

93
22

Lots 1 thru 407 on map of Clinton
N.W. 35-5N-2W
14-355-0001 thru 0041
14-068-0049

E 1866576 B 3292 P 1241
RICHARD T. MAUGHAN, DAVIS CNTY RECORDER
2003 MAY 16 3:22 PM FEE 93.00 DEP DJW
REC'D FOR NILSON HOMES

DEVELOPMENT AGREEMENT
FOR
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT

THIS DEVELOPMENT AGREEMENT (the "**Agreement**") is made and entered into as of the 13th day of May, 2003, by the between **CLINTON CITY**, a Utah municipal corporation, hereinafter referred to as the "**City**", and **NILSON & CO. Inc.** a Utah Corporation, hereinafter referred to as the "**Developer**."

Recitals:

- A. Developer owns and is requesting 15.09 acres of land located within Davis County to be developed as a Planned Residential Unit Development, which property is more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof (the "**Property**").
- B. Developer's Project shall be known as Maplewood Village Townhomes, a Planned Residential Unit Development in Four Phases (the "**Project**") within the Residential Multi-Family (R-M) Zone of the City, which project is more particularly shown on the preliminary plat attached hereto as **Exhibit "B"** and by this reference made a part hereof (the "**Plat**"). The Project shall consist of up to but not to exceed 35 four-plex structures.
- C. Developer has submitted and received approval of the Preliminary Plat for the Project with the stipulations outlined in this Agreement and other documents maintained at the City.
- D. Developer has indicated that dwellings within the Project will be of substantially similar design and with common features as shown on the elevation drawings attached hereto as **Exhibit "C"**. Developer will have preplanned placement of buildings within the Project as shown on the Plat. The PRUD shall be landscaped as shown on the landscaping plan attached hereto as **Exhibit "D"**.
- E. The Project will be developed as a Planned Residential Unit Development ("**PRUD**") and shall have covenants, conditions, and restrictions (CC&R's) recorded at the Davis County Recorders Office prior to recording any Plat for the Project. City has included in this Agreement various conditions that must be satisfied in order to allow development of the Project.
- F. Persons and entities hereafter developing the Property or any portions of the Project thereon shall accomplish such development in accordance with City's laws, rules and ordinances (except to the extent specific variances have been

granted) (collectively the "City's Laws"), and the provisions set forth in this Agreement. This Agreement contains certain requirements for design and development of the Property and the Project in addition to those contained in City's Laws.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. **Incorporation of Recitals.** The above Recitals are hereby incorporated into this Agreement.
2. **Vacant Property.** Developer shall maintain any vacant ground within the Project on which Developer has not commenced development free of debris and hazards to the general health, safety, and welfare of the public and residents of the area. Except for those portions of the Project where development and construction are actively being pursued by Developer or any agents, contractors, employees, successors or assigns of Developer shall insure that the property is graded so that it is easy for vegetation to be cut. Weeds shall be cut and maintained to a height of no greater than ten (10) inches.
3. **Development Plan.** Developer shall develop the Project on the Property as a PRUD in four phases as described on the approved Preliminary Plat (the "Development Plan"). City must approve any change proposed for the Development Plan and said amendments or changes shall be recorded similar to this Agreement before becoming effective. Except for appeals that may be made from any decisions regarding the Project, the Clinton City Council shall receive a recommendation from the Planning Commission before acting upon any requested amendments or changes.
4. **Plats and Site Plans.** A subdivision plat and/or site plan where appropriate for each phase of the Project will be required for final approval by City. All phases of the Project receiving final plat and/or site plan approval must be developed in strict accordance with the approved final plat and/or site plan for that phase. Once approval has been granted for a final plat and/or site plan no amendments or modifications to the final plat and/or site plan for any phase shall be made by Developer without the written approval of City being first obtained. Nothing contained herein shall be construed as granting final plat and/or site plan approval to Developer for any portion of the Project.
5. **Development of the Project.** The Project shall be developed by Developer and/or Developer's successors and assigns in accordance with all of the requirements contained herein.
 - a. **Full compliance with City Laws and Development Standards:** The Project and all portions thereof shall be developed in accordance with City's Laws, the

Development Plan and the approved Plat, required final plats and site plans, and this Agreement.

b. Unit Sizes and Placement: Unless City agrees in writing to modification of any approvals or any portion of the Development Plan (including, without limitation any plats or site plans), upon Developer properly submitting a request for the same, all unit sizes and placements of units within the Project shall be as established on the approved Plat on file with City and the conditions set during the hearing approving the Plat.

c. Association: Every property owner in the Project shall be required to join the Maplewood Village homeowners association and shall share equally in responsibilities for common areas. Notwithstanding anything contained in this Agreement to the contrary, no unit owners within any phase of the Project shall be required to join any association nor be responsible to any association for any fees or assessments unless and until recordation of the final plat of such phase.

d. Phasing of the Project: Developer intends to develop the Project in various phases. City in accordance with City's Laws has approved the Development Plan for the Project. The balance of the Project shall be developed in phases from and after the date of this Agreement in accordance with the Preliminary Plat, unless City agrees in writing to modification of any approvals or any portion of the Development Plan (including, without limitation any plats or site plans), upon Developer properly submitting a request for the same, for such phase.

e. Final Plats and/or Site Plans: Developer shall prepare and submit to City, Developer's application for final plat and/or site plan approval for each phase within the time limits provided for in City's Laws. The final plat and/or site plan for each phase of the Project shall be reviewed by City planning staff, Planning Commission and City Council as provided by City's Laws. Developer shall pay any required fees due and owing in connection with approval of the final plat and/or site plan for each phase of the Project. City shall determine the final plat complies with all applicable requirements. In addition, Developer shall submit to City specific improvements that are to be installed on-site and off-site, together with any other documents required by City such as restrictive covenants, articles of incorporation for homeowners' associations, and like matters. Development improvements shall include those required by the construction standards of City, City's Laws and this Agreement. Following approval of the final plat and/or site plan and obtaining of the required signatures thereon, the final plan and/or site plan for each phase of the Project along with the appropriate covenants shall be recorded by City in the office of the Davis County Recorder, Developer shall pay all recording fees.

f. Subdivision Escrow Agreement, Subdivision Improvement Agreement: Developer shall create, establish, and enter into a Subdivision Escrow

Agreement and Subdivision Improvement Agreement with City for each phase of the Project in accordance with City Laws.

g. City's Right of Review: Subject to the terms of this Agreement, City has the right to approve the final plat and/or site plan for each phase of the Project together with any proposed changes therein. City shall review Developer's application for final plat and/or site plan approval and related documents in accordance with the established procedures of City governing such reviews. Review shall be conducted for the purpose of determining whether plats, site plans and other documents submitted by Developer comply with the requirements of City and the terms of this Agreement and requirements set forth during approval of prior phases. If City determines that the plats, site plans or other documents do not comply, City will advise Developer in writing of the changes necessary to comply. All plats and site plans approved by City shall comply in all respects with City's Laws, unless modified by this Agreement.

h. Development Regulations/Vesting: Developer has proposed and shall be entitled to develop 140 units in accordance with the approved Development Plan, the Property shall be developed in accordance with City's Laws which are in effect on the date of this Agreement, together with the requirements set forth in this Agreement and the approval process of the Plat, except when future modifications are required under circumstances constituting a compelling public interest by federal, state, county and/or City laws and regulations promulgated to protect the public's health, safety, and welfare or when City agrees, in writing, to grant modifications at the request of Developer. If local, state or federal law precludes compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended only as necessary to comply with such local, state and federal laws and the remainder of this Agreement shall remain in full force and effect to the extent that performance of the remaining provisions would not be inconsistent with the intent of this Agreement. Notwithstanding the above, all development on the Property or any portion thereof shall be subject to and shall comply with any future amendments or changes to the International Building Code and other construction codes adopted by the State, American Association of State Highway Transportation Official Standards, and the American Waterworks Association Standards if and to the extent adopted by City and applicable to the Project. The parties agree that City is restricted in its authority to limit its police power by contract and that the limitations, reservations, and exceptions set forth herein are intended to reserve to City all of its police power that cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to City all such power and authority that cannot be restricted by contract.

i. Conditions, Covenants and Restrictions:

i. Prior to the recording of any final plat and/or site plan for the Project or any portion thereof, Developer shall prepare and submit to City for review and approval conditions, covenants and restrictions to provide standards equal to or greater than those outlined in this Agreement and to include but not be limited to the following:

(1) Unit owners in all phases of the Maplewood Village Homeowners Association of Maplewood Village Townhomes a Planned Residential Unit Development shall be paying members of the Association.

(2) Minimum architectural standards are to be not less than:

- a. Conditions, Covenants and Restrictions (CC&R's) shall outline the benefits of private ownership of the streets and common area within the development in such a way that homeowners will know that the City will not take over maintenance of these facilities at any future date.
- b. All residential structures within the project shall be a four-plex.
- c. The exterior finish of the front elevations shall be vinyl siding with a four-foot (4') wainscot of rock or brick. The garage faces shall be fully covered with brick or rock.
- d. The remaining three sides of the structures shall be, at a minimum vinyl siding.
- e. All eaves, soffits, and fascia shall be aluminum.
- f. Fencing around the project shall be six-foot vinyl on the north, west, and south sides. The fence on the east side shall be a seven-foot of pre-cast concrete or CMU block. All fencing shall have a mow strip installed under the fence. All fences shall be installed prior to occupancy of any unit within the development.
- g. Fences associated with the units shall be of similar construction as the perimeter vinyl fences. Other fences in the project area shall be of vinyl or similar approved low maintenance material.
- h. Landscaping shall be as outlined in the approved landscaping plan.

- i. Units abutting the railroad right-of-way shall be designed and built to a higher noise transfer standard through the use of increased amounts of insulation, windows designed for decreased noise transfer and through the use of air conditioners rather than swamp coolers.

(3) Maintenance Requirements

- a. All landscaping shall be maintained and in the event of removal, death or destruction of any landscaping the association shall replace with like species and size as stipulated in the landscaping plan.
- b. Exterior maintenance of all structures within the Project is to be part of the responsibilities of the Homeowners Association and shall be outlined in the CC&R's.
- c. Clinton city shall be irrevocably held harmless in the event that emergency or other public vehicles cannot gain access to Lots, Common Area, Owner's, invitees or other Parties within the Project or otherwise meet the necessary needs of the foregoing because of inadequate maintenance or any other obstruction of Roadways within the Project.
- d. The association shall maintain all streets and parking areas within the project to include but not be limited to plowing of snow, required seal coat, patching and overlay.
- e. The association shall maintain any and all detention areas within the project area so that they are clear to function as designed and in such a fashion that there is no decrease in capacity.
- f. The association shall maintain all fencing; play areas, and common area appurtenances. All common area fencing, play areas and common area appurtenances shall be maintained in a manner to keep them serviceable and safe and shall be replaced with like items when removal due to age or wear and tear is necessary. Any perimeter fencing needing repair shall be repaired within seven days of notice by the City.

ii. Construction Standards and Requirements: All construction shall be conducted and completed in keeping with the architectural requirements outlined in this agreement, State and City building codes, City's Laws and the terms of this Agreement.

- (1) As a minimum the following requirements shall be included in the covenants

- a. All streets within the project shall be designated a fire lane and parking on the streets shall not be allowed.
- b. All common area parking shall be for licensed operable vehicles only. No parking area shall be used for recreational vehicles or for trailers, mobile homes, boats, snowmobiles or campers which have been detached from trucks. No repairs to automobiles or trucks or changing oil on any vehicle, trailer or boat may be performed in any parking or common area.
- c. Association shall require a 75% approval of the members for a change to the covenants.
- d. In the event a meeting of the members called to increase fees to cover the association overhead does not have a quorum present a second meeting shall be convened and a majority vote of the members attending the meeting shall be sufficient to constitute a change to the required fees. Second notification should be by certified mail and state the intent of the meeting and provide a minimum of 14-days notice.

(2) As a minimum all construction of utilities to be dedicated to City shall meet the standards adopted by City. The following requirements shall be included in the construction.

- a. All detention established in the development shall meet the requirements of the City Engineer based upon the Storm Drain Master Plan.
- b. All easements, rights-of-way, and agreements required for removal of storm water shall be recorded with the County Recorder prior to any plat being recorded.
- c. As part of the landscaping package a snow removal plan shall be prepared and approved and attached hereto as, **Exhibit "E"**.
- d. Streets and parking areas shall be constructed with 10" of base and 3" of asphalt. The entire street system shall have a seal coat treatment one year after the asphalt for the final phase is placed. Escrow for seal coat may be rolled into subsequent phases from one escrow to the next to close escrows for prior phases. At no point will the escrow established for escrow be less than necessary to coat approved phases.

- e. There shall be a crash gate, designed to meet the requirements of the Clinton City Fire Chief installed at the property line of the development and 575 West for emergency vehicle access. A personnel gate shall be installed at the same location for access by school children within the project going to Clinton Elementary.
- f. The culinary water line shall be looped from 800 North to 575 West with a 10" main. Valves shall be placed on the main as required by City Public Works or City Engineer.
- g. Due to the fact that a traffic study has been accomplished and upon the recommendation of the traffic engineer and planning commission the first phase shall incorporate an entrance that facilitates traffic to enter into as well as turn left and turn right leaving the development.
- h. A plan shall be provided and approved for storm water removal and detention. The developer is responsible to secure all easements, rights-of-way and permissions required for storm water removal to a city drain. The developer shall have appropriate easements, rights-of-way and permissions assigned and recorded to the Association.
- i. A plan shall be provided and approved for sanitary sewer removal. The developer is responsible to secure all easements, rights-of-way and permissions required for sewer connection to the city system. The developer shall have appropriate easements, rights-of-way and permissions assigned and recorded to the Association.

6. City Obligations: Subject to Developer complying with all of City's Laws and the provisions of this Agreement, City agrees to maintain the public improvements within that portion of 800 North that is dedicated to the City as part of the development. The only utility within the development that will be dedicated to City following satisfactory construction and warrantee thereof by Developer or its assigns and acceptance of the same by City is to be the ten (10) inch water main that extends from 800 North to the presently existing stub street at 575 West. The City also agrees to provide standard municipal services to the Project including police and fire protection subject to the payment of all fees and charges levied by City.

7. Attorneys Fees: In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and reasonable attorneys fees.

8. **Termination:** Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the Project, including all phases thereof, is not completed within seven (7) years from the date of this Agreement or in the event Developer does not comply with City's Laws and the provisions of this Agreement, City shall have the right, but not the obligation at the sole discretion of City, which discretion shall not be unreasonably applied, to terminate this Agreement and/or to not approve additional phases for the Project. City may effect such termination by giving written notice of intent to terminate to Developer set forth herein. Whereupon, Developer shall appear before the City Council to determine a time schedule for corrective action. If the Developer does not apply to appear before the Council within fifteen (15) days of notice the Developer shall have sixty (60) days during which Developer shall be given an opportunity to correct any alleged deficiencies and to take appropriate steps to complete the Project. If Developer fails to satisfy the concerns of City with regard to such matters, City shall be released from any further obligations under this Agreement and the same shall be terminated.

9. **Amendment:** This Agreement may be amended only in writing signed by the parties hereto.

10. **Watkins Group, LLC:** As an owner of the property which is the subject of this Development Agreement, Watkins Group, LLC, executes this Agreement acquiescing that the covenants and conditions hereof or to be enacted pursuant hereto become an encumbrance to run with the land and to which its ownership interests shall be subject. However, none of the terms, covenants or conditions herein shall place upon Watkins Group, LLC, an affirmative obligation of developing the property. Watkins Group, LLC, shall not be construed to be a developer hereunder."

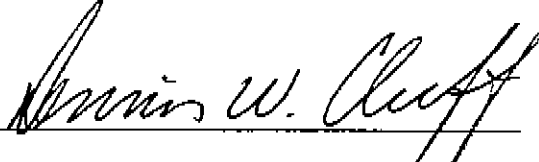
11. **Developer's and Owner's Contractual Rights Preserved:** Nothing contained herein shall denigrate nor supercede any contractual rights that the Developer and Watkins Group, LLC, have with regard to each other arising from the Real Estate Purchase Contract of acquisition of the subject property by the Developer from Watkins Group, LLC,.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

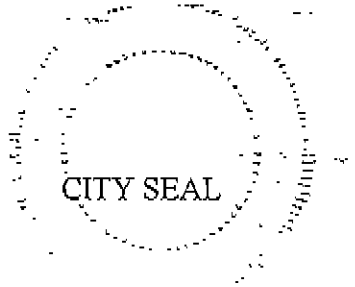
CITY:

CLINTON CITY CORPORATION
a Utah municipal corporation

ATTEST:

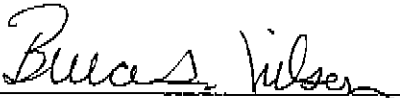

DENNIS W. CLUFF CITY RECORDER


MAYOR L. MITCH ADAMS



DEVELOPER

NILSON & CO., INC.
a Utah Corporation

By: 

PROPERTY OWNER

WATKINS GROUP, LLC.
A Utah Limited Liability Corporation

By: 

ACKNOWLEDGMENT OF DEVELOPER

NILSON & CO., INC.

STATE OF UTAH }

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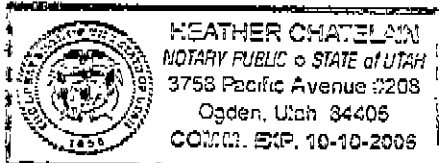
COUNTY OF Weber ;

On the 12th day of May, 2003, personally appeared before me Bruce L Nilson, who, being duly sworn, did state that he is the President of

NILSON & CO., INC., a Utah Corporation that the Development Agreement was signed on behalf of said corporation by his signature under authority of a resolution of its Board of Directors and acknowledged to me that said corporation executed the same.

Heather Chatelain

NOTARY PUBLIC



COMMISSION EXPIRES _____

ACKNOWLEDGMENT OF LAND OWNER

WATKINS GROUP, LLC.

STATE OF UTAH }
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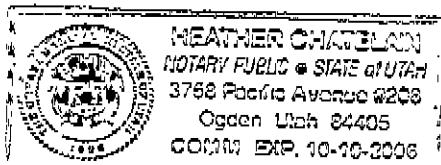
COUNTY OF Weber }

On the 12th day of May, 2003, personally appeared
before me Kenneth C. Watkins, who, being duly
sworn, did state that he is the Managing Partner of

WATKINS GROUP, LLC., a Utah Limited Liability Corporation, that the Development Agreement was signed on behalf of said corporation by his signature under authority of a resolution of its Board of Directors and acknowledged to me that said corporation executed the same.

Heather Chatelain

NOTARY PUBLIC



COMMISSION EXPIRES _____

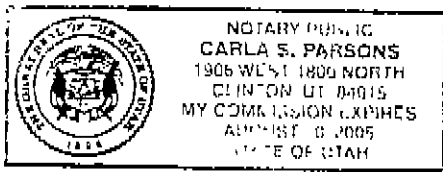
ACKNOWLEDGEMENT OF CLINTON CITY OFFICIALS

STATE OF UTAH }
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COUNTY OF Davis }

On the 13 day of May, 2003, personally appeared before me L Mitch Adams, Mayor of Clinton City and Dennis W. Cluff, Clinton City Recorder, who being by me duly sworn or affirmed, did say that they are the Mayor and City Recorder respectively and signed in behalf of Clinton City by authority of the Clinton City Council and acknowledged to me that the Clinton City Council executed the same.

Carla S. Parsons

NOTARY PUBLIC



COMMISSION EXPIRES 8-10-2005

EXHIBIT "A" E 1866576 B 3292 P 1254

**PROPERTY DESCRIPTION
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT**

Part of the North half of Section 35, Township 5 North, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, Described as follows:

Beginning at a point on the centerline of 800 North Street and the Quarter Section line, said point being South $89^{\circ}56'38''$ East along said Section Line 1673.28 Feet from the West Quarter Corner of said Section 35; Thence North $00^{\circ}01'48''$ East 661.49 Feet to the South Line of Jackson Orchards No. 3 and the extension of the South Line of Jackson Orchards No. 3 and Jackson Orchards No. 4; Thence South $89^{\circ}56'48''$ East along said line and extension 1020.64 Feet to the West Line of the Union Pacific Railroad Property; Thence South $01^{\circ}21'02''$ East along said West Line 661.74 Feet to said Centerline and Section Line; Thence North $89^{\circ}56'38''$ West along said Centerline and Section Line 639.87 Feet; Thence North $00^{\circ}17'21''$ East 144.98 Feet; Thence North $89^{\circ}44'40''$ West 158.51 Feet; Thence South $00^{\circ}04'03''$ East 145.53 Feet to said Centerline and Section Line; Thence North $89^{\circ}56'38''$ West along said Centerline and Section Line 239.11 Feet to the Point of Beginning.

Containing 15.09 acres

E 1866576 B 3292 P 1256

EXHIBIT "B"
PLAT / DEVELOPMENT PLAN
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT

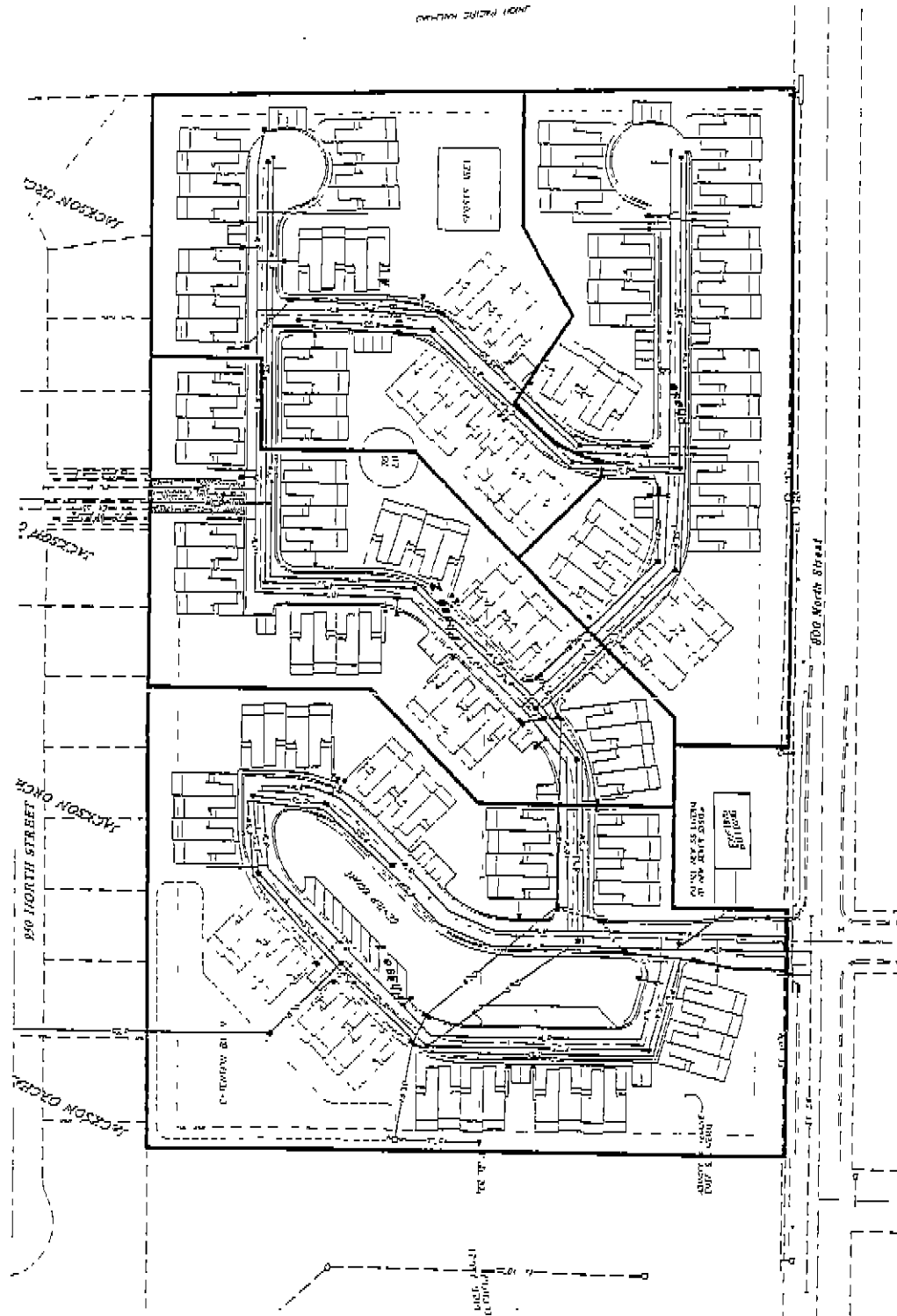


EXHIBIT "C" E 1866576 B 3292 P 1257
DWELLING FEATURES
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT

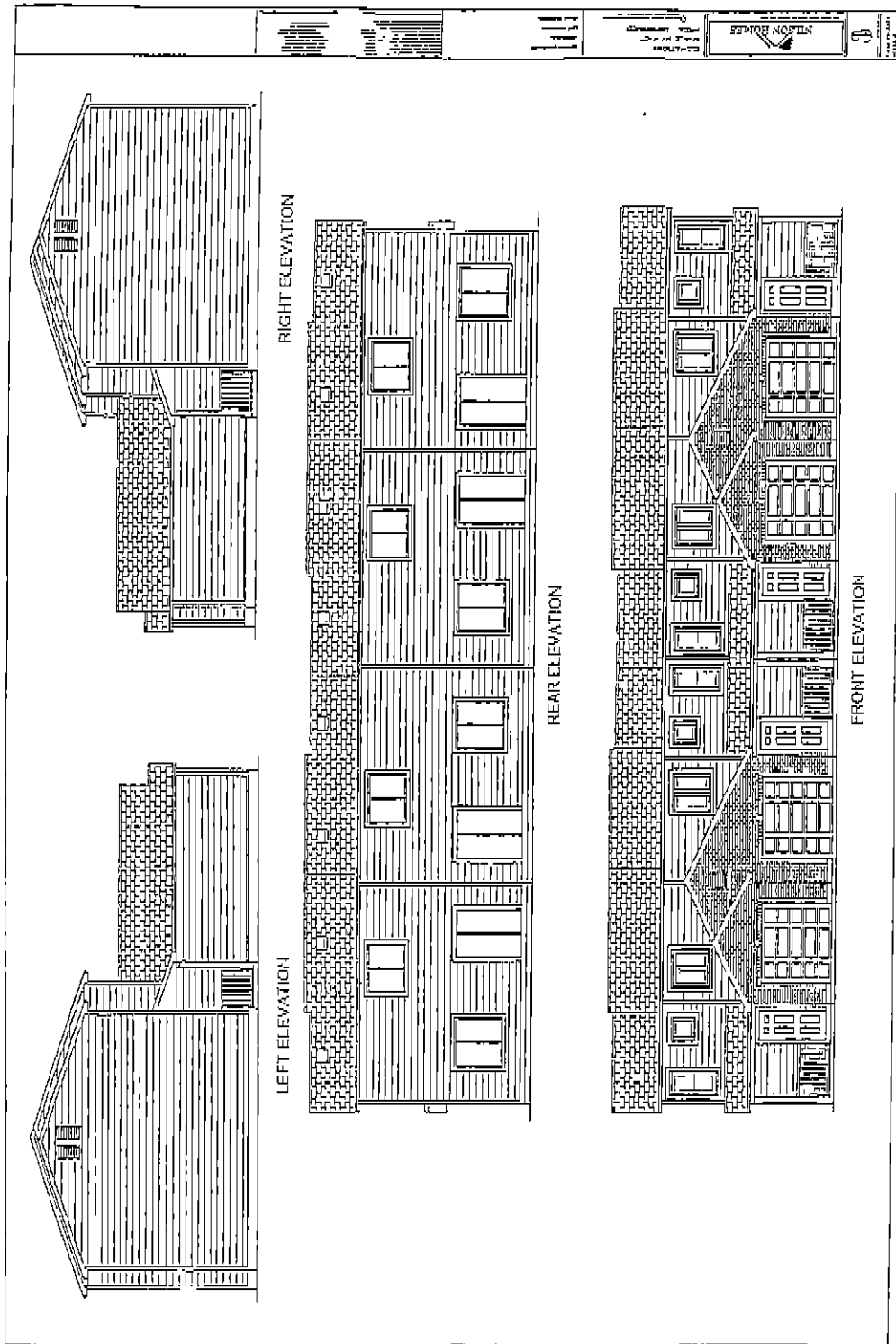
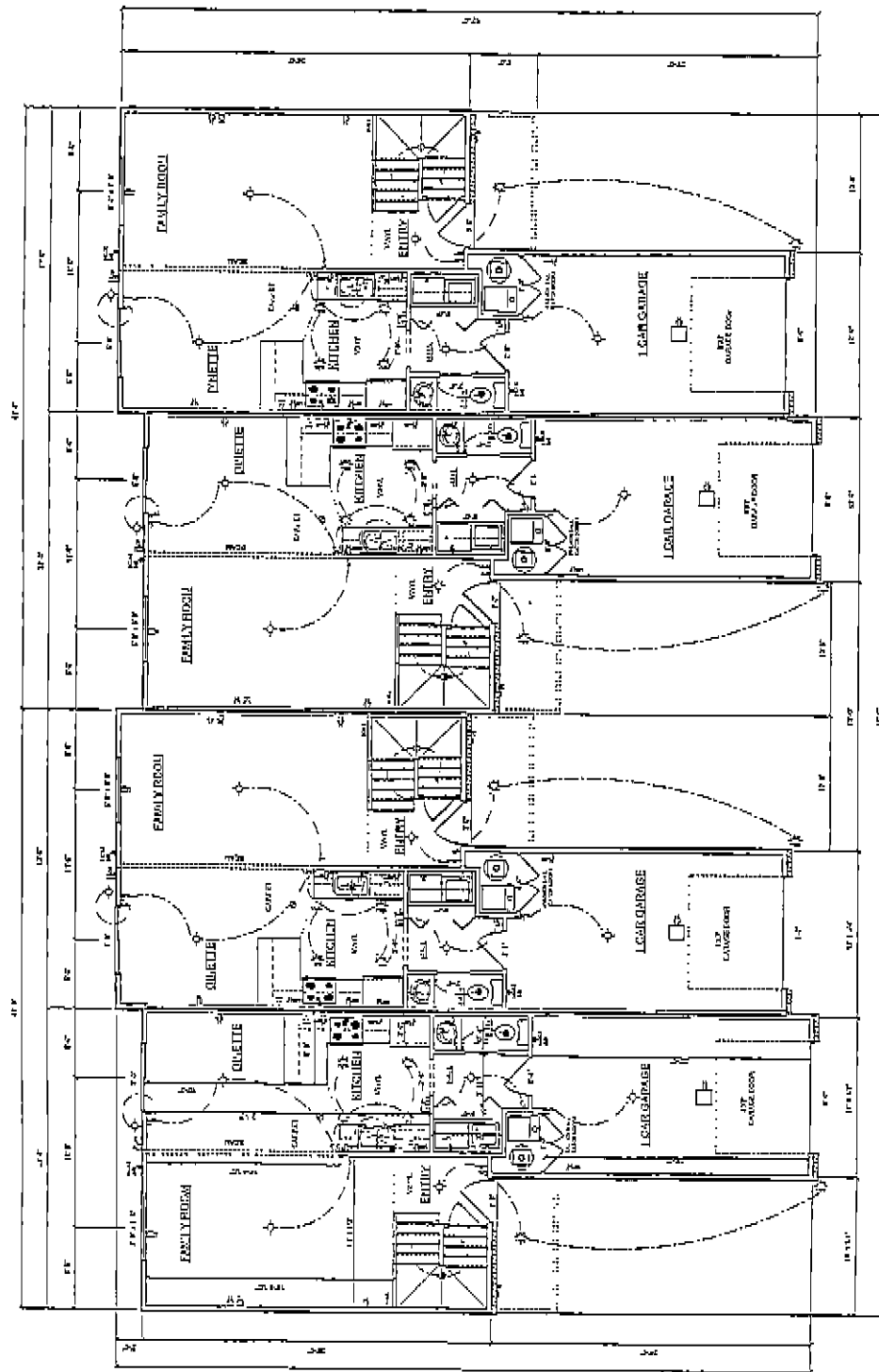
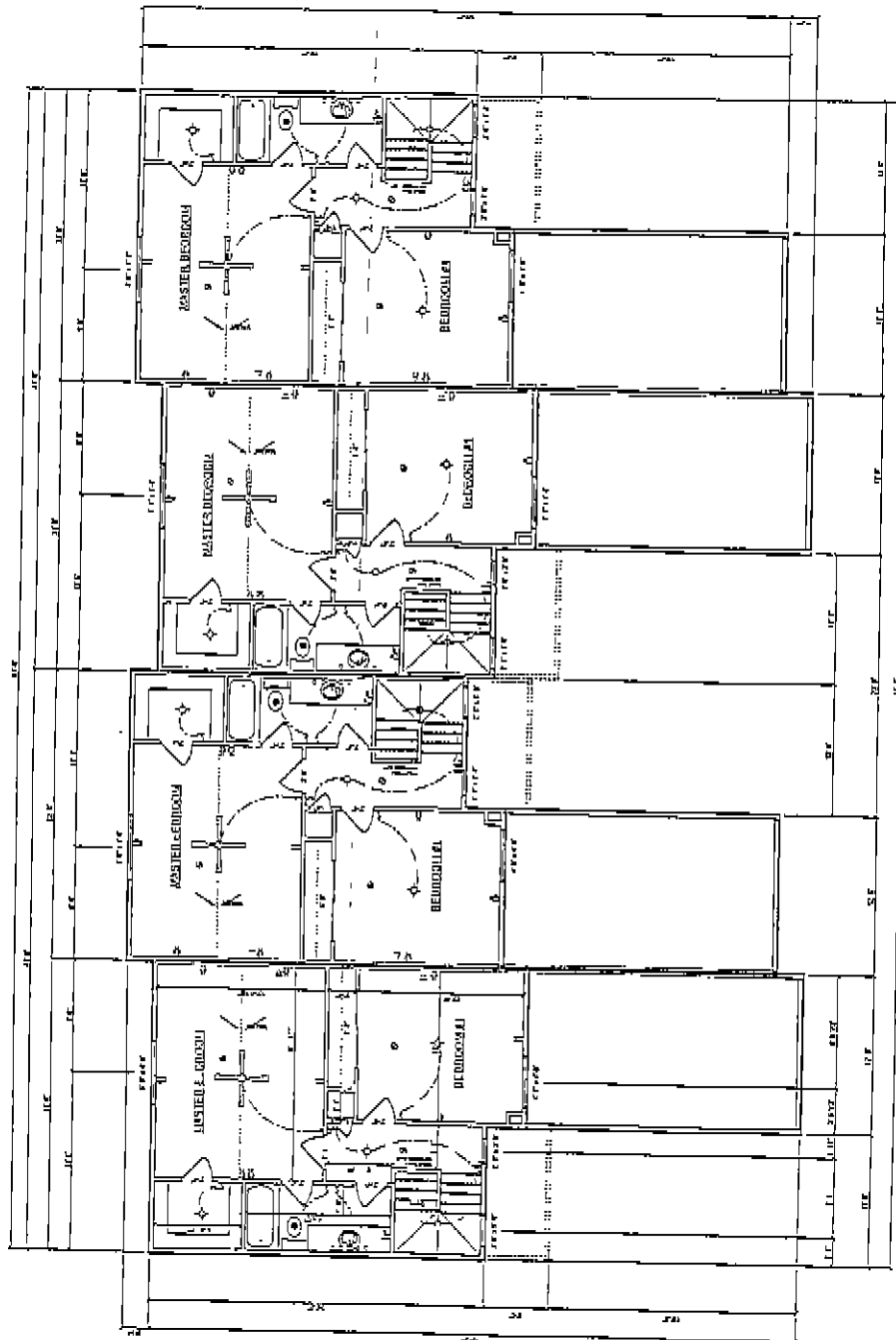


EXHIBIT "C" E 1866576 B 3292 P 1258
DWELLING FEATURES
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT



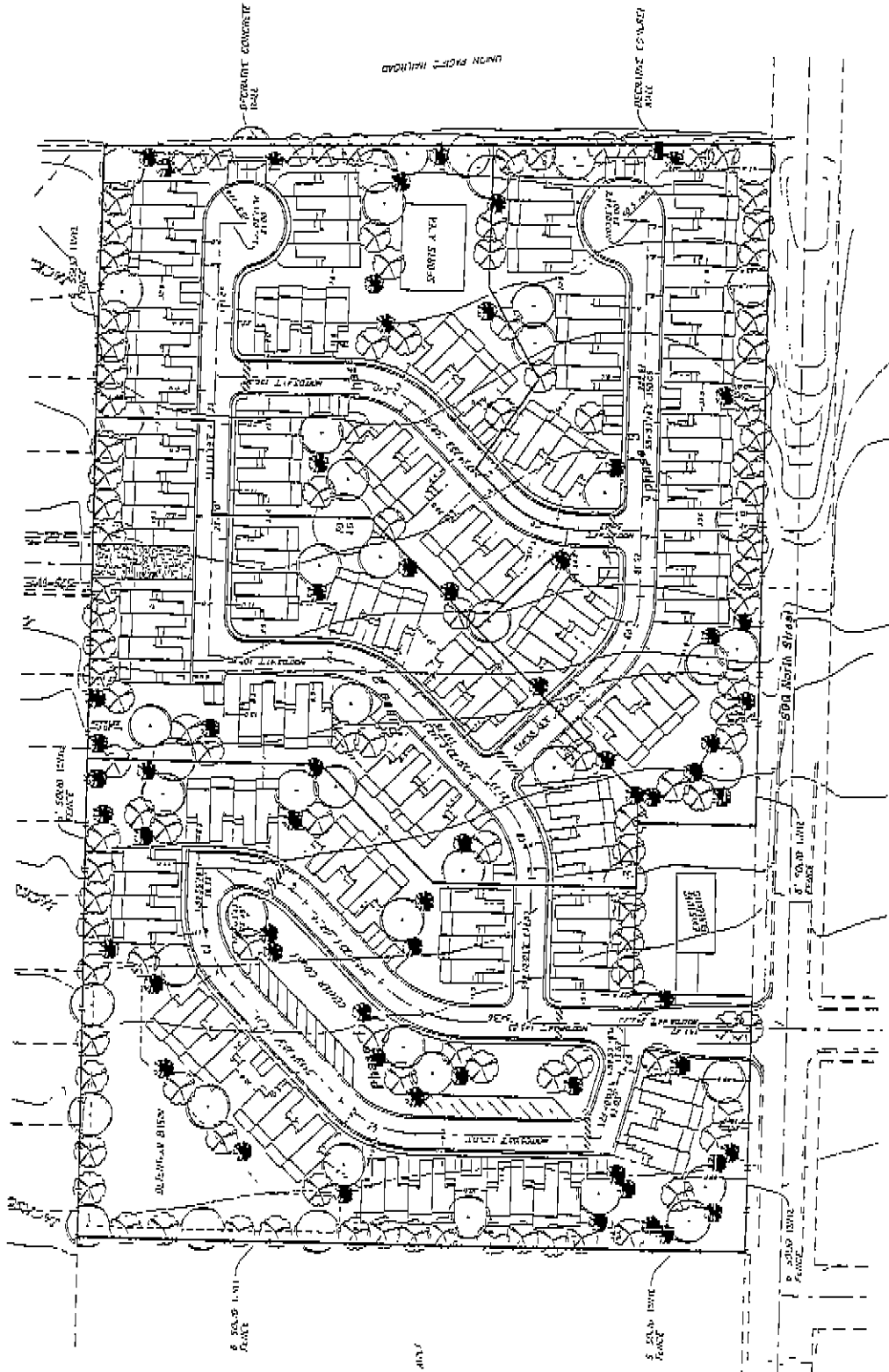
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EXHIBIT "C"
DWELLING FEATURES
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT



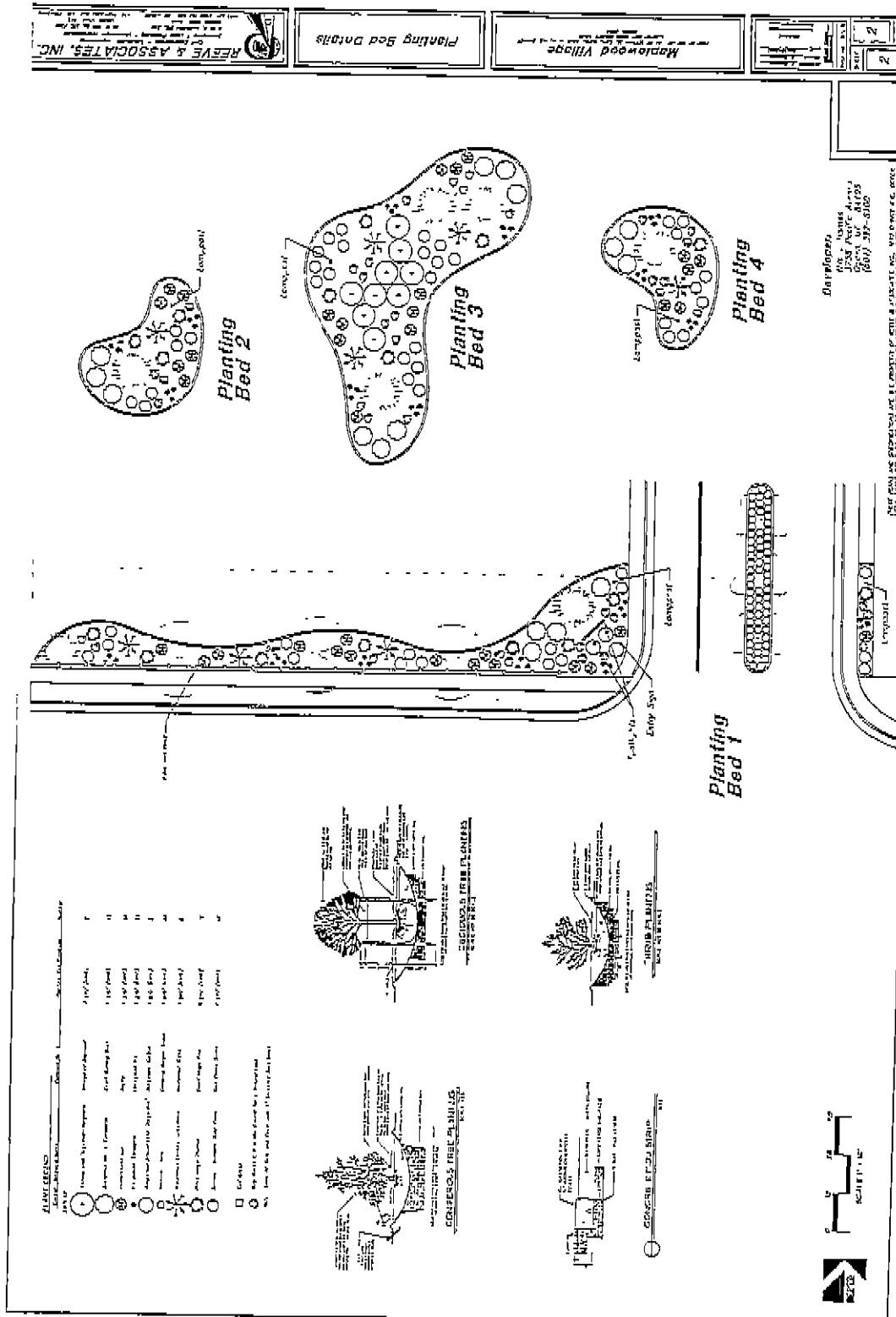
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EXHIBIT "D"
LANDSCAPE PLAN
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT



E 1866576 B 3292 P 1261

EXHIBIT "D"
LANDSCAPE PLAN
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT



E 1866576 B 3292 P 1262

EXHIBIT "E"
SNOW REMOVAL PLAN
MAPLEWOOD VILLAGE TOWNHOMES
A PLANNED RESIDENTIAL UNIT DEVELOPMENT

