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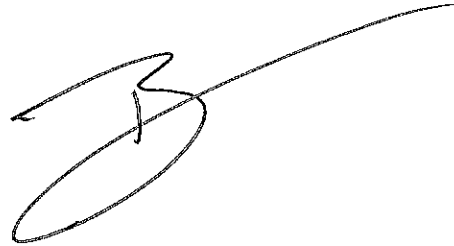
MEMORANDUM

TO: Scott J. Wiesenberger, M.D., President
The Warfields II Homeowners Association, Inc.

FROM: Bruce D. Brown

DATE: August 4, 2014

RE: Completion of Common Driveway
Our File No. 01046.001



You have requested that I advise you and the Board of Directors whether The Warfields II Homeowners Association, Inc. (the "Association") or certain individual homeowners have the right to make demand upon NVR, Inc. ("NVR") and/or Kennard Warfield, Jr. ("Warfield") to complete a common driveway (the "Common Driveway"). The driveway in question serves properties known as Lots 2, 3, and 4 "Warfield Brothers" and Lots 1, 2, 3 and 4 "K & D Stables", as described in a Declaration of Maintenance Obligations for Private Use in Common Easement for Ingress and Egress Across and Within Lots 2, 3 & 4 "Warfield Brothers" and Lots 1 thru 4 "K & D Stables" (hereinafter referred to as the "Driveway Declaration"). The Driveway Declaration is dated June 7, 2006 and recorded among the Land Records of Howard County in Liber 10053, folio 321. It is important to note that the Driveway Declaration was made by NVR, and the recitations in the Driveway Declaration indicate that, at time of recordation, NVR was the owner of the various named lots. Therefore, although Warfield had been the original developer of the various lots (hereinafter the "Affected Lots") at time of recordation of Driveway Declaration, he had conveyed ownership interest in those lots to NVR.

As you and I have discussed, it is apparent from a reading of the Driveway Declaration that the seven (7) Affected Lots have certain shared rights to use and maintain the Common Driveway. The Association is not granted any rights whatsoever under the terms of the Driveway Declaration including, but not limited to, the obligation to maintain, repair and replace the driveway surface. I do

note to you that Article VI, Section 2 of the Association Declaration does impose upon the Association the obligation to remove snow from all use-in-common driveways of member lots of the Association (which includes those on the Affected Lots).

You have advised me that the Common Driveway currently consists of a base course of paving, but that no final or finished courses of paving have ever been applied to the Common Driveway. You have further advised me that NVR utilized the Common Driveway for access to the Affected Lots to complete construction-related work, and that usage may have extended until approximately one (1) year ago. You have now inquired whether the Association or the owners of the Affected Lots (the "Owners") have a right to make demand upon either Warfield or NVR for completion of the final course of paving of the Common Driveway.

At the outset, it is my opinion that the Association has no standing to take any action whatsoever against either Warfield or NVR, due to the fact that it derives no duties, obligations or benefits under the terms of the Driveway Declaration. For this reason, I believe that only the Owners have standing to pursue a claim for completion of the Common Driveway. Because the Owners took title to their respective lots from NVR, I do not believe that any claim or cause of action lies against Warfield, unless the owners can demonstrate some independent contractual obligation by which Warfield agreed to complete the Common Driveway. In the absence of such an undertaking, I believe the sole party to whom the Owners must look to for completion of the Common Driveway is NVR, in its capacity as the seller of the Affected Lots.

The principal concern which the owners should have is that the passage of time could adversely prejudice their potential claims against NVR. Generally, Maryland has a three (3) year statute of limitation in which you make a claim for breach of contract, dated from when the cause of action first arose. In this particular case, the date when the cause of action arose is subject to question, due to the fact that NVR was continuing to construct homes upon the Affected Lots, and was using the Common Driveway to provide access for its construction vehicles. Continued use of the Common Driveway by NVR may have extended limitation periods (which may have otherwise expired). Unfortunately, the information and documentation which you have provided to me does not provide a complete picture of what NVR may have advised the Owners regarding completion of the Common Driveway.

In order to create a more complete picture of the potential claim which the Owners may have against NVR, I would suggest that each of them do the following:

1. Review the contracts of sale between themselves and NVR including, without limitation, any addendum to the contract which addresses the right of NVR to use the Common Driveway after date of settlement, and any obligations NVR may thereafter have to complete the Common Driveway;

August 4, 2014

Page 3 of 3

2. Review any other letters, notes, e-mails, or other correspondence between the Owners and NVR which address any commitment which NVR may have made to complete the Common Driveway.

3. Preparation of a narrative or log detailing any recollections which the Owners have regarding any statements made by NVR, when and by whom those statements were made, and the substance of those statements, all in regard to completion of the Common Driveway.

The gathering of this additional information should help provide a more comprehensive fact pattern by which it can be determined whether a legal cause of action still exists against NVR, to compel completion of the Common Driveway. At a bare minimum, it is my suggestion that the Owners jointly prepare and forward a letter to NVR, making demand upon NVR to complete the Common Driveway on or before a date certain. That letter, and any response from NVR, should determine whether it will be necessary to pursue legal action, or whether NVR will voluntarily undertake completion of the Common Driveway.

Please contact me if you have any additional questions regarding this matter.

BDB:kc

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Return to:
Ronald L. Spahn, Esq.
5401 Twin Knolls Road, Suite 7
Columbia, MD 21045

DECLARATION OF MAINTENANCE
OBLIGATIONS FOR PRIVATE USE IN COMMON EASEMENT
FOR INGRESS AND EGRESS ACROSS AND WITHIN
LOTS 2, 3 AND 4 "WARFIELD BROTHERS"
AND LOTS 1 THRU 4 "K&D STABLES"

THIS DECLARATION of Maintenance Obligations for Private Use in Common Easement for Ingress and Egress Across and Within Lots 2, 3 and 4 "Warfield Brothers" and Lots 1 thru 4 "K&D Stables" is made this 7th day of June, 2006, by NVR, INC. (hereinafter referred to as "Owner")

WHEREAS, Owner owns a parcel of ground described in a deed dated November 3, 2005 and recorded among the Land Records of Howard County, Maryland in Liber 9725, folio 675, containing Lots 1, 2 and 3 of Warfield Bros., and being shown on plat entitled, "Warfield Bros., Lots 1 thru 4" and recorded in Plat Book 8841; and

WHEREAS, Owner owns a parcel of ground described in a deed dated November 3, 2005 and recorded among the Land Records of Howard County, Maryland in Liber 9651, folio 214, containing Lot 4 of Warfield Bros., and being shown on plat entitled, "Warfield Bros., Lots 1 thru 4" and recorded in Plat Book 8841; and

WHEREAS, Owner owns a parcel of ground described in a deed dated November 3, 2005 and recorded among the aforesaid Land Records in Liber 9633, folio 106, containing Lots 2 and 3 of K&D Stables, and being shown on plat entitled, "K&D Stables, Lots 1 thru 4" and recorded in Plat Book 9336; and

WHEREAS, Owner owns a parcel of ground described in a deed dated April 18, 2006 and recorded among the aforesaid Land Records in Liber 9957, folio 497, containing Lot 1 of K&D Stables, and being shown on plat entitled, "K&D Stables, Lots 1 thru 4" and recorded in Plat Book 9336; and

WHEREAS, Owner owns a parcel of ground described in a deed dated October 5, 2005 and recorded among the aforesaid Land Records in Liber 9537, folio 032, containing Lot 4 of K&D Stables, and being shown on plat entitled, "K&D Stables, Lots 1 thru 4" and recorded in Plat Book 9336; and

WHEREAS, this Declaration is necessary as it establishes a Private Use in Common Easement for Ingress and Egress across and within Lots 2, 3 and 4 "Warfield Brothers," as shown on "Warfield Bros., Lots 1 - 4," and Lots 1 thru 4 K&D Stables, as shown on "K&D Stables, Lots 1 thru 4," and any lots divided out of the said parcels which front on the said Private Use in Common Easement (hereinafter referred to as "Lots"), which are restricted to using the

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Private Use in Common Easement, whose width varies from twenty-four feet (24') to fifty feet (50') as shown on the aforementioned Subdivision Plats, to Howard Road, Glenelg, Howard County, Maryland; and

WHEREAS, Howard County has required the Owner to establish the maintenance obligations of some of the owners of the lots for the Private Use in Common Easement.

NOW, THEREFORE, Owner hereby makes this Declaration, and declares and agrees as follows:

1. All covenants, conditions and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every of the aforesaid Lots. This Declaration shall create reciprocal rights and obligations between and/or among the respective owners of the aforesaid Lots and their respective personal representatives, successors and assigns.
2. The parties hereto agree that should any of the aforesaid Lots be sold under a foreclosure of the aforementioned mortgage or by deed in lieu of foreclosure of sale by a trustee in bankruptcy or other sales under distress, such sales or conveyances will be subject to this Declaration.
3. Each lot owner, their family, agents, employees and guests shall have the use of the Private Use in Common Easement for ingress and egress to their lot. No lot owner may take any action which would interfere with the other lot owners' use.
4. The owners of Lots 1, 2, 3 and 4 of "K&D Stables, Lots 1 thru 4," and Lots 2 and 3 of "Warfield Bros., Lots 1 - 4," shall be jointly responsible for maintaining the Private Use in Common Easement as shown on the Subdivision Plat in good condition for all weather use so as to provide safe access for emergency vehicles. The lot owners shall agree to the repairs or maintenance. This maintenance and repair obligation shall constitute a covenant to run with the land, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations on all future lot owners, this Declaration of Maintenance Obligations being designed for the purpose of maintaining good access for the identified lots in the subdivision. Any damage caused by a lot owner or their family, agent, employee or guest shall be the lot owner's responsibility.
5. The "whereas" clauses are included herein.
6. Any disputes shall be resolved by arbitration under the auspices of the American Arbitration Association or its successor. Any judgment award shall include monetary damages, interest, costs, attorney's fees and expert expenses.
7. Every person and/or entity who now or hereafter owns or acquires any right, title or interest in and/or to any of the aforesaid Lots is and shall be conclusively deemed to have consented and agreed to every condition, standard and covenant contained herein, whether or not

any reference to this Declaration is contained in the instrument by which such person and/or entity acquired such interest in the aforesaid Lots. This easement shall be perpetual and run with the land.

8. House number identification signs are to be provided for installation and maintenance in accordance with the office of Planning and Zoning House Numbering System and per Section 3.503(a) of the Howard County Code - Public Signs.

9. A description of this Private Use in Common Easement is attached hereto and made a part hereof.

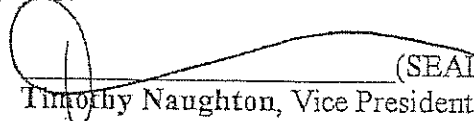
AS WITNESS, the hands and seals of the parties hereto the day and year first above written.

ATTEST:



NVR, INC.

By:

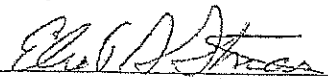


Timothy Naughton, Vice President (SEAL)

STATE OF MARYLAND, ~~CITY~~/COUNTY OF HOWARD, to wit:

I HEREBY CERTIFY that on this 17th day of June, 2006, before me, the subscriber, a Notary Public of the State and City/County aforesaid, personally appeared Timothy Naughton, who acknowledged himself to be the Vice President of NVR, INC., and that as such Vice President, being authorized to do so, executed the foregoing instrument for the purposes therein stated.


IN WITNESS WHEREOF, I hereunto set my hand and official seal:



Notary Public ELLIOT G. STRIAR

My commission expires: 01-01-07

This instrument was prepared by Ronald L. Spahn, Esquire, an attorney qualified to practice before the Maryland Court of Appeals.



Ronald L. Spahn

March 28, 2006

DESCRIPTION OF A
PRIVATE USE IN COMMON EASEMENT
FOR INGRESS AND EGRESS
ACROSS AND WITHIN
LOTS 2, 3 AND 4
"WARFIELD BROTHERS"
AND LOTS 1 THRU 4
"K & D STABLES"
PLAT INTENDED TO BE RECORDED
FIFTH ELECTION DISTRICT
HOWARD COUNTY, MARYLAND

BEING a piece or parcel, situate and lying in the Fifth Election District of Howard County, Maryland for the purpose of a Private Use In Common Easement for Ingress and Egress within, through, over and across part of the property described in a conveyance intended to be recorded among the Land Records of Howard County, Maryland from Ten Oaks Properties, Inc. to NVR Inc. and shown on a Plat entitled "Revision Plat, Warfield Brothers, Lots 1 - 4" and a Plat entitled "Revision Plat, K & D Stables, Lots 1 thru 4" intended to be recorded among the aforesaid Land Records; said piece or parcel being more particularly described, as now surveyed in the Maryland State Coordinate System NAD'83 Datum, as projected by Howard County Geodetic Control, as follows:

BEGINNING FOR THE SAME at a point at the beginning of the North 31°50'09" East 372.29 foot line of Lots 3 and 4 as shown on the aforesaid "Warfield Brothers" Plat, said point also being on the Southern or North 64°23'35" West 308.53 foot Right of Way line of Howard Road in common with Lot 4; thence running with and binding on part of said line the following course and distance:

- 1) South 31°50'09" West 338.86 feet to a point; thence leaving said line to run over, across and through Lot 4 for new lines the following two (2) courses and distances:
- 2) South 31°59'13" East 235.04 feet to a point; thence
- 3) South 79°26'17" East 84.19 feet to a point on the North 30°28'34" East 684.16 foot line of the aforesaid "Warfield Brothers" Plat in common with the North 30°28'34" East 857.68 foot line of the aforesaid "K & D Stables" Plat; thence running over, across and

**FISHER,
COLLINS
CHARTER,
INC.**

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AND LAND SURVEYORS

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Baltimore City, Maryland 21042
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through Lots 1 thru 4 of the aforesaid "K & D Stables" Plat for new lines the following five (5) courses and distances:

- 4) South $79^{\circ}26'17''$ East 289.57 feet to a point; thence
- 5) 29.20 feet with the arc of a tangential curve to the left, having a radius of 30.00 feet, and being subtended by a chord of North $72^{\circ}40'34''$ East 28.06 feet to a point of reverse curvature; thence
- 6) 254.42 feet with the arc of a tangential curve to the right, having a radius of 50.00 feet, and being subtended by a chord of South $10^{\circ}33'43''$ West 56.25 feet to a point of reverse curvature; thence
- 7) 29.20 feet with the arc of a tangential curve to the left, having a radius of 30.00 feet, and being subtended by a chord of North $51^{\circ}33'09''$ West 28.06 feet to a point of tangency on the South $79^{\circ}26'17''$ East 304.42 foot common line of Lots 1 and 2 of the aforesaid "K & D Stables" Plat; thence running reversely with the remainder of said line:
- 8) North $79^{\circ}26'17''$ West 300.44 feet to a point on the North $30^{\circ}28'34''$ East 684.16 foot line of the aforesaid "Warfield Brothers" Plat in common with the North $30^{\circ}28'34''$ East 857.68 foot line of the aforesaid "K & D Stables" Plat; thence running over, across and through Lots 2, 3 and 4 of the aforesaid "Warfield Brothers" Plat for new lines the following seven (7) courses and distances:

- 9) North $79^{\circ}26'17''$ West 86.50 feet to a point on the North $31^{\circ}59'13''$ West 325.20 foot line of Lot 3 in common with Lot 4; thence running with and binding on part of said line:
- 10) North $31^{\circ}59'13''$ West 196.01 feet to a point; thence leaving said line and running over, across and through Lot 3
- 11) North $58^{\circ}09'51''$ West 58.63 feet to a point on the North $85^{\circ}22'36''$ East 118.25 foot line of Lot 3 in common with Lot 2; thence running reversely with and binding on part of said line:

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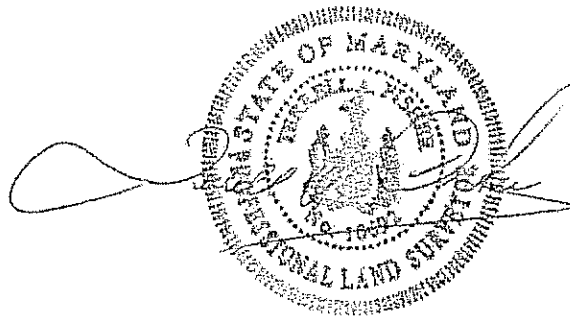
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and 21042

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- 12) South 85°22'36" West 31.09 feet to a point; thence leaving said line and running over, across and through Lot 2, and running with and binding on all of the North 31°50'09" East 371.43 foot line of Lot 1 in common with Lot 2;
- 13) North 31°50'09" East 402.53 feet to a point on the 210.33 arc-foot line of the southern Right of Way line for the aforesaid Howard Road; thence running with and binding on said Right of Way line the following two (2) courses and distances:
- 14) 22.25 feet with the arc of a non-tangential curve to the left, having a radius of 355.00 feet, and being subtended by a chord of South 62°35'57" East 22.25 feet to a point of tangency; thence
- 15) South 64°23'35" East 27.99 feet to the point of beginning; containing 1.073 Acres, more or less.

SEE PLAT attached hereto to be recorded with this description.



Prepared By GB

Checked By JAV

WO #05100

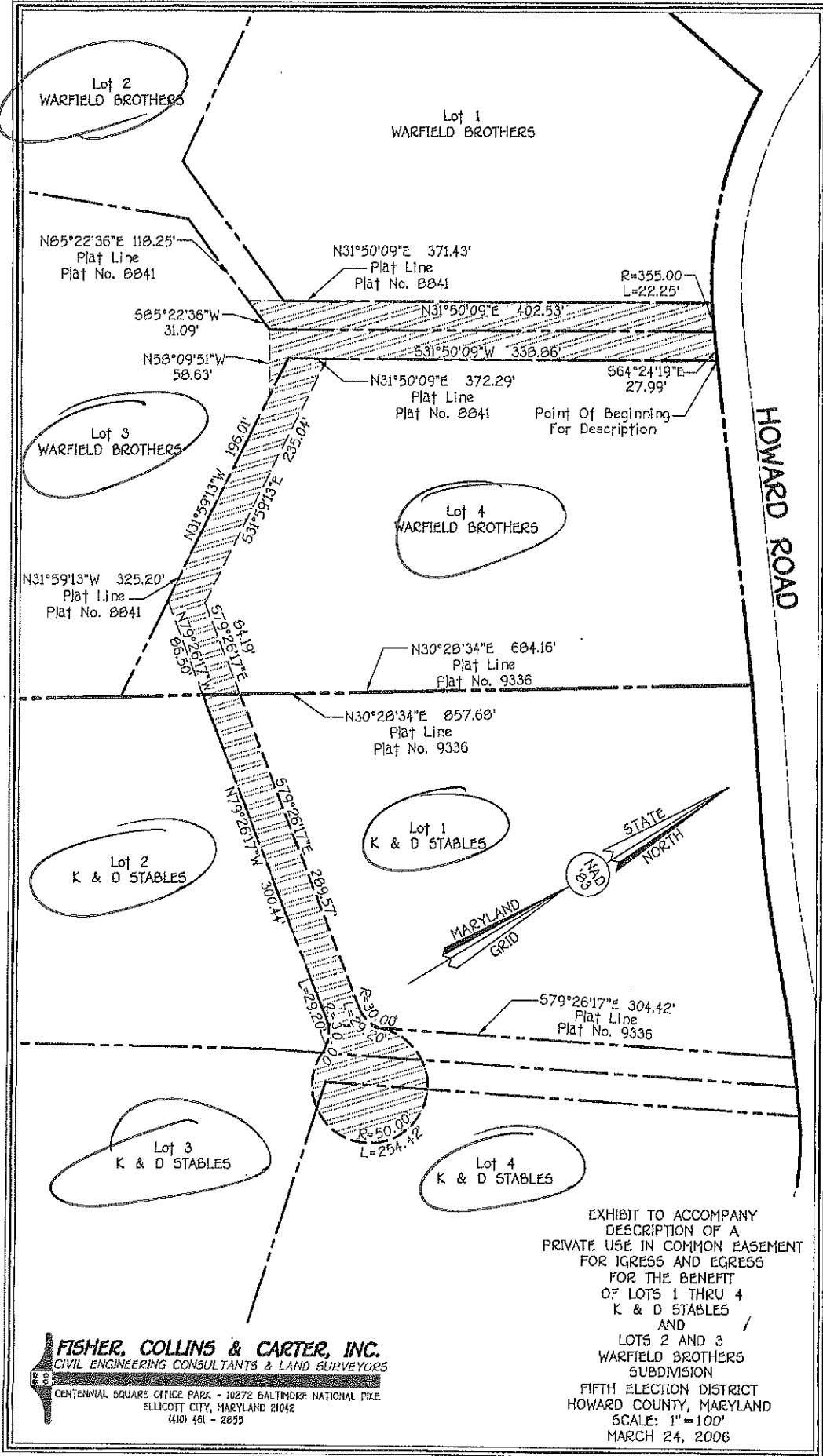
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IMP FD SURK \$	28.00
RECORDING FEE	28.00
TOTAL	48.00
Ref 6	Recpt # 43731
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HOWARD COUNTY CIRCUIT COURT (Land Records) MDR 10053, p. 0327, MSA_CE53_10043, Date available 06/15/2006, Printed 05/06/2014.
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 CIVIL ENGINEERING CONSULTANTS & LAND SURVEYORS
 CENTENNIAL SQUARE OFFICE PARK - 10272 BALTIMORE NATIONAL PIKE
 ELLICOTT CITY, MARYLAND 21042
 (410) 461 - 2855

EXHIBIT TO ACCOMPANY
 DESCRIPTION OF A
 PRIVATE USE IN COMMON EASEMENT
 FOR THE BENEFIT
 OF LOTS 1 THRU 4
 K & D STABLES
 AND
 LOTS 2 AND 3
 WARFIELD BROTHERS
 SUBDIVISION
 FIFTH ELECTION DISTRICT
 HOWARD COUNTY, MARYLAND
 SCALE: 1"=100'
 MARCH 24, 2006