closely matched the development concept described in the Consent Decree. This change did not follow the mandatory requirements of R.C. §519.12 and is therefore invalid.

33. The “R-4” zoning district allows for both single family detached units of the type allowed under “R-1” as well as, “[s]ingle family dwelling units in a variety of structures either detached or having common walls or other physically shared attachments in a clustering of units to include, but not necessarily limited to: townhouses, quadrominiums, patio homes, stacked units, etc., at a density that is consistent with the characteristics of the development and the use of the land.” Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Section 651(2). Notably, it does not permit multi-family housing.

34. By agreeing to the Consent Decree, the plaintiffs waived and released any further claims that the zoning on the property was illegal or improper. The plaintiffs in the Consent Decree could not credibly threaten any legal argument to justify any alteration of the terms of their agreement.

35. Despite the lengthy litigation and resulting Consent Decree, the plaintiffs, and the successors in interest to the owners of the Property, did not proceed with the proposed development.

36. In 2014, Fischer Homes proposed a new type of development for the Property. It was structured very similar to the previous proposed developments for the Property (including townhomes and apartments) and met the same staunch opposition. The concerns regarding the incompatibility of the development with the existing residential area, and the general disapproval of the residents, were communicated directly to the Board of Trustees.

37. Trustee John McGraw stated in an email regarding the proposal that development of the Property was governed by the Consent Decree, and that the developer could only build what was permitted under the Consent Decree. Consequently, this proposed development was abandoned as well.

38. In an e-mail dated December 12, 2014 from Trustee John McGraw to Julie Bohl, a resident of Union Township, Trustee McGraw stated that no development of the Property, other than that described in the Consent Decree, would move forward without the owner of the land asking the court to modify the Consent Decree.

39. In 2017, Fischer Homes proposed another development of the Property (the "Miller Place Development"). The Miller Place Development plan consists of approximately 1,445 units, being designated as 875 multi-family units, 400 single family units, and 250 units that may either be single family or multi-family. This is in direct contradiction to the zoning requirements of the Consent Decree and the "R1" District and "ER" Estate Residential District designations. Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Sections 610 and 620.

40. In an e-mail dated March 1, 2017 from the Union Township administrator, Ken Geis, to Union Township Trustee John McGraw, Geis claimed that the zoning of the Property is irrelevant, and that the Consent Decree controls the development of the Property.

41. Plans for the Miller Place Development continued into 2018. On July 24, 2018, the developer, in a public forum, presented yet another plan to develop the property where substantial opposition was heard by the public. There were numerous e-mails and comments submitted to the Board of Trustees from the surrounding property owners detailing their many concerns with the Miller Place Development.

42. A substantive list of the residents' complaints is attached as Appendix C. It details eleven concerns consisting of: 1) hardships due to changing septic systems to the public sewer; 2) loss in property values due to the small sizes of the proposed lots; 3) roadway congestion; 4) noise; 5) storm water runoff; 6) environmental concerns due to the nature of the Property; 7) safety hazards and other concerns caused by construction; 8) prior land use plans that state there was already an overabundance of multi-family and apartment housing in Union Township; 9) the Board of Trustees already agreed to maintain, and not increase, existing levels of multi-family housing, pursuant to a resolution; 10) the focus of the development was on business and tax revenues and not the well-being of the residents; and 11) a desire of the residents of Union Township to preserve the peaceful setting, larger lots, and current configuration of the neighborhood. [Appendix C]. These complaints were also vocalized to the Board of Trustees and Fischer Homes at several public meetings that took place between July and October of 2018.

43. In response, at least one Township Trustee, John McGraw, represented that the July 24th presentation was not an actual proposal, but rather merely a "concept plan". For instance, in a July 25, 2018 email to a resident, Mr. Timothy Bausch, (copied to various village officials, including the other two trustees), he stated,

"So far what the developer has shown is only a concept plan and has not been formally presented to the Board of Trustees.

If there are plans to move forward, our Administration would contact all the affected homeowners to discuss any plans and possible impact. They would also present options and actions necessary. If the plan were to move forward, there would have to be review and approval by the Clermont County Engineer and our

Township Planning Department. The idea of having the developer make a presentation last night and on a previous meeting was to inform the residents of the concept plan so everyone would be informed and residents could give feedback. We did not contact you directly **because this plan is not a plan that is on the agenda of the Trustees and until it is approved and all the proper steps have been taken, we will not vote to change anything.**”

Emphasis added. [Appendix F].

44. In addition to these written and verbal complaints, 25 residents filed a petition to the Board of Trustees opposing the Miller Place Development on or about October 19, 2018. The petition is attached as Appendix D.

45. Despite the overwhelming opposition to this Miller Place Development “concept plan” from the residents of Union Township and CNC, the Miller Place Development being in direct violation of the Consent Decree and “R-1” and “ER” Estate Residential District zoning designations affirmed for the Property by the court, and it being incompatible with the current community, the developer continued to discuss its plans with the Board of Trustees.

46. On October 25, 2018, the Board of Trustees passed Resolution 2018-52 approving the Miller Place Development (the “Resolution”). The Resolution approved an altered plan to the “concept plan” that was not presented to the public or the Board of Trustees. The Resolution did so with no public hearing on any later submitted “formal plan”, much less this plan. Further, despite the representation made by Township Trustee McGraw in his July 25, 2018 email that the presentation on July 24, 2018 was nothing more than a “concept plan” the Resolution described

the July 24, 2018 presentation as “proposed major changes to the Settlement Plan for Miller Place which were presented to the public at a duly noticed public hearing”. [Appendix E].

47. The plan set forth in the Resolution is not consistent with the approved Comprehensive Land Use Plan for the Union Township, as required by the Ohio Revised Code.

48. By passing the Resolution, the Board of Trustees approved a development plan that violates the Consent Decree and Ohio Law by dramatically increasing the density of the development, and rezoning the Property by permitting a use (multi-family) that is not permitted under the Consent Decree, the “R-1” or “ER” Estate Residential District. [Appendix E].

UNION TOWNSHIP ZONING PROCEDURES

49. The procedure to amend the zoning resolution of a township is governed by R.C. §519.12, *et. seq.*

50. An amendment to the zoning resolution may be initiated by motion of the township zoning commission, by the passage of a resolution by the board of township trustees, or by the filing of an application by one or more of the owners or lessees of property within the area proposed to be changed or affected. R.C. §519.12(A)(1).

51. Upon the acceptance of a motion, the certification resolution, or the filing of an application, the township zoning commission shall set a date for a public hearing, not less than twenty nor more than forty days from the date of the acceptance, certification, or filing. R.C. §519.12(A)(2). Notice of the hearing must be given by the zoning commission by publication in one or more newspapers of general circulation in the township at least ten days before the date of the hearing. R.C. §519.12(A)(2).

52. If the area that is to be rezoned is ten or fewer parcels of land, written notice must also be mailed to all owners of property within and contiguous to and directly across the street

from the area proposed to be rezoned. R.C. §519.12(B). Such notice must contain the name of the township zoning commission conducting the hearing, a statement indicating that the meeting is in regards to an amendment to the township's zoning resolution, a list of all addresses of the properties to be rezoned, the present zoning classification of the property, the time and place where the proposed amendment may be examined, the name of the person responsible for giving notice of the hearing, a statement that after the hearing, the matter will be submitted to the board of township trustees for its action, and any other information requested by the zoning commission. R.C. §519.12(C).

53. Within five days of the acceptance of a motion, the certification resolution, or the filing of an application to rezone an area, the township zoning commission must transmit a copy of the proposed amendment, and supporting materials, to the county or regional planning commission. R.C. §519.12(E). The county or regional planning commission shall recommend the approval or denial of the proposed amendment. The County Planning Commission prior to making its recommendation typically will consider whether the proposal is consistent with the approved plan and the effect of the proposal on the neighborhood, roadways, drainage, sewage, public services and any other reasonable effect. This recommendation shall be considered at the public hearing regarding the proposed rezoning. R.C. §519.12(E). This allows these matters to be fully considered prior to any actual rezoning of property, after which it is often too late to mitigate any negative effects of the zone change.

54. Thirty days after the public hearing, the township zoning commission shall recommend the approval or denial of the proposed amendment and submit its recommendation, along with the recommendation of the county to its board of township trustees. R.C. §519.12(E). In considering whether or not to recommend approval, a zoning commission typically will

consider whether the proposal is consistent with the approved plan and the effect of the proposal on the neighborhood, roadways, drainage, sewage, public services and any other reasonable effect. This allows these matters to be fully considered prior to any actual rezoning of property, after which it is often too late to mitigate any negative effects of the zone change.

55. The board of township trustees must then set a time for a public hearing on the proposed amendment no more than thirty days from when it received the recommendation from the commission. R.C. §519.12(E). Notice of the hearing must be given by the board by publication in one or more newspapers of general circulation in the township, at least ten days before the date of the public hearing, and contain specific information as to the proposed amendment. R.C. §519.12(E).

56. Within twenty days after the public hearing, the board of township trustees shall either adopt or deny the recommendations of the township zoning commission. R.C. §519.12(H). If adopted, the amendment shall become effective thirty days after the date of its adoption, unless, within 30 days after the adoption, there is presented to the board of township trustees a petition requesting the board of township trustees to submit the amendment to the electors of that area for approval or rejection at a special election. R.C. §519.12(H).

57. Within two weeks after receiving the petition, the board of township trustees shall certify the petition to the board of elections. If the board of election determines that the petition is valid, then the question shall be voted upon at a special election. R.C. §519.12(H).

58. No amendment for which a referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. R.C. §519.12(H).

COUNT I
(Declaratory Judgment under R.C. §2721.01, et. seq.)

59. Plaintiffs incorporate by reference the foregoing paragraphs.

60. According to the Consent Decree, the zoning designation of the Property is “R-1” and “ER” Estate Residential District.

61. Pursuant to Article 6, Section 620 of the Union Township Zoning District “[t]he purpose of the “R-1” Single Family Detached Structure Residential Zone is to provide land for single family detached housing units”. Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Section 620. Furthermore, the first “Principal Permitted Use” of the Property under this designation is, “[s]ingle family detached dwellings such that there shall be a restriction of one single-family detached dwelling unit per lot, and lot area shall be a minimum of twenty thousand square feet.” Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Section 621.

62. Pursuant to Article 6, Section 610 of the Union Township Zoning Resolution, “[t]he purpose of the “ER” Estate Residential District is to promote an exclusive area for increased property value projects while controlling indiscriminate development which can adversely affect the current open space and agricultural uses within the zone.” Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Section 610. Furthermore, the first “Principal Permitted Use” of the Property under this designation is, “[s]ingle family dwelling such that there shall be a restriction of one single-family detached dwelling unit per lot, and lot area shall be a minimum of two acres.” Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Section 611.

63. Even under the “R-4” Single Family Variable Structure Residential Zone identified on the zoning map, the first “Principal Permitted Use” of the Property under this

designation is, “[s]ingle family detached dwellings as regulated in the “R-1” Single Family Detached Structure Residential Zone.” Zoning Resolution Union Township, Ohio (Clermont County) Article 6, Section 651.

64. Although the Consent Decree does allow for the development to include lot sizes that do not meet the minimum lot size in the underlying zoning districts, it does not allow for multi-family uses. Further, there are no permitted uses, conditional uses, accessory uses, or exceptions of any kind that would allow for multi-family housing within the “R-1”, the “ER” or the “R-4” Districts.

65. The Resolution approves the Miller Place Development with up to 1125 multi-family housing units. This Resolution is unreasonable, inconsistent with the Township’s Comprehensive Plan, and violates the Consent Decree and Ohio Law.

66. As interested parties under the Resolution and Ohio law, pursuant to Ohio Revised Code § 2721.01 *et seq.*, Plaintiffs are entitled to a declaration from this Court, declaring that the Resolution is in violation of the Union Township Zoning Resolution and Consent Decree.

COUNT II
(Declaratory Judgment under R.C. §2721.01, *et. seq.*)

67. Plaintiffs incorporate by reference the foregoing paragraphs.

68. The Consent Decree specifies how changes may be made: “[a]ny changes, amendments, or revisions to the terms and provisions hereof shall be in writing and shall be subject to the approval of both Plaintiff and Defendant neither of whom shall unreasonably withhold its consent.” [Appendix B, Page 8]. For minor changes, “[n]otwithstanding the foregoing, any minor modifications to the Settlement Plan, Exhibit “B” hereto, can be approved by Defendant’s Director of Planning and Zoning, said minor modifications being anything that

does not increase the number of approved dwelling units, materially decrease any required setback, materially change the layout as shown on Exhibit “B” hereto, or eliminate any of the open space shown on Exhibit “B” hereto. [Appendix B, Page 8-9]. For other changes, “[m]ajor changes to the Settlement Plan, Exhibit “B” hereto, proposed by Plaintiff may be approved by Defendant in its reasonable discretion”. [Appendix B, Page 9].

69. The Consent Decree also allows Union Township’s to re-zone the Property. “Nothing herein shall affect or impair Defendant’s right to zone or rezone property, to amend its zoning text or zoning map, or to bind future elected officials of Union Township with respect to the zoning of the Property.” [Appendix B, Page 9].

70. By including within the Consent Decree the ability of Union Township to change the zoning of the Property in the future, the parties and the court intended that a change in the zoning designation for the Property should be done so via the mandatory procedure established in R.C. §519.12, and not by drastically amending the Consent Decree. Modifications to the Consent Decree are limited to minor changes and those major changes that remained within the parameters of the “R-1” and “ER” District zoning designations. Any counter-interpretation means that the court authorized Union Township to have carte blanche to allow any use on the Property, regardless of the requirements of Ohio law or the will of the people.

71. As interested parties under the Consent Decree, pursuant to Ohio Revised Code §§ 2721.01 *et seq.*, Plaintiffs are entitled to a declaration from this Court, declaring that the Board of Trustees improperly modified the Consent Decree to allow for the Miller Place Development.

COUNT III
(Declaratory Judgment under R.C. §2721.01, *et seq.*)

72. Plaintiffs incorporate by reference the foregoing paragraphs.

73. Union Township is governed by R.C. §519.12, which establishes the procedures through which townships may make amendments to zoning resolutions.

74. On October 25, 2018, the Board of Trustees passed Resolution 2018-52, improperly changing the zoning designation of the Property without following the procedures for notice and hearings set out under R.C. §519.12.

75. By circumventing the procedures set forth in R.C. 519.12, the Board of Trustees has deprived the citizens of Union Township of the ability to seek a referendum of the zone change as set forth in R.C. 519.12.

76. Pursuant to Ohio Revised Code §§ 2721.01 *et seq.*, Plaintiffs are entitled to a declaration from this Court, declaring that the Board of Trustees improperly changed the zoning designation of the Property by failing to follow the procedures for notice and hearings set out under R.C. §519.12.

COUNT IV

(42 U.S.C. §1983 violation of the 1st, 5th and 14th amendments rights)

77. Plaintiffs incorporate by reference the foregoing paragraphs.

78. The Board of Trustees' actions were taken and advanced under the color of state law.

79. The Board of Trustees, in approving the proposed Miller Place Development through modifying the Consent Decree rather than a legislative process, deprived Plaintiffs and all of the other residents and voters of Union Township of their right to participate in the public, legislative process, including their right to place a zoning amendment on the ballot through referendum, their right to associate and engage in public discourse about their position on the referendum issue, and their right to vote on such matter.

80. The Board of Trustees' actions deprived Plaintiffs of their right to petition their government for the redress of grievances as protected by the First and Fourteenth Amendments to the United State Constitution.

81. In addition, the Board of Trustees' actions deprived Plaintiffs of their constitutionally-protected property and/or liberty interests without procedural or substantive due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

82. The Board of Trustee's actions that violated Plaintiffs' federal constitutional rights are actionable under 42 U.S.C. §1983.

83. The Board of Trustee's decision to act on and approve the proposed Miller Place Development through a process other than a legislative zoning amendment process violates the requirements set forth in the Ohio Revised Code and Plaintiffs' constitutional rights.

84. Plaintiffs are entitled to declaratory judgment that the Trustees' action constituted a deprivation of Plaintiffs' 1st, 5th and 14th amendment rights.

COUNT V

(Lending of Credit and Use of Eminent Domain for the Benefit of a Private Developer)

85. Plaintiffs incorporate by reference the foregoing paragraphs.

86. As a part of the Miller Place Development approved by the Resolution, Union Township is planning to take private property owned by residents of Union Township through eminent domain solely for the benefit of a private development.

87. Union Township intends to make improvements, at the cost of the tax payers of Union Township, to the street known as Melody Lane by extending it through the taken private property in order to benefit the developers and the Miller Place Development.

88. This use of eminent domain and extension of Melody Lane will solely benefit the developers and their plans to create the Miller Place Development.

89. Section 6, Article VIII of the Ohio Constitution prohibits the loan or gift of public funds to private corporations and prohibits a township from raising money for a residential subdivision development project.

90. Union Townships' proposed improvements to Melody Lane, to be made at the cost of the Union Township tax payers, constitutes Union Township lending its credit, raising money for a residential subdivision development project owned by a private entity, and is a violation of the Ohio Constitution.

91. Union Township's proposed improvements to Melody Lane do not qualify as an exception to Section 6, Article VIII of the Ohio Constitution under Section 13, Article VIII of the Ohio Constitution.

92. Plaintiffs are entitled to a declaration from this Court, declaring that the Resolution violates Section 6, Article VIII of the Ohio Constitution and is therefore unconstitutional, invalid and of no effect and that any attempted use of eminent domain, being for a solely private purpose, is a violation of Section 19, Article I of the Ohio Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court grant the following relief:

1. An Order from this Court, declaring that that the Resolution is in violation of the current zoning requirements affecting the Property.
2. An Order from this Court, declaring that the Board of Trustees improperly modified the Consent Decree to allow for the Miller Place Development.

3. An Order from this Court, declaring that Board of Trustees improperly changed the zoning designation of the Property by failing to follow the procedures for notice and hearings set out under R.C. §519.12.

4. An Order from this Court, declaring that the Resolution approving the Miller Place Development is unconstitutional, invalid and of no effect.

5. An Order from this Court, declaring that the Resolution violates Section 6, Article VIII and further Section 19, Article I of the Ohio Constitution and is therefore unconstitutional, invalid and of no effect.

4. Awarding Plaintiff costs in this action.

5. Awarding to Plaintiff reasonable attorney fees, including attorney fees pursuant to 42 U.S.C. §1988.

6. Such other relief as this Court deems just and proper, at law and in equity.

Respectfully submitted,



Matthew W. Fellerhoff (0064005)
Emily T. Supinger (0074006)
STRAUSS TROY CO., LPA
150 East Fourth Street, 4th Floor
Cincinnati, Ohio 45202
Telephone No.: (513) 621-2120
Facsimile No.: (513) 241-8259
Email: mwfellerhoff@strausstroy.com
etsupinger@strausstroy.com
Attorney for Plaintiffs

APPENDIX A



BK: 2168 PG: 1923

EXHIBIT "A"

PARCEL 1

Situated in Military Survey Number 1138, Union Township, Clermont County, State of Ohio, and being more particularly described as follows:

Beginning at an iron pin (set) at the northwest corner of Indian Bluff Subdivision, recorded in Plat Book 4, Pages 84, 85 and 86, Clermont County Recorder's Office, said point also on the easterly line of Interstate #275; thence leaving said subdivision and along said easterly line of Interstate #275, North 15° 07' 40" East, for a distance of 1043.34 feet to an iron pin (set); thence leaving said easterly line, South 86° 07' 36" East, for a distance of 2233.92 feet to a spike (set) in the centerline of Rumpke Road; thence along said centerline of Rumpke Road the following courses and distances: North 5° 37' 18" East, 1441.32 feet to a spike (set); thence North 3° 43' 57" East, 201.53 feet to a spike (set); thence South 86° 18' 27" East, 322.68 feet to a spike (set); thence South 87° 06' 27" East, 340.62 feet to a spike (set); thence leaving the centerline of Rumpke Road, South 87° 06' 27" East, for a distance of 2501.04 feet to an iron pin (set); thence South 3° 21' 56" West, 1158.53 feet to an iron pin (set); thence South 73° 30' 37" West, 5.68 feet to an iron pin (set); thence South 3° 31' 43" West 613.85 feet to an iron pin (set); thence North 88° 13' 09" West, 671.04 feet to an iron pin (set); thence South 1° 13' 08" East, 51.55 feet to an iron pin (set) said point also on the north line of Surrey Hill Subdivision, Block "B"; thence along said Surrey Hill Subdivision, Blocks "B" and "A" the following courses and distances: North 87° 20' 16" West, 1152.01 feet to an iron pin (set); thence South 4° 07' 37" West 519.53 feet to an iron pin (set); thence North 84° 54' 47" West, 1232.74 feet to an iron pin (set); thence North 5° 41' 17" East, 167.03 feet to an iron pin (set); thence North 84° 56' 18" West, 174.95 feet to a spike (set) in the centerline of Rumpke Road; thence along said centerline, South 5° 41' 16" West, 289.52 feet to a spike (set); thence leaving said centerline, North 86° 12' 45" West, for a distance of 584.49 feet to an iron pin (set); thence South 5° 30' 41" West, 225.00 feet to an iron pin (set) on the north line of said Indian Bluff Subdivision; thence along said north line, North 86° 12' 30" West, for a distance of 1831.33 feet to the place of beginning.

TL25-86
Lyn

Contains 8747480.00 square feet or 200.8145 acres.

The above described real estate is all of the same premises described as recorded in OR 904, Page 383 of the Clermont County, Ohio deed records and identified as Parcel No. 31-5E-47 on the tax maps of said County. Being the result of a survey and plat dated May 1994 made by Thomas D. Sansalone, Reg. Surveyor. Ohio Reg. No. 5750

A1

PARCEL 2



BK: 2168 PG: 1924

Tract 1

Situated in Mathews Military Survey #1138, Union Township, Clermont County, State of Ohio, and being more particularly described as follows:

Beginning at the northwest corner of Lot 42 of Indian Bluff Subdivision recorded in Plat Book 4, Page 7, Clermont County Recorder's Office, said point also on the easterly line of Interstate 275; thence leaving said corner and along said easterly line of Interstate 275, North 15° 07' 40" East, 1043.34 feet to a 5/8" iron pin (set) and the real place of beginning; thence continuing along said easterly line of Interstate 275 the following courses and distances: North 13° 31' 19" East, 572.34 feet to a 5/8" iron pin (set); North 15° 05' 20" East, 1092.58 feet to a 5/8" iron pin (set); thence leaving said easterly line, South 86° 18' 27" East, for a distance of 1515.34 feet to a 5/8" iron pin (set); thence South 4° 39' 11" West, 688.05 feet to a 5/8" iron pin (set); thence South 85° 37' 42" East, 250.98 feet to a 5/8" iron pin (set); thence South 5° 37' 18" West, 101.28 feet to a 5/8" iron pin (set); thence South 85° 37' 42" East, 197.52 feet to an old P.K. nail in the centerline of Rumpke Road; thence along said centerline, South 5° 37' 18" West, for a distance of 50.01 feet to an old P.K. nail; thence leaving said centerline, North 85° 37' 42" West, for a distance of 197.52 feet to a 5/8" iron pin (set); thence South 5° 37' 18" West, 440.98 feet to a 5/8" iron pin (set); thence North 86° 30' 19" East, 200.00 feet to a spike (set) in the centerline of Rumpke Road; thence along said centerline, South 5° 37' 19" West, for a distance of 384.41 feet to a spike (set); thence leaving said centerline, North 86° 07' 36" West, for a distance of 2233.92 feet to the place of beginning.

Contains 3039653.00 square feet or 69.78082 acres.

The above described real estate is all of the same premises described as recorded in Deed Book 404, Page 378, and Deed Book 582, Page 228, of the Clermont County Ohio Deed Records and identified as Parcel No. 41-31-5F-017 on the tax maps of said County.

Being the result of a survey and plat dated April, 1999 made by Thomas Sansalone P.S., Ohio Reg. No. 5750 for Sansalone & Associates, Inc.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Instrument Book Page
200000020370 OR 1274 1867

RUMPKE ROAD DEVELOPMENT
CORPORATION,

Case No. C-1-98-092

and

FILED

ANTHONY M. SANSALONE, TRUSTEE,

(J. Dlott)

JUN 26 2000

Plaintiffs,

KENNETH J. MURPHY, Clerk
CINCINNATI, OHIO

vs.

AGREED JUDGMENT ENTRY
AND CONSENT DECREE

UNION TOWNSHIP, CLERMONT
COUNTY, OHIO,

UNION TOWNSHIP BOARD OF
TRUSTEES,

200000020370
Filed for Record in
CLERMONT COUNTY, OH
CAROLYN GREEN
On 07-06-2000 At 10:46 am.
ENTRY 106.00
OR Book 1274 Page 1867 - 1891

UNION TOWNSHIP BOARD OF ZONING
APPEALS,

Defendants.

WHEREAS, Plaintiffs and their predecessors in title (hereinafter referred to collectively as "Plaintiff") initiated the within action by filing a Complaint for Declaratory Judgment and Money Damages in the United States District Court for the Southern District of Ohio against Defendants Union Township, Clermont County, Ohio; the Union Township Board of Zoning Appeals and the Union Township Board of Trustees (hereinafter collectively "Defendant" or "Union Township");

WHEREAS, Plaintiff challenged the constitutionality of the combination of "R-1" Single Family Detached Residential Structure Zone and "A-1" Agricultural Conservation Zone zoning applied by Defendants to the subject real estate which is particularly described in the Complaint;

WHEREAS, Plaintiff also sought money damages from Defendant, alleging that the aforesaid zoning as applied to the subject real estate is confiscatory and constitutes the taking of Plaintiff's property;

WHEREAS, Defendant Board of Trustees of Clermont County, Ohio has jurisdiction to zone and rezone the real estate within the unincorporated territory of Union Township, Clermont County, Ohio, of which the subject real estate is a part, pursuant to Ohio Revised Code Chapter 519, Township Zoning;

WHEREAS, Plaintiff is desirous of developing the subject real estate as a planned single family detached housing residential community and is willing to submit the development thereof to certain restrictions set forth herein which Defendant believes to be in the best interest of Union Township;

WHEREAS, Defendant is desirous of settling the subject litigation and eliminating the potential for exposure of Union Township to an adverse judgment concerning the zoning of the subject real estate and the potential for money damages being awarded against Defendants;

WHEREAS, Defendant is further interested in having the subject real estate developed in a manner that promotes the public health, safety, morals and general welfare; and

WHEREAS, the parties are agreeable to resolving their disputes, having the subject real estate developed as proposed by Plaintiff subject to certain restrictions which Defendant believes necessary, dismissing all pending claims, and thus fully settling the above-captioned case,

IT IS, THEREFORE, hereby agreed by and between the parties for themselves and their successors, agents, employees, heirs and assigns as set forth below, and is thus decreed as follows:

1. The real estate subject to this Agreed Judgement Entry and Consent Decree consists of 271± acres on the east and west sides of Rumpke Road, north of Deervalley Drive and Surrey Trail, in Union Township, Clermont County, Ohio, as shown on Exhibit "A," the Plat of Survey of 200.81± acres thereof, and Exhibit "A-1," the Plat of Survey of 69.78± acres thereof, and as more particularly described in Exhibits "A-2" and "A-3" attached hereto;
2. Defendant Union Township through the Defendant Board of Trustees has the authority to regulate the zoning in the unincorporated area of Union Township, Clermont County, Ohio, of which the subject real estate is a part, pursuant to Chapter 519 of the Ohio Revised Code, R.C. 519.01 *et seq.*
3. Defendant has adopted the "Zoning Resolution for Union Township" which includes the "Union Township District Map," pursuant to which Defendant has zoned the subject real estate "R-1" Single Family Detached Residential Structure Zone and "A-1" Agricultural Conservation Zone, now known as "ER" Estate Residential District;
4. Due to the special characteristics and unique special features of the subject real estate, certain limitations on lot area, lot width and setbacks contained in the "R-1" Single Family Detached Residential Structure Zone and "ER" Estate Residential District zoning regulations, shall not be applied to the subject real estate, are set aside with respect thereto and shall be forever unenforceable against the subject real estate.
5. The proposed use of the subject real estate, consisting of a single family detached

housing residential community of varying lot sizes, recreational facilities, and open space, as shown on Exhibit "B" hereto, is hereby declared to be a reasonable and proper use of the subject real estate;

6. Defendant hereby authorizes, and Plaintiff is hereby authorized, to develop and use the subject real estate as a single family detached housing residential community, recreational facilities, and open space, as provided herein.
7. The development and use of the subject real estate shall be consistent with the intent and purpose of the following documents, which have been stipulated to by the parties and are incorporated herein by reference:
 - (A) Exhibits "A" and "A-1," the Plats of Survey of the 200.81± acres and the 69.78± acres, respectively, which comprise the subject 271± acres of real estate on the east and west sides of Rumpke Road, and north of Deervalley Drive and Surrey Trail, and Exhibits "A-2" and "A-3," the respective legal descriptions thereof.
 - (B) Exhibit "B," the Settlement Plan containing the following elements:
 - (1) Not more than 575 detached units may be developed on the subject real estate on lots of varying sizes as shown on Exhibit "B" hereto. The lots to be developed in the area marked as "Area A" on Exhibit "B" will be no less than 20,000 square feet, and the lots to be developed in the area marked as "Area AA" on Exhibit "B" will be no less than 30,000 square feet. All other lots, to be developed in "Area B" as shown on Exhibit "B," may be of varied sizes and with setback and height restrictions as shown thereon.

(2) Recognizing that Defendant desires to impose a minimum residential floor area requirement upon the single family residences to be constructed, 90 lots in Area "B" shall have a minimum residential floor area of 1400 square feet and shall be restricted to end purchasers 55 years or older; all other single family residences shall have a minimum residential floor area of 1700 square feet for two-story dwellings and 1600 square feet for one-story dwellings.

(3) All roads to be constructed within the subject real estate as shown on Exhibit "B," excluding private roadways in "Area AA" and driveways throughout, shall be dedicated to public purpose. A 25 foot stub and roadway extension toward Barg Salt Run Road in the northwest quadrant of the subject real estate, as shown on Exhibit "B" between Points "A" and "B" thereon, shall be constructed at the same time as the other roads shown on Exhibit "B" on the west side of Rumpke Road in the area of said extension. At such time as Defendant Union Township has acquired and established adequate right-of-way and the easements necessary for construction of the "future roadway" between Points "B" and "C" outside the subject real estate to connect to Barg Salt Run Road, as shown on Exhibit "B," Plaintiff shall construct said connecting roadway; provided however, that Plaintiff shall not be required to commence construction prior to the sale of the 300th lot in the development to an end purchaser.

- (4) Plaintiff shall have the right to develop the areas marked as "Area C," "Area D," "Area E," and "Area EE" on Exhibit "B" for soccer field(s), baseball field(s), storm water retention areas, walking trail(s), a pool, tennis courts and/or other recreational facilities for the residential community. These amenities may be controlled after development by a homeowners association or by a private membership organization.
- (5) The area marked as "Area F" on Exhibit "B" shall be donated and conveyed to the Union Township Board of Trustees or to the Cincinnati Nature Center, at the discretion or direction of the Union Township Board of Trustees, as green area in its present natural and undisturbed state, subject to easements of record and any future utility easements (construction or permanent) required as shown on Exhibit "B." Plaintiff shall be entitled to a charitable deduction therefor to the extent provided by law, and the Union Township Board of Trustees shall co-operate with Plaintiffs to the extent necessary and proper in Plaintiff's efforts with the Internal Revenue Service to receive a charitable deduction for this donation of real estate to the Union Township Board of Trustees. The deed from Plaintiff to the Union Township Board of Trustees shall not contain any restrictive covenants running with the land, but the Union Township Board of Trustees shall maintain the donated property as a natural and perpetual green area as long as necessary for the integrity of the development plan or for the protection of the adjoining property.

(6) Plaintiff shall install a traffic light and construct a turn lane as

improvements to the intersection of Rumpke Road and Old State Route

#74 as shown on Exhibit "B" for the benefit of the public at large, at

Plaintiff's cost, not to exceed the reasonable and standard cost thereof.

The turn lane shall be completed no later than the sale of the 200th lot in

the development to an end purchaser. The traffic signal shall be

completed no later than the sale of the 300th lot in the development to an

end purchaser.

8. In order for Plaintiff to plat, subdivide, sell and/or convey the lots to be developed on the subject real estate, Plaintiff will be required to submit a plat of subdivision, or plats of subdivision for portions of the subject real estate and at such times as Plaintiff deems appropriate, to the Clermont County Planning Commission for review and approval. As part of this process, Defendant Board of Union Township Trustees shall promptly inform the Clermont County Planning Commission that any such plat complies with the applicable zoning requirements and is in accordance with is Agreed Judgment Entry and Consent Decree. None of the obligations on Plaintiff's part, as described in paragraph 7(B) hereof shall apply unless and until a plat or plats of subdivision in conformity with Exhibit "B" have been approved by the Clermont County Planning Commission.
9. Defendant further agrees to promptly issue a zoning certificate or certificates for any and all improvements to the subject real estate complying with Agreed Judgment Entry and Consent Decree and Exhibit "B" hereto.

10. By virtue of the foregoing, Plaintiff's claims and causes of action for declaratory judgment in the Complaint are rendered moot and are dismissed.
11. By virtue of the foregoing, Plaintiff's claims and causes of action for money damages in the Complaint are stipulated to be dismissed and are hereby dismissed with prejudice.
12. Each party shall be responsible for and shall pay its own court costs in this action, its respective attorneys' fees, and any other expenses or charges incurred herein or related hereto and shall not be responsible for the costs, fees, expenses, or charges of the other party.
13. The terms and provisions shall survive the closing or closings of any sales or conveyances of the subject real estate or any portion thereof and shall not prevent or restrict the alienability of the subject real estate, and shall be binding upon and shall inure to the benefit of the parties, their successors, heirs, executors, administrators, assigns, affiliates, agents, officers, and employees in the same manner as upon the signatories hereto.
14. Any changes, amendments, or revisions to the terms and provisions hereof shall be in writing and shall be subject to the approval of both Plaintiff and Defendant, neither of whom shall unreasonably withhold its consent.
15. Notwithstanding the foregoing, any minor modifications to the Settlement Plan, Exhibit "B" hereto, can be approved by Defendant's Director of Planning and Zoning, said minor modifications being anything that does not increase the number of approved dwelling units, materially decrease any required setback,

materially change the layout as shown on Exhibit "B" hereto, or eliminate any of the open space shown on Exhibit "B" hereto.

16. Major changes to the Settlement Plan, Exhibit "B" hereto, proposed by Plaintiff may be approved by Defendant in its reasonable discretion.
17. Nothing herein shall affect or impair Defendant's right to zone or rezone property, to amend its zoning text or zoning map, or to bind future elected officials of Union Township with respect to the zoning of the property. Notwithstanding the foregoing, Plaintiff's right to develop the subject real estate in accordance with the provisions hereof, including the Settlement Plan, Exhibit "B" hereto, are deemed vested, and no further reviews or approvals by Defendant shall be required for Plaintiff to complete the development of the subject real estate as proposed herein.
18. A certified copy of this Agreed Judgment Entry and Consent Decree and Exhibits thereto shall be recorded in the office of the Recorder of Clermont County, Ohio.
19. Copies of this Agreed Judgment Entry and Consent Decree and Exhibits thereto shall be kept on file in the offices of Defendant and shall be available for inspection and review during normal business hours.
20. In the event that either party reasonably believes that the provisions of this order have not properly been followed, then such party may file a motion to reopen this action and the court will retain jurisdiction herein.

This Agreed Judgement Entry and Consent Decree shall be effective from the date it is filed with the clerk of courts.

SO ORDERED.

Susan J. Diott
Susan J. Diott, Federal District Judge

AGREED AND ACCEPTED:

PLAINTIFF:
RUMPKE ROAD DEVELOPMENT CORPORATION

By: *John R. Sansalone*
John R. Sansalone, President

ANTHONY M. SANSALONE, TRUSTEE

By: *Anthony M. Sansalone*
Anthony M. Sansalone, Trustee

DEFENDANT:
UNION TOWNSHIP, CLERMONT COUNTY, OHIO
UNION TOWNSHIP BOARD OF TRUSTEES
UNION TOWNSHIP BOARD OF ZONING APPEALS

By: *Ken Geis*
Ken Geis, Township Administrator

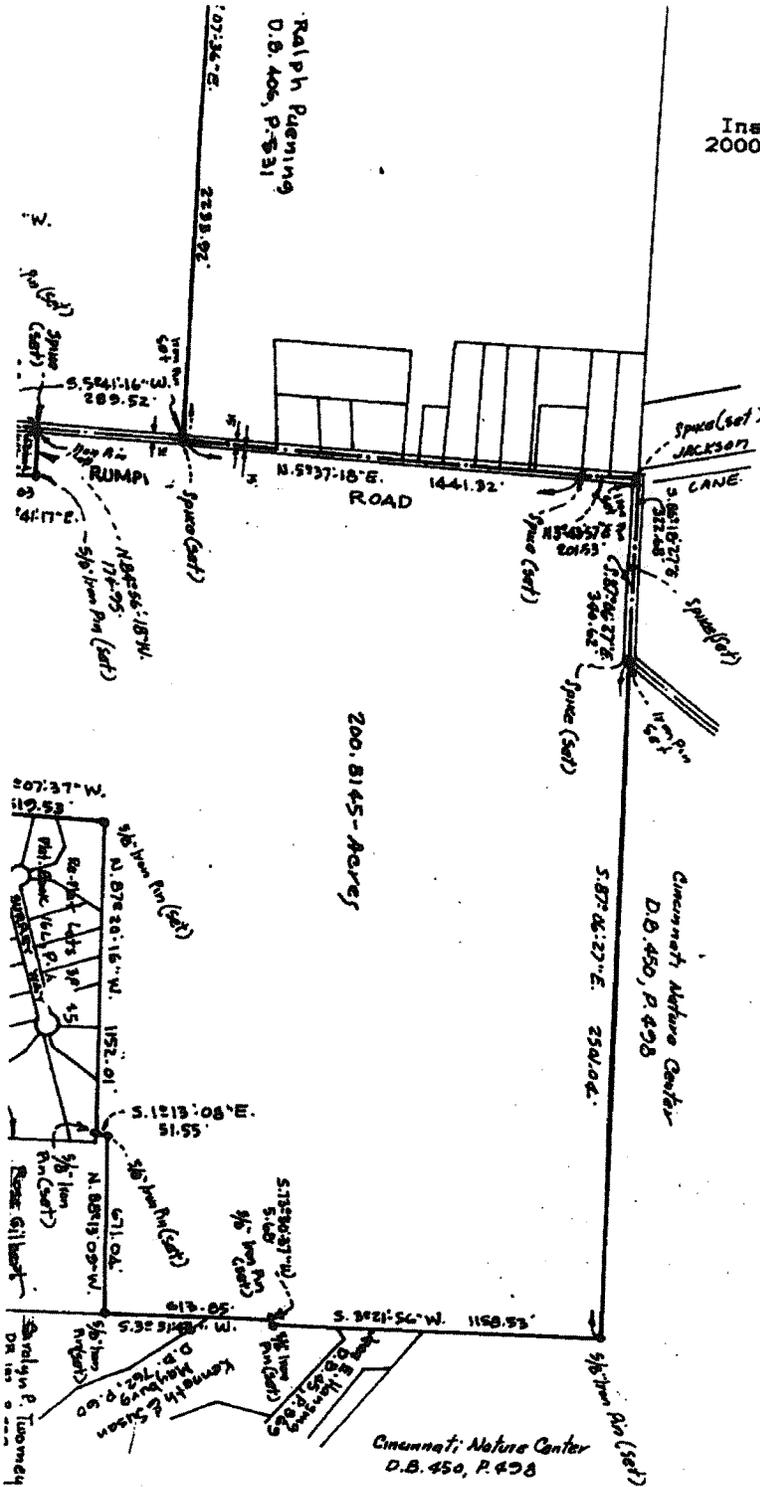
I certify that this is a true and correct copy of the original filed in my office
On: *7/26/00*
BY: *[Signature]*
TOWNSHIP CLERK
DATE: *7/26/00*

APPROVED:

C. Francis Barrett
M. Michele Fleming
C. Francis Barrett (0022371)
M. Michele Fleming (0022391)
Trial Attorneys for Plaintiff
BARRETT & WEBER
500 Fourth & Walnut Centre
105 E. Fourth Street
Cincinnati, Ohio 45202
(513) 721-2120
(513) 721-2139 - fax

L.E. Barbieri
Lawrence E. Barbieri (0027106)
Trial Attorney for Defendants
SCHROEDER, MAUNDRELL,
BARBIERE & POWERS
Suite 110 Governor's Knoll
11935 Mason Road
Cincinnati, Ohio 45249
(513) 583-4200
(513) 583-4203 - fax

Instrument Book Page
 200000020370 OR 1274 1879



RECORD OF LAND DIVISION

VOLUME _____ PLAT NO. _____

DATE: _____

DEED REFERENCE

VOLUME _____ PAGE _____

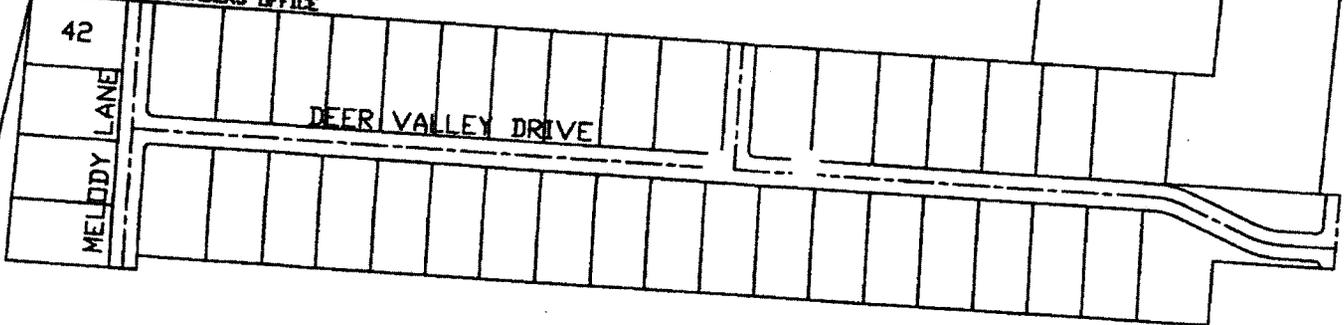
UNION TOWNSHIP

MATHEW'S MILITARY SURVEY N. 1138

31-5E-47-51
 31-5F-10

Instrument Book Page
200000020370 OR 1274 1884

POINT OF BEGINNING
NORTHWEST CORNER OF LOT 42
AND INDIAN BLUFF SUBDIVISION
PLAT BOOK 4, PAGE 7, CLERMONT
COUNTY RECORDERS OFFICE



N 06°25
T1E BE.

SURREY TRAIL



BASIS OF BEARINGS:
INDIAN BLUFF SUBDIVISION
PL. BOOK 4, PAGE 7



Scale 1" = 200'

CLERMONT COUNTY
MONUMENT 0221

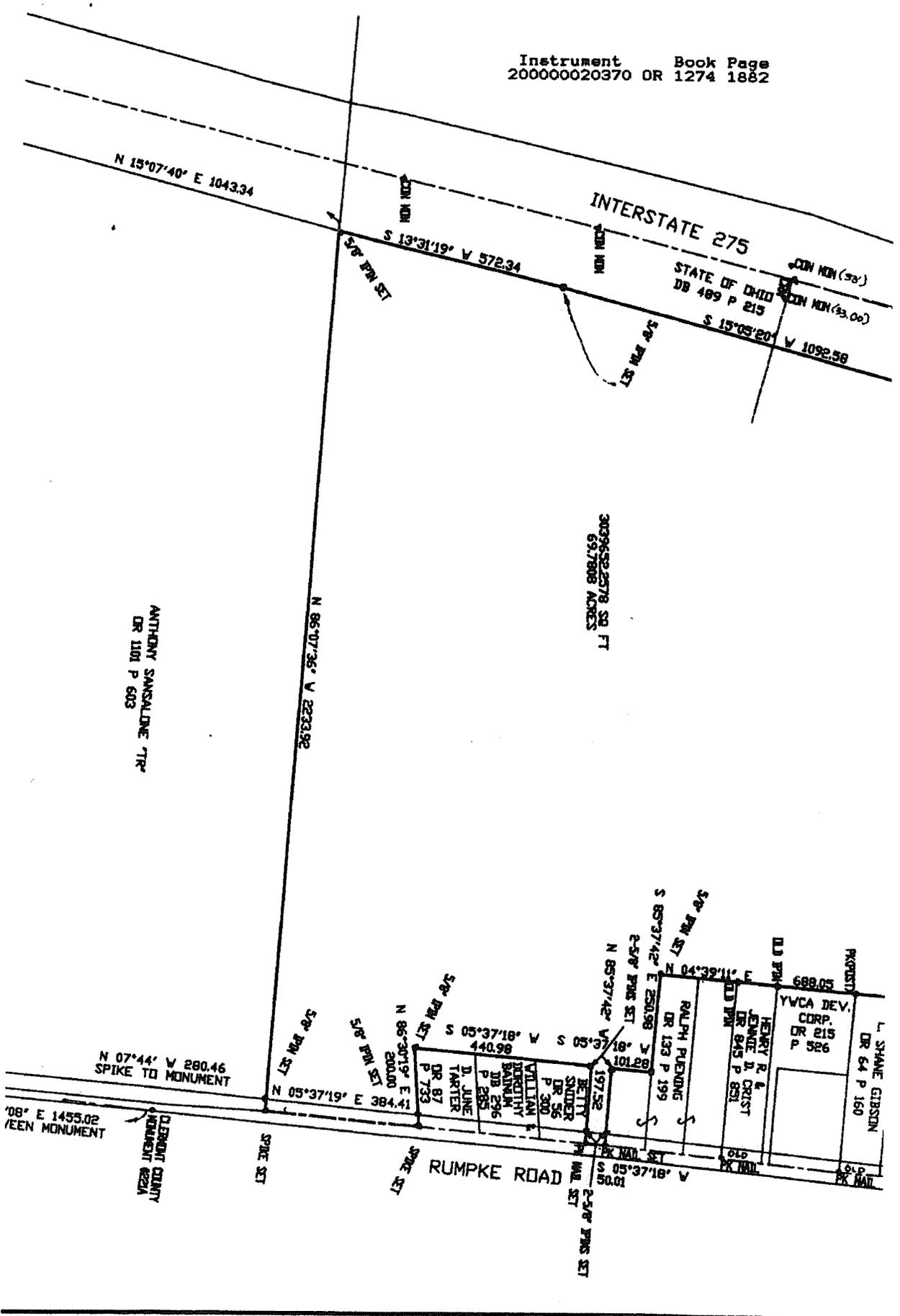
SURVEY PLAT
PART OF MATHEWS MILITARY SURVEY #1138
UNION TOWNSHIP CLERMONT COUNTY OHIO

SANSALONE AND ASSOCIATES, INC.
CIVIL ENGINEERS AND SURVEYORS

1008 MARSHALL AVE SUITE #2 CINCINNATI OHIO 45225
APRIL 1999 SCALE: 1"=200'

PARENT TRACT
41-31-5F-017
DEED BOOK 582 PAGE 228
DEED BOOK 404 PAGE 378

EXHIBIT
A-1



N 15°07'40" E 1043.34

INTERSTATE 275

STATE OF OHIO
DB 489 P 215

S 13°31'19" V 572.34

CON MON (32)

CON MON (33.00)

S 15°05'20" V 1092.58

3039632278 SQ FT
63,7808 ACRES

ANTHONY SANSALONE TR
DR 1101 P 603

N 86°07'36" V 2233.92

S 85°37'42" E 280.98

DD PPM SET

PKPOST

L. SHANE GIBSON
DR 64 P 160

YVCA DEV.
CORP.
DR 215
P 586

HENRY R. &
JENNIE D. CRIST
DR 845 P 831

RALPH FLENDING
DR 133 P 199

N 85°37'42" V 197.52

2-5/8" PINS SET

S 05°37'18" V 440.98

WILLIAM
BROOKLYN
BAINUM
DIB 296
P 285

D. JUNE
TARKER
DR 87
P 733

N 86°30'19" E 1120.00

N 05°37'19" E 384.41

SPIKE SET

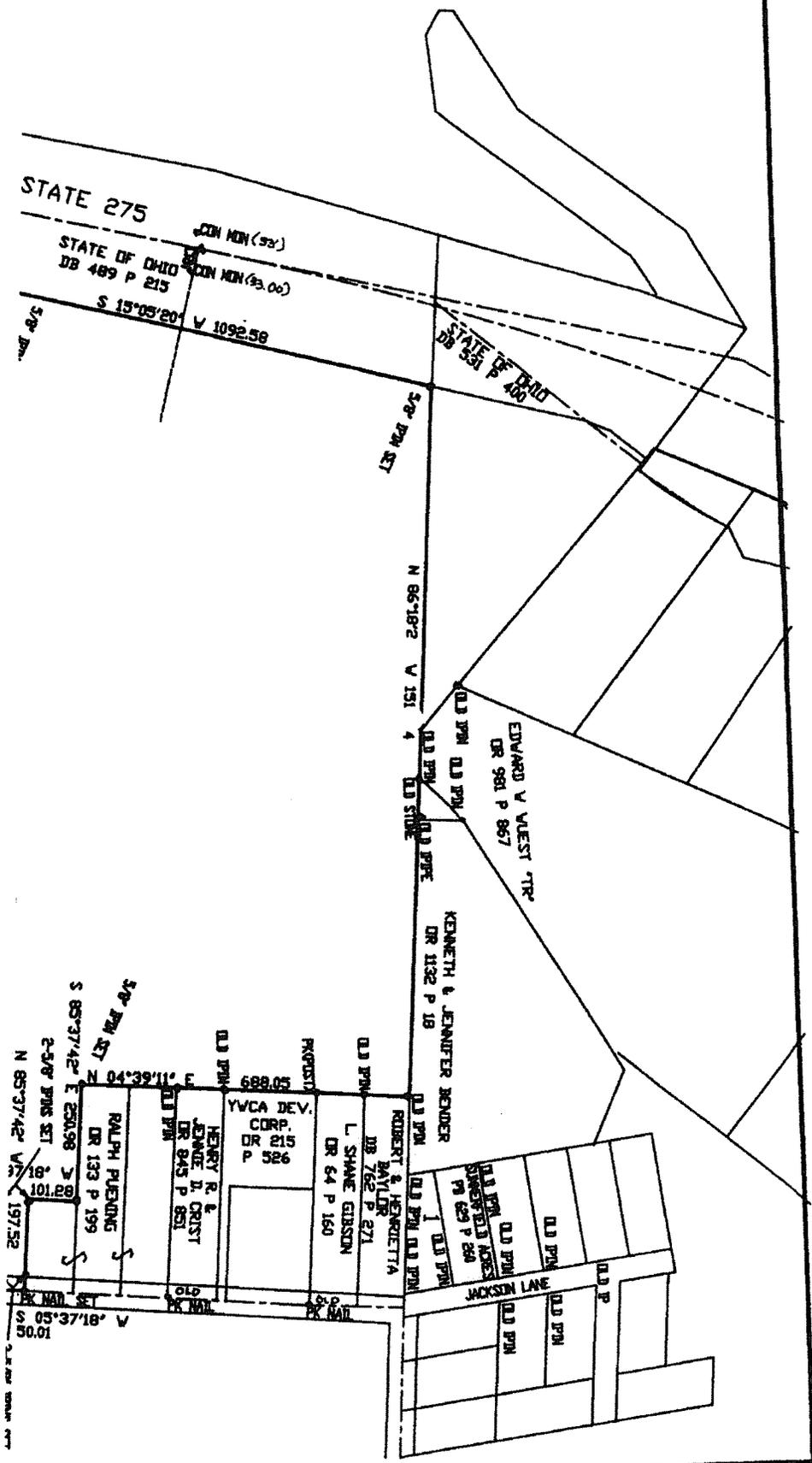
SPIKE SET

RUMPKE ROAD

N 07°44' V 280.46
SPIKE TO MONUMENT

08° E 1455.02
EEN MONUMENT

CLEVELAND COUNTY
MONUMENT 822A



LEGAL DESCRIPTION

Situated in Military Survey Number 1138, Union Township, Clermont County, State of Ohio, and being more particularly described as follows:

41-31-05E-047.

Beginning at an iron pin (set) at the northwest corner of Indian Bluff Subdivision, recorded in Plat Book 4 Pages 84, 85 and 86, Clermont County Recorder's Office, said point also on the easterly line of Interstate #275; thence leaving said subdivision and along said easterly line of Interstate #275, North 15° 07' 40" East, for a distance of 1043.34 feet to an iron pin (set); thence leaving said easterly line, South 86° 07' 36" East, for a distance of 2233.92 feet to a spike (set) in the centerline of Rumpke Road; thence along said centerline of Rumpke Road the following courses and distances: North 5° 37' 18" East, 1441.32 feet to a spike (set); thence North 3° 43' 57" East, 201.53 feet to a spike (set); thence South 86° 18' 27" East, 322.68 feet to a spike (set); thence South 87° 06' 27" East, 340.62 feet to a spike (set); thence leaving the centerline of Rumpke Road, South 87° 06' 27" East, for a distance of 2501.04 feet to an iron pin (set); thence South 3° 21' 56" West, 1158.53 feet to an iron pin (set); thence South 73° 30' 37" West, 5.68 feet to an iron pin (set); thence South 3° 31' 43" West 613.85 feet to an iron pin (set); thence North 88° 13' 09" West, 671.04 feet to an iron pin (set); thence South 1° 13' 08" East, 51.55 feet to an iron pin (set) said point also on the north line of Surrey Hill Subdivision, Block "B"; thence along said Surrey Hill Subdivision, Blocks "B" and "A" the following courses and distances: North 87° 20' 16" West, 1152.01 feet to an iron pin (set); thence South 4° 07' 37" West 519.53 feet to an iron pin (set); thence North 84° 54' 47" West, 1232.74 feet to an iron pin (set); thence North 5° 41' 17" East, 167.03 feet to an iron pin (set); thence North 84° 56' 18" West, 174.95 feet to a spike (set) in the centerline of Rumpke Road; thence along said centerline, South 5° 41' 16" West, 289.52 feet to a spike (set); thence leaving said centerline, North 86° 12' 45" West, for a distance of 584.49 feet to an iron pin (set); thence South 5° 30' 41" West, 225.00 feet to an iron pin (set) on the north line of said Indian Bluff Subdivision; thence along said north line, North 86° 12' 30" West, for a distance of 1831.33 feet to the place of beginning.

Contains 8747480.00 square feet or 200.8145 acres.



LEGAL DESCRIPTION

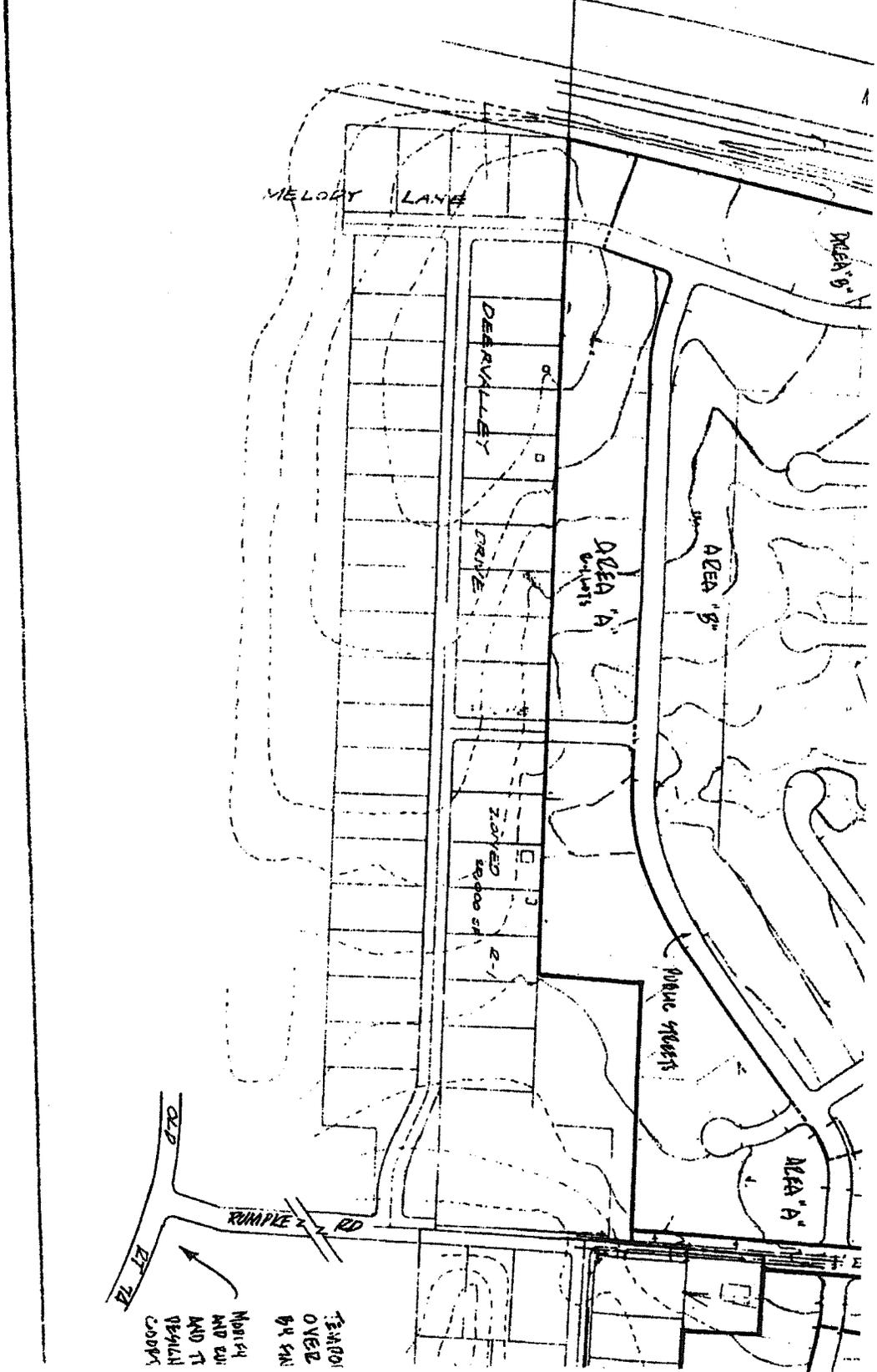
SITUATED IN MATHEWS MILITARY SURVEY #1138, UNION TOWNSHIP, CLERMONT COUNTY, STATE OF OHIO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

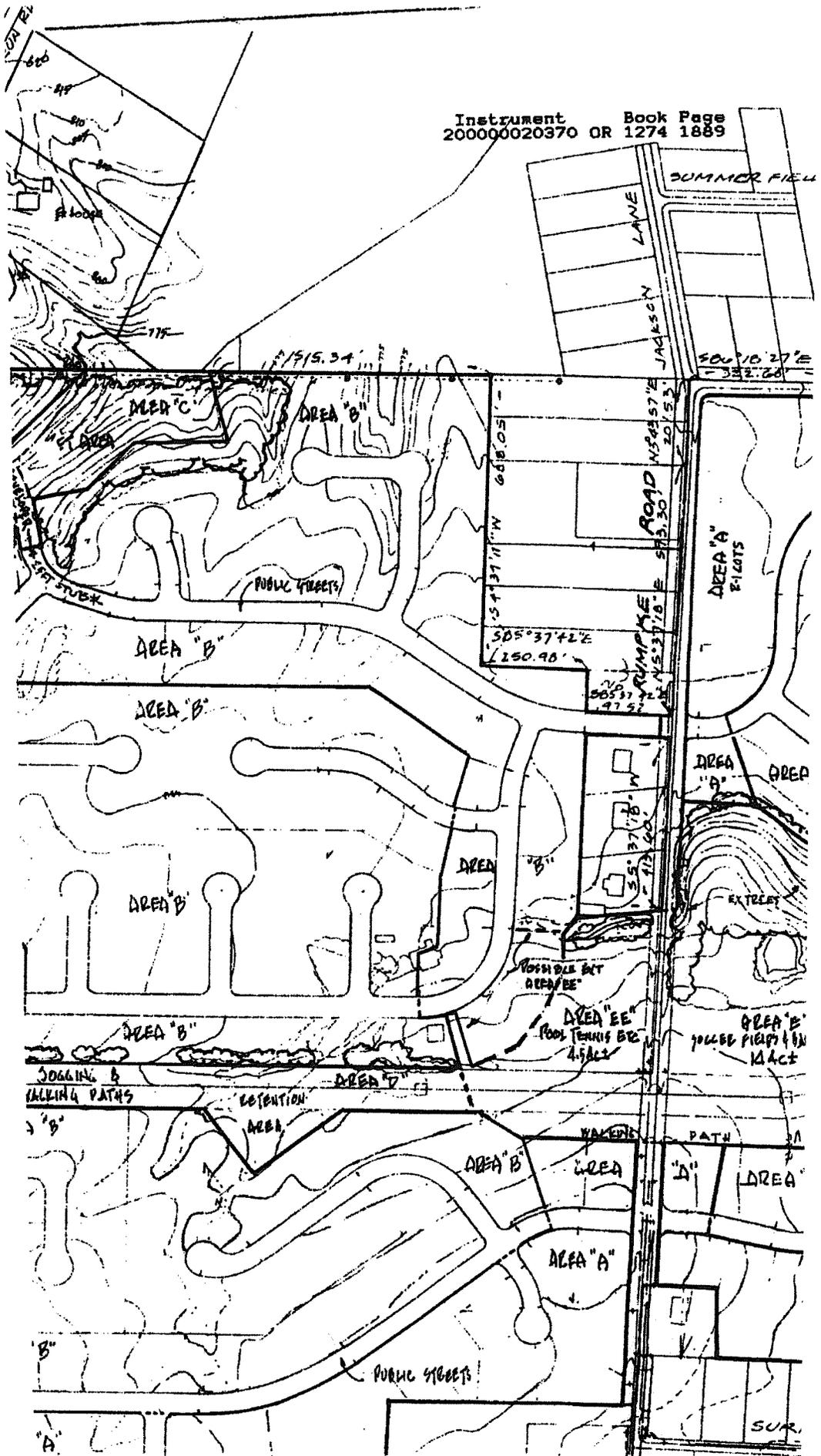
41-31-05F-017.

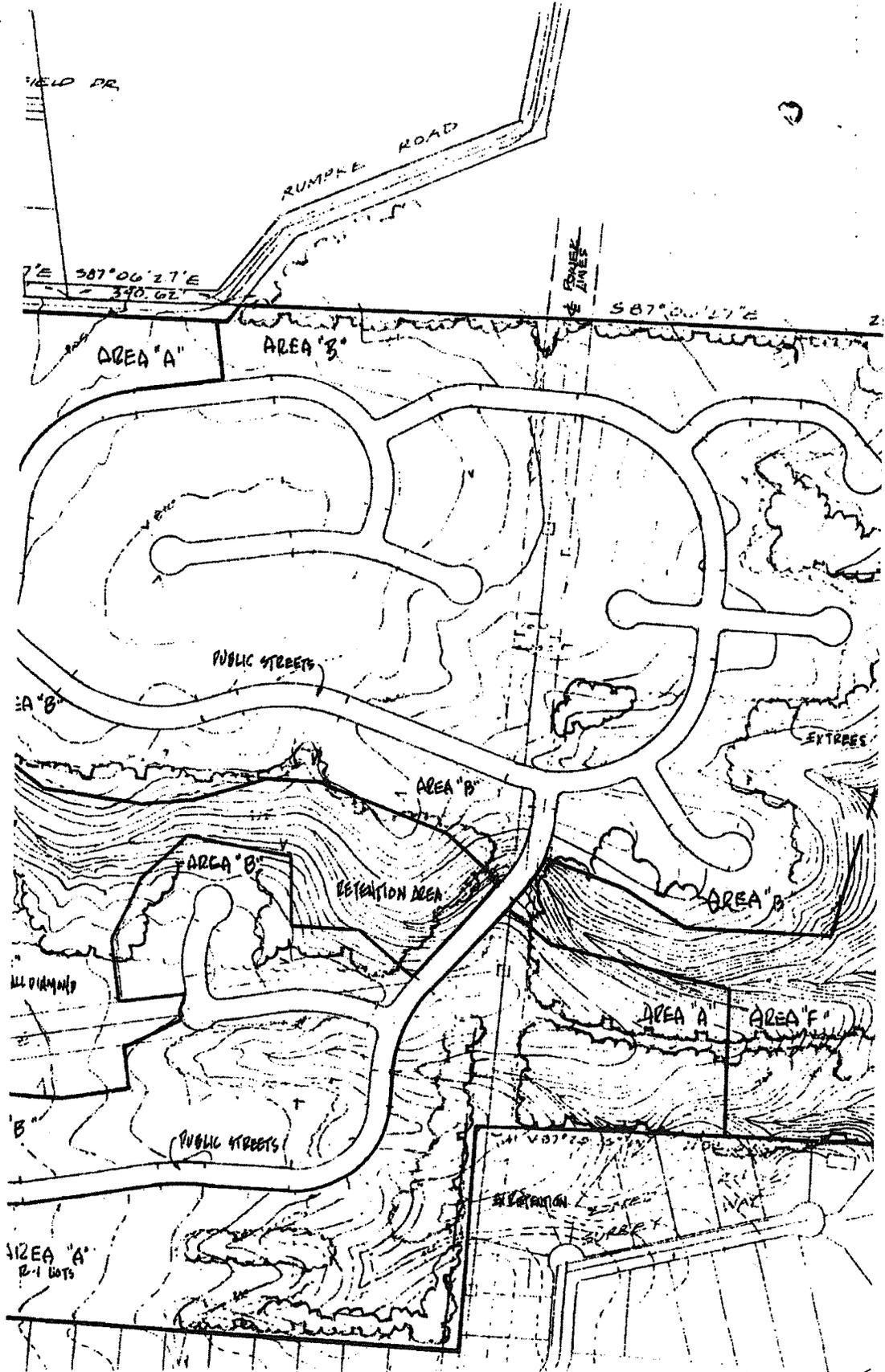
BEGINNING AT THE NORTHWEST CORNER OF INDIAN BLUFF SUBDIVISION RECORDED IN PLAT BOOK 4, PAGE 7, CLERMONT COUNTY RECORDERS OFFICE, SAID POINT ALSO ON THE EASTERLY LINE OF INTERSTATE 275; THENCE LEAVING SAID CORNER AND ALONG SAID EASTERLY LINE OF INTERSTATE 275, NORTH 15° 07' 40" EAST, 1043.34 FEET TO A 5/8" IRON PIN (SET) AND THE REAL PLACE OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY LINE OF INTERSTATE 275 THE FOLLOWING COURSES AND DISTANCES: NORTH 13° 31' 19" EAST, 572.34 FEET TO A 5/8" IRON PIN (SET); NORTH 15° 05' 20" EAST, 1092.58 FEET TO A 5/8" IRON PIN (SET); THENCE LEAVING SAID EASTERLY LINE, SOUTH 86° 18' 27" EAST, FOR A DISTANCE OF 1515.34 FEET TO A 5/8" IRON PIN (SET); THENCE SOUTH 4° 39' 11" WEST, 688.05 FEET TO A 5/8" IRON PIN (SET); THENCE SOUTH 85° 37' 42" EAST, 250.98 FEET TO A 5/8" IRON PIN (SET); THENCE SOUTH 5° 37' 18" WEST, 101.28 FEET TO A 5/8" IRON PIN (SET); THENCE SOUTH 85° 37' 42" EAST, 197.52 FEET TO AN OLD P.K. NAIL IN THE CENTERLINE OF RUMPKE ROAD; THENCE ALONG SAID CENTERLINE, SOUTH 5° 37' 18" WEST, FOR A DISTANCE OF 50.01 FEET TO AN OLD P.K. NAIL; THENCE LEAVING SAID CENTERLINE, NORTH 85° 37' 42" WEST, FOR A DISTANCE OF 197.52 FEET TO A 5/8" IRON PIN (SET); THENCE SOUTH 5° 37' 18" WEST, 440.98 FEET TO A 5/8" IRON PIN (SET); THENCE NORTH 86° 30' 19" EAST, 200.00 FEET TO A SPIKE (SET) IN THE CENTERLINE OF RUMPKE ROAD; THENCE ALONG SAID CENTERLINE, SOUTH 5° 37' 19" WEST, FOR A DISTANCE OF 384.41 FEET TO A SPIKE (SET); THENCE LEAVING SAID CENTERLINE, NORTH 86° 07' 36" WEST, FOR A DISTANCE OF 2233.92 FEET TO THE PLACE OF BEGINNING.

CONTAINS 3039653.00 SQUARE FEET OR 69.78082 ACRES.





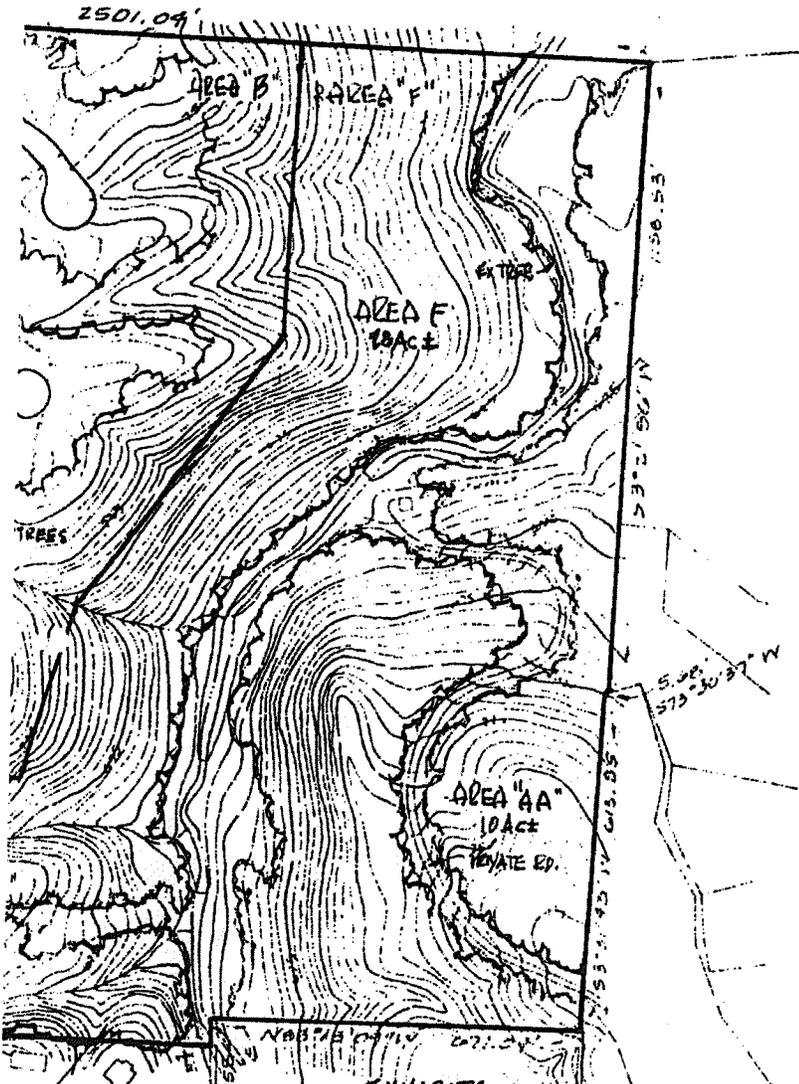




**SUMMARY
SETTLEMENT PLAN**

Instrument 200000020970 OR 1274 1891
Book Page 1891

AREA "AA"	10 Ac±	SINGLE FAMILY RES LOTS
AREA "AB"	173 Ac±	SINGLE FAMILY RES LOTS
AREA "C"	8 Ac±	PRIVATE OPEN SPACE & RET.
AREA "D"	4.6 Ac±	PRIVATE WALKING TR & RET.
AREA "E"	14 Ac±	PRIVATE WALKING TR, SOCCER FIELDS, BALL FIELD, OPEN SPACE & RET.
AREA "F"	28 Ac±	RESERVED FOR OPEN SP & RET.
AREA "EE"	4.5 Ac±	PVT POOL, TENNIS, RECREATION
STREETS	29 Ac±	PUBLIC STREETS IN 50 FT R/W
TOTAL	271 Ac±	MAX 975 S.F. LOTS



EXHIBITS

EXHIBIT "A"	BOUNDARY SURVEY	100.8 AC
EXHIBIT "A-1"	BOUNDARY SURVEY	69.8 AC
EXHIBIT "A-2"	METES & BOUNDS	100.8 AC
EXHIBIT "A-3"	METES & BOUNDS	69.8 AC
EXHIBIT "B"	MILLER PLACE SETTLEMENT PLAN	

575 MAXIMUM NUMBER LOTS PERMITTED

APPENDIX C

Concerns Regarding the Development of the "Millers Farm" Properties on Rumpke Road

- 1) **Hardship due to cost of changing from septic sanitation to public sanitary sewer. All residents north of Surrey Trails utilize individual septic systems (approximately 45 residents). We are concerned that if public sewer is put in for this development, residents will be forced to change over. The cost is expensive and some of the residents will not be able to pay for the change, forcing them to move at a significant monetary loss.**
- 2) **Loss of property values. The current neighborhood is bucolic, minimum .5 acre lots. The concern is that developing the property into much smaller lots, and the addition of 900+ apartment units will decrease existing property values.**
- 3) **Congestion to the roadways and safety of the residents. Rumpke Road currently is No Outlet and is treated as a rural road by the county (speed limits, etc...). Currently, there are approximately 400 single family homes attached to Rumpke Road. The intersection of Old SR 74 and Rumpke becomes very congested during rush hours. The addition of another 1500+/- residences will be overwhelming to the infrastructure. Even if the developers are able to create another access via Barg Salt Run Road or Shepherd Lane, the majority of the traffic will still flow out Rumpke to Old SR74 as the alternatives will be poor due to distances to the interstate and commerce.**
- 4) **Noise will be an issue. There is no way to keep noise levels from rising significantly with a housing increase of nearly 500%.**
- 5) **Storm water runoff may create serious issues for current residents, especially the properties that are close to the creeks/runoff waterways.**
- 6) **Environmental concerns abound for wildlife, land, and protected waterways.**
- 7) **Construction will create safety issues and constant headaches for current residents. Given that there is just one way in or out to the proposed development, Rumpke Road; the heavy construction traffic, street side and in-street construction is bound to create delays and closures to Rumpke Road throughout the life of the process. This will delay/prevent emergency and safety services from reaching residents when needed. The construction process will also keep Rumpke Road looking more like a dirt road than an asphalt road during any inclement weather with no way for residents to avoid the mud and dirt.**
- 8) **Many current residents have brought up the Union Township Horizon 2010 and 2030 Comprehensive Land Use Plans which both have stated that there is already too much multi-family/apartment property in Union Township, especially north of SR 32 (Horizon 2010).**
- 9) **"The Union Township Comprehensive Land Use Plan 20/20 concluded that inclusive land use policies of the past have led to the community experiencing a disproportionate level of growth within the multi-family dwelling use category. Ultimately, the Board resolved**

to maintain the existing levels and proportions of multifamily use at current approved levels.”

- 10) Some residents have stated that they don't believe Union Township is as concerned about the well-being their residents and their neighborhoods as they are the business interests and tax revenues.
- 11) We would suggest that the township hold a detailed information meeting to bring the affected residents up to speed on how the zoning has gotten to where it is now. There are many rumors/thoughts/ideas flying that may or may not have merit, but it is difficult to glean truth from fiction.
- 12) While some of the residents want the property to remain unchanged, most know that the property will be developed. If the developers were proposing the development of .5 acre subdivision lots, there would be virtually no opposition. What is being proposed is unfair to the current residents. If there is a way to keep our community from being ruined by the greed of the property owner and developers, we would like the township to fight for us.

APPENDIX D

1

PETITION TO THE UNION TOWNSHIP BOARD OF TRUSTEES

We are residents of Union Township.

We petition the Union Township Board of Trustees to prevent any development of the property along Rumpke Road greater than that was agreed to in 2000 and ordered by the court in the case *Rumpke Road Development Corporation v. Union Township Board of Trustees* (S.D. Ohio).

We support our petition with these facts:

1. This dispute involves 215.53 acres of undeveloped property along Rumpke Road.
2. In 1994, 169.53 acres of this property was zoned "R-1," which limited development to single family detached homes with a minimum lot area of 20,000 square feet. The remaining 46 acres of the property was zoned "S-1," which limited development to single-family homes with a minimum lot area of two acres.
3. In 1994, the Rumpke Road Development Corporation requested a zoning variance to develop the property into 292 lots that were smaller than those permitted by the zoning code. The Union Township Board of Zoning Appeals denied that request.
4. Rumpke Road Development then sued Union Township in state court. The trial court ruled in favor of Union Township. The trial court found that the zoning decision was in the best interests of the residents and did not deny the property owner the reasonable use of its property.
5. Rumpke Road Development Corporation appealed. The Court of Appeals affirmed the trial court's decision in favor of the Board of Zoning Appeals. *Rumpke Road Development Corporation v. Union Township Board of Zoning Appeals*, 1997 Ohio App. LEXIS 611.
6. Rumpke Road Development Corporation appealed to the Ohio Supreme Court. The Court dismissed the appeal. *Rumpke Road Development Corporation v. Union Township Board of Trustees*, 1997 Ohio LEXIS 621.
7. Rumpke Road Development Corporation then sued the Union Township Board of Trustees in federal court, claiming that the zoning ordinance was an unconstitutional taking of its property. *Rumpke Road Development Corporation v. Union Township Board of Trustees*, Case No. C-1-98-092 (S.D. Ohio).

8. That case was settled on June 26, 2000 when the court filed an Agreed Judgment Entry and Consent Decree signed by Rumpke Road Development Corporation, Anthony M. Sansalone and the Union Township Board of Trustees. Under the Decree, development of the property is limited to the Settlement Plan filed with the court, and permits not more than 575 detached units subject to various minimum lot sizes as detailed in the Settlement Plan.

9. A deal is a deal. Rumpke Road Development Corporation spent years in court suing the Board of Trustees, and the Board of Trustees spent years in court protecting the interests of Union Township residents by preventing development which would harm the character of the neighborhood, public safety, property values and the residents' quality of life. The Agreed Judgment Entry and Consent Decree is a compromise. All the parties in the court case voluntarily signed it as a final and binding resolution of how this property would be developed. There is no justification for allowing any development which exceeds the limits set by this deal.

SIGNED:

1. Mark Lutz
Printed Name

4785 Rumpke Road
Address 45245

2. Leslie St. Clair
Printed Name

4785 Rumpke Rd
Address Cincinnati, OH 45245

3. SHARRON L. CARROLL
Printed Name

4782 Rumpke
Address

4. William SCARROLL
Printed Name

4782 RUMPKE
Address

Mark Lutz
Signature

Sept. 28, 2018
Date

Leslie St. Clair
Signature

9-28-18
Date

Sharron L. Carroll
Signature

10-6-18
Date

William Scarroll
Signature

10-6-18
Date

5. Arturo Mena
Printed Name

4789 Rumpke Rd
Address

Arturo Mena
Signature

10-13-2018
Date

6. Xenia S. Ramos
Printed Name

4789 Rumpke Rd.
Address

Xenia S. Ramos
Signature

13 Oct 18
Date

7. VANESSA CASEY
Printed Name

4785 RUMPKER RD
Address

Vanessa Casey
Signature

10/13/18
Date

8. ERIC LUTZ
Printed Name

4785 Rumpke Rd
Address

Eric Lutz
Signature

10/13/18
Date

9. Lauri Branam
Printed Name

4780 Rumpke Rd.
Address

Lauri Branam
Signature

10/13/18
Date

10. ROSALIE DAVIDSON
Printed Name

4867 Rumpke Rd. Cincinnati
Address

Rosalie A. Davidson
Signature

10/13/2018
Date

11. RAYMOND DAVIDSON
Printed Name

4867 Rumpke Rd Cincinnati
Address

Raymond L Davidson
Signature

10/13/2018
Date

12. Richard L MARTIN
Printed Name Richard L. Martin
Signature
4880 Rumpke Rd 4575 10/13/18
Address Date
13. Marsha Strickland
Printed Name Marsha Strickland
Signature
4909 Rumpke Rd.
Address 10/13/18
Date
14. Annalee Morrison
Printed Name Annalee Morrison
Signature
953 View Drive
Address 10/13/18
Date
15. Kenneth Morrison
Printed Name Kenneth Morrison
Signature
953 View Drive
Address 10/13/18
Date
16. J. Groo Stanley
Printed Name J. Groo Stanley
Signature
957 View Drive
Address 10-13-18
Date
17. Jerome G. Heil
Printed Name Jerome G. Heil
Signature
961 View Dr, Cant OH
Address 10-13-18
Date
18. Janet Heil
Printed Name Janet Heil
Signature
961 View Dr
Address 10-13-18
Date

19. MATTHEW GRAM
Printed Name

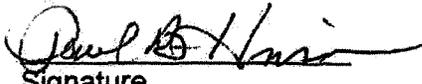
555 ASPEN GLEN DR #710
Address 45244


Signature

10/13/18
Date

20. PAUL B. HINSON
Printed Name

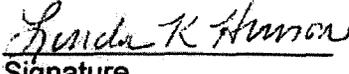
9107 VIEW DR 45245
Address


Signature

10-13-18
Date

21. LINDA HINSON
Printed Name

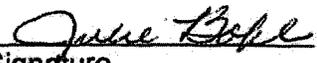
967 VIEW DR 45245
Address


Signature

10-13-18
Date

22. Julie Bohl
Printed Name

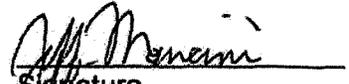
4885 Rumpke
Address


Signature

10-14-18
Date

23. Jeff Mancini
Printed Name

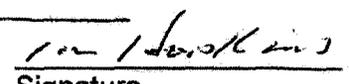
4919 Rumpke Rd
Address


Signature

10-14-18
Date

24. Tim Hopkins
Printed Name

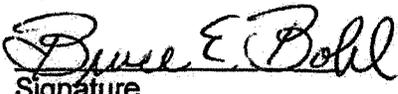
954 View Dr
Cincinnati, 45245
Address


Signature

10/14/2018
Date

25. Bruce Bohl
Printed Name

4885 Rumpke Rd
Address


Signature

10/14/2018
Date

APPENDIX E

**RESOLUTION APPROVING THE REVISED AND
AMENDED DEVELOPMENT PLAN OF MILLER PLACE**

The Board of Trustees of Union Township, Clermont County, Ohio met in regular session at the Union Township Civic Center on October 25, 2018 with the following members present: Robert McGee, John McGraw, and Matthew Beamer.

Mr. McGraw made a motion to adopt the following Resolution:

WHEREAS, the development known as Miller Place is located on the east and west sides of Rumpke Road, north of Old State Route 74, east of Interstate 275, and west of the Cincinnati Nature Center and is subject to and restricted by the "Agreed Judgment Entry and Consent Decree" in United States District Court for the Southern District of Ohio Case No. C-1-98-092 captioned *Rumpke Road Development Corporation, et al., vs. Union Township, Clermont County, Ohio, et al.*;

WHEREAS, the Union Township Board of Trustees have the authority under the Agreed Judgment Entry and Consent Decree to approve major changes to the Settlement Plan (Exhibit "B" to the Consent Decree);

WHEREAS, Plaintiffs have proposed major changes to the Settlement Plan for Miller Place which were presented to the public at the duly noticed public hearing conducted by Union Township at the Union Township Civic Center on Tuesday evening, July 24, 2018;

WHEREAS, the following documents were presented at the public hearing on July 24, 2018:

1. Miller Place Conceptual Site Plan by Fischer Homes dated January 30, 2018;
2. Miller Place Settlement Plan dated March 19, 2018, showing development areas A, B, C, and D;
3. Miller Place Development Standards Text dated March 19, 2018, and marked "Draft";
4. Aerial photograph entitled "Miller Place Improvements" prepared by ChoiceOne Engineering, showing the roadway improvements on the west from Old S.R.74 to Melody Lane;
5. Aerial photograph entitled "Miller Place" prepared by ChoiceOne Engineering, showing improvements to the intersection of Old S.R.74 and Rumpke Road;
6. Plan dated January 30, 2018 entitled "Miller Place-Rumpke Road Improvements Exhibit" consisting of an aerial photograph upon which the overall site plan has been superimposed;
7. Document dated January 30, 2018 entitled "Miller Place / Character Images";
8. Document dated January 30, 2018 entitled "Miller Place / Single Family Detached Examples";
9. Document dated January 30, 2018 entitled "Miller Place / Lifestyle Examples";
10. Document dated January 30, 2018 entitled "Miller Place / Apartment Examples";
and

11. Document prepared by ChoiceOne Engineering entitled "Miller Place Development / Second Access to Old S.R.74 / Preliminary Engineer's Estimate" in the total amount of \$1,299,511.

WHEREAS, based upon the public comment received at the July 24, 2018 public hearing and based upon input from the Union Township Board of Trustees, significant changes and revisions have been made to the proposed development plan of Miller Place, and these changes and revisions are detailed in document No. 2 below;

WHEREAS, the aforesaid document No. 2 below references the substantial funding to be provided by the developer to enable the Township to make major off-site improvements, the financial obligations of the developer with respect to any residence that may be required by the Clermont County Health District to connect to the extended sanitary sewer line, and the reduction of multi-family residential units from 975 to 875 residential units and the corresponding reduction in total units from 1,545 units to 1,445 units;

WHEREAS, Union Township Board of Trustees finds that the proposed Miller Place Development Plan, as revised and amended, provides for the desirable economic growth of Union Township, for the accommodation of needed quality residential units for existing and prospective residents of Union Township, and for the benefit of the public health safety and welfare of Union Township;

WHEREAS, the Revised and Amended Development Plan of Miller Place consists of the following documents, copies of which are appended hereto:

1. Miller Place Settlement Plan dated October 1, 2018, showing development areas A, B, C, and D;
2. Miller Place Development Standards Text dated October 1, 2018;
3. Aerial photograph entitled "Miller Place Improvements" prepared by ChoiceOne Engineering, showing the roadway improvements on the west from Old S.R.74 to Melody Lane;
4. Aerial photograph entitled "Miller Place" prepared by ChoiceOne Engineering, showing improvements to the intersection of Old S.R.74 and Rumpke Road;
5. Plan dated October 5, 2018 entitled "Miller Place-Rumpke Road Improvements Exhibit";
6. Document dated October 5, 2018 entitled "Miller Place / Character Images";
7. Document dated October 5, 2018 entitled "Miller Place / Single Family Detached Examples";
8. Document dated October 5, 2018 entitled "Miller Place / Lifestyle Examples";
9. Document dated October 5, 2018 entitled "Miller Place / Apartment Examples";
10. Document prepared by ChoiceOne Engineering entitled "Miller Place Development / Second Access to Old S.R.74 / Preliminary Engineer's Estimate" in the total amount of \$1,299,511;
11. Document prepared by ChoiceOne Engineering entitled "Miller Place Development / Rumpke Road Improvements / Intersection Improvements" in the total amount of \$ _____; and
12. Schedule of the anticipated number of units to be constructed each year over the next eleven (11) years, depending upon prevailing market conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of Union Township, Clermont County, Ohio that the Development Plan of Miller Place, as revised and amended as provided herein, shall be and is hereby approved.

BE IT FURTHER RESOLVED that any changes, amendments or revisions to the Miller Place Development Plan shall be in writing and shall be subject to the approval of both the developer and Union Township, provided that, notwithstanding the foregoing, modifications to the Miller Place Development Plan can be approved by the Director of Planning and Zoning of Union Township.

BE IT FURTHER RESOLVED that, in the event of any claim, dispute or other matter in question arising out of or related to this Resolution shall, in the first instance, be attempted to be resolved through the good faith efforts of the developer and Union Township. In the event the developer and Union Township are unable to resolve such matter or matters, then such matter or matters shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by the developer or Union Township. The developer and Union Township shall endeavor to resolve all such claims, disputes, and other matters in question between them by mediation. The parties shall share the mediator's fee and any filing fees equally. Mediation shall be held in Clermont County, Ohio, unless another location is mutually agreed upon. Agreements reached through mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Claims, disputes, or other matters in question related to this Resolution that are not resolved successfully through mediation will be the subject of litigation in the Court of Common Pleas of Clermont County, Ohio, unless the parties agree to pursue resolution through another form such as arbitration

BE IT FURTHER RESOLVED that this Board hereby finds and determines that all formal actions relative to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

BE IT FURTHER RESOLVED that this Board upon majority vote does hereby dispense with the requirement that this Resolution be read on two separate days, and hereby authorizes the adoption of this Resolution upon its first reading.

BE IT FURTHER RESOLVED that this Resolution is the subject of the general authority granted to the Board of Trustees through the Ohio Revised Code and not the specific authority granted to the Board of Trustees through the status of a Limited Home Rule Township.

Mr. Beamer seconded the motion to adopt the Resolution. On the roll call being called to vote resulted as follows:

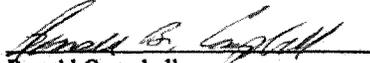
Mr. McGraw - yea

Mr. Beamer - yea

Mr. McGee - yea

Resolution 2018- 52 adopted October 25, 2018.

ATTEST:


Ronald Campbell
Fiscal Officer

Approved As To Form:

Lawrence E. Barbieri
Union Township Law Director

CERTIFICATION

I, Ronald B. Campbell, Fiscal Officer of Union Township, hereby certify, as Official Custodian of the Records of Union Township, Clermont County, Ohio, that the foregoing is taken and copied from the Record of Proceedings of Union Township and that the same is a true and accurate copy of the original on file in the Township Hall at 4350 Aicholtz Road, Union Township, Ohio 45245.

Ronald B. Campbell
Fiscal Officer

Date: _____

APPENDIX F

Geis, Ken

From: McGraw, John
Sent: Wednesday, July 25, 2018 2:19 PM
To: timandamybausch@yahoo.com
Cc: Geis, Ken; Wright, Cory; Campbell, Ron; Beamer, Matt; McGee, Robert
Subject: RE: New submission from 'mcgraw'!

Mr. Timothy Bausch,

Thank you for your email and contacting me.

So far what the developer has shown is only a concept plan and has not been formally presented to the Board of Trustees. If there are plans to move forward, our Administration would contact all the affected homeowners to discuss any plans and possible impact. They would also present options and actions necessary.

So far, this is not a formal plan the Trustees are considering or being asked to take action on. When and if that time comes forward, I would inform you of any possible action.

If this plan were to move forward, there would have to be review and approval by the Clermont County Engineer and our Township Planning Department.

The idea of having the developer make a presentation last night and on a previous meeting was to inform all the residents of the concept plan so everyone would be informed and residents could give feedback. We did not contact you directly because this is not a plan that is on the agenda of the Trustees and until it is approved and all proper steps have been taken, we will not vote to change anything. This includes the process of contacting all interested parties.

I can assure you, the Board of Trustees are your voice and will not vote on any plan that is not properly prepared and processed.

I have copied our Administration on this email so they can contact you directly if needed.

Thank you for giving us your concerns and feedback.

John K. McGraw
Union Township Trustee
Union Township, Clermont County
4350 Aicholtz Road
Cincinnati, OH 45245

From: dev.union-township.oh.us [cstewart@union-township.oh.us]
Sent: Wednesday, July 25, 2018 10:57 AM
To: McGraw, John
Subject: New submission from 'mcgraw'!

You have a new submission.

Your Name: Timothy R Bausch

Your Email: timandamybausch@yahoo.com

Subject: Millers Place & Melody Ln

Message: Mr. McGraw,

We live at 4628 Melody Ln, where proposed access for development was brought to our attention at the Miller Park Meeting. Please explain to me why we were not notified prior to the public meeting of your intentions to use our PRIVATE drive. This puts all 6 homeowners of "Melody Grove" whom own and maintain the road in

an uncomfortable position to put it lightly. As you were voted in by us the residence you have let us down. You are there to represent us. I look forward to hearing back from you with an explanation of why we were not informed and what are our options. We will be having a meeting tonight with the six homeowners of Melody Grove to discuss legal representation and would like to have more information on the Townships stance on this project from the people elected to be our voice.

Thank You

Tim Bausch

513-617-0481

: Send