

# CONSERVATORY WOODS CONDOMINIUMS

## TABLE OF CONTENTS

1. Explanation Form
2. Disclosure Statement
3. Recorded Master Deed
4. Condominium Bylaws
5. Condominium Subdivision Plan
6. Articles of Incorporation of Conservatory Woods Condominium Association
7. Bylaws of Conservatory Woods Condominium Association
8. Purchase Agreement
9. Escrow Agreement
10. The Condominium Buyers Handbook

## CONDOMINIUM PROJECT

### EXPLANATION FORM UNDER SECTION 84a OF THE MICHIGAN CONDOMINIUM ACT

Delivery of Documents. Pursuant to Section 84a of the Michigan Condominium Act, as amended (the "Act"), we are furnishing to you at this time copies of the following Condominium Documents relating to the Conservatory Woods Condominium Project:

- (a) Recorded Master Deed (including Condominium Bylaws and Subdivision Plan);
- (b) Purchase Agreement (in the form previously signed by you or which is being delivered to you for execution), together with a copy of the Escrow Agreement;
- (c) Condominium Buyer's handbook as promulgated by the Michigan Department of Commerce; and
- (d) Disclosure Statement and projected budget in compliance with Section 84 of the Act.

Cooling-Off Period. As provided in section 84 of the Act, your Purchase Agreement cannot become binding until the elapse of nine (9) business days from today, unless you voluntarily elect to waive the withdrawal period and to proceed to closing at an earlier date. During this period you should be sure to carefully read the accompanying documents which control the operation of the condominium and are of extreme importance to you in understanding the nature of the interest which you are purchasing and your relationship with the Condominium Project, its Co-owners and the Developer.

Effect of Amendment. In the event that your Purchase Agreement is amended (either before or after it has been signed) or if any of the other Condominium Documents delivered to you are subsequently amended, such an amendment will not give you any right or time to withdraw in addition to that originally provided in your Purchase Agreement and in the Michigan Condominium Act.

Acknowledgment and Return. Please sign and return to us the additional copy of this Receipt and Statement to acknowledge that it and the described documents have been delivered to you.

Dated: \_\_\_\_\_, 200\_\_.

Receipt of described Documents  
acknowledged:

Very truly yours,

B.B.S. CAPITAL, L.L.C.

By: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Member

If more than one purchaser, all must sign.)

Unit No.: \_\_\_\_\_

Date: \_\_\_\_\_

**DISCLOSURE STATEMENT  
for  
CONSERVATORY WOODS**

**Provided By:** B.B.S. Capital, L.L.C.  
309 East Main Street  
Lowell, Michigan 49331  
Tel. No. (616) 897-5520

This is the Disclosure Statement for Conservatory Woods, a residential condominium project located in the City of Lowell, Kent County, Michigan. The project consists of up to 55 residential Units. This Statement is intended to explain certain aspects of the Condominium to prospective buyers.

THIS DISCLOSURE STATEMENT OF THE CONDOMINIUM IS NOT A SUBSTITUTE FOR THE MASTER DEED, THE CONDOMINIUM BUYER'S HANDBOOK OR OTHER APPLICABLE LEGAL DOCUMENTS. AS A PROSPECTIVE BUYER YOU SHOULD READ ALL SUCH DOCUMENTS TO FULLY ACQUAINT YOURSELF WITH THE PROJECT AND YOUR RIGHTS AND RESPONSIBILITIES RELATING TO THE PROJECT.

THE CORPORATION, SECURITIES AND LAND DEVELOPMENT BUREAU OF THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES IS DESIGNATED AS THE "ADMINISTRATOR" FOR CONDOMINIUMS BY THE MICHIGAN CONDOMINIUM ACT. THE BUREAU MAKES NO REVIEW OF CONDOMINIUM DOCUMENTS NOR ANY RECOMMENDATIONS AS TO THE MERITS OF ANY PROJECT OR THE PURCHASE OF UNITS IN A PROJECT.

IT IS RECOMMENDED THAT YOU CONSULT WITH AN ATTORNEY OR OTHER PROFESSIONAL ADVISOR PRIOR TO PURCHASING A CONDOMINIUM UNIT.

**Effective Date:** October 1, 2001

**Prepared By:** Jonathan W. Anderson  
Varnum, Riddering, Schmidt & HowlettLLP  
Bridgewater Place - P.O. Box 352  
Grand Rapids, Michigan 49501-0352



# CONSERVATORY WOODS

## DISCLOSURE STATEMENT

### Table of Contents

	<u>Page</u>
1. INTRODUCTION.....	1
2. THE CONDOMINIUM CONCEPT .....	1
3. DESCRIPTION OF THE PROJECT .....	2
4. CONDOMINIUM DOCUMENTS .....	2
5. DEVELOPER'S BACKGROUND AND EXPERIENCE .....	3
6. ADMINISTRATION OF THE PROJECT.....	3
7. PROJECT WARRANTIES.....	4
8. ESCROW REQUIREMENTS .....	5
9. BUDGET AND ASSESSMENTS .....	5
10. RESTRICTIONS APPLICABLE TO THE CONDOMINIUM.....	6
11. ENFORCEMENT PROVISIONS .....	6
12. INSURANCE.....	7
13. PRIVATE DRIVES AND EASEMENTS.....	7
14. REAL ESTATE TAXES.....	8
15. RECREATIONAL FACILITIES .....	8
16. LEGAL MATTERS .....	8
17. Estimated Operating Budget.....	Exhibit A
18. Development Team .....	Exhibit B

**DISCLOSURE STATEMENT  
FOR  
CONSERVATORY WOODS**

1. **Introduction.** Condominium development in Michigan is governed by a statute called the Michigan Condominium Act, which is Act 59 of the Public Acts of 1978, as amended (the "Act"), and by rules adopted by the Michigan Department of Consumer and Industry Services, the state agency which administers the Act. On the following pages B.B.S. Capital, L.L.C., as developer (the "Developer") of the Conservatory Woods project (the "Project"), has set forth certain facts about the Project and the persons involved in its development which it believes will assist a prospective buyer in reviewing the Project. This Disclosure Statement, together with copies of the legal documents intended for the creation and operation of the Project (the "Condominium Documents"), are furnished to each buyer to fulfill the requirement of the Act that the Developer disclose to prospective buyers the characteristics of the condominium Units which are offered for sale. The Condominium Documents constitute the only authorized description of the Project, and none of the Developer's representatives are permitted to vary the terms stated in those Documents except by written amendment to the Condominium Documents.

2. **The Condominium Concept.** "Condominium" is a form of real property ownership. Under Michigan law, the portion of the condominium which is individually owned has the same legal attributes as any other form of real estate and may be sold, mortgaged or leased subject to the restrictions contained in the Condominium Documents. A condominium project is established by recording a master deed in the office of the register of deeds for the county in which the project is located.

Each owner of a condominium Unit in the Project (the "Co-owner") will own a portion of the building in which the residence is located (the "Unit"), to which the Co-owner receives a warranty deed, and is one of a number of mutual owners of common facilities (the "common elements") which serve both the Co-owner's Unit and other Units in the Project. The Units and the common elements are described generally in the master deed, and each Unit's boundaries and dimensions are shown in the condominium subdivision plan attached to the master deed. All portions of the Project which are not included within the Units constitute the common elements and are owned by all Co-owners in equal undivided proportions. Limited common elements are those common elements which are set aside for the use of less than all Unit owners. All other common elements are designated as general common elements for the use of all Unit owners.

The interrelationship of individual ownership of Units and joint ownership of common elements requires that certain restrictions be imposed on the use of the Units and the common elements for the mutual benefit of all. Such restrictions are contained in the condominium bylaws which are recorded as a part of the master deed. The Condominium Documents are prepared with the goal of allowing each Co-owners individual freedom and discretion without permitting any one owner to infringe upon the rights and interests of the group at large. All Co-owners must be familiar with and abide by such restrictions if condominium living is to be an enjoyable experience.



3. **Description of the Project.** Conservatory Woods is a residential condominium project located in the City of Lowell, Kent County, Michigan (the "Condominium"). The Project is being developed in multiple phases on approximately 18.16 acres of land, so as to contain a maximum of 55 condominium Units.

The first phase of the Project consists of 6 buildings comprising 21 individual Units, one 2-Unit building, one 3-Unit building and four 4-Unit buildings. All Units are 2 floors and contain 2 or 3 bedrooms. Each Unit has its own enclosed 2-stall garage and individual entry. All Units have separate furnace, hot water heater and central air conditioning.

The land, walkways, roads, landscaping, common utility systems and structural elements of the buildings (foundation, exterior walls, roof, floors and ceiling, certain interior walls) are all general common elements which are owned and used in common by all Co-owners. Individual Co-owners also have an exclusive right to use the limited common elements of the Project such as garages, porches and/or decks and a shared right to use the driveway to the Unit with the Co-owners of other Units that use that driveway.

4. **Condominium Documents.** Conservatory Woods has been established as a condominium project by the recording of a master deed in the Kent County Records (the "Master Deed"), a copy of which either has been or will be delivered to each purchaser at least 9 business days prior to closing. The Condominium Bylaws and the Condominium Subdivision Plan, a three-dimensional survey establishing the physical relationship and location of each of the Units in the Project, are attached as exhibits to the Master Deed. Other Condominium Documents include this Statement, the Articles of Incorporation, the Corporate Bylaws of the Conservatory Woods Condominium Association, a non-profit corporation which serves as the association of Co-owners for Conservatory Woods (the "Association").

The Master Deed contains a definition of terms used to describe the Project, the value assigned to each Unit, a description of both the limited and general common elements constituting the Project, and a statement as to the responsibility of the individual Co-owners and of the Association for upkeep and maintenance of the common elements. All Units in the Project have been assigned an equal value by the Developer after reviewing the comparative size, market value, location and allocable expenses of maintenance. The Master Deed also reserves to the Developer the right to contract the Project within defined limits and to modify the number, size, style and location of any Units or common elements in the Project which have not been sold or which are not subject to a binding purchase agreement by an amendment or series of amendments to the Master Deed. Such amendments do not require the consent of any Co-owner or mortgagee providing that the changes do not unreasonably impair or diminish the appearance of the Project or the view, privacy or other significant attribute of any Unit which adjoins a modified Unit or common element.

The Condominium Bylaws contain provisions relating to the operation, management and fiscal affairs of the Condominium, including authorization for the levy of both regular and special assessment of the Co-owners to pay for the costs of operation. Restrictions on the ownership, occupancy and use of condominium Units in the Project are listed in the Bylaws, which also contains provisions allowing the Association to adopt additional rules and regulations governing the use of the Units and the common elements which are not inconsistent with the Condominium Bylaws.



The Condominium Subdivision Plan contains a survey of the condominium land showing the location of all buildings and common utility systems. Floor plans and elevations of individual Units are also depicted in the Subdivision Plan, together with those common elements which can be shown on the drawings.

5. **Developer's Background and Experience.** The Project is being developed by B.B.S. Capital, L.L.C., a Michigan limited liability company. The company was formed in 2001 for the specific purpose of developing condominium projects. Conservatory Woods is its first endeavor in condominium development. The principals of B.B.S. Capital, Bill Overbeck and Steve Hanson, however, bring with them experience and skills essential to condominium development. Mr. Overbeck is a licensed residential builder. Mr. Hanson is a developer and licensed real estate salesperson and has been involved in other site condominium developments and platted residential developments.

The names, addresses and previous experience with condominium projects of the Developer and of any management agency, real estate broker, escrow agent, project engineer, attorney and/or other member of the "development team" involved in the Project are set forth on Exhibit B attached to this Statement.

6. **Administration of the Project.** The responsibility for management and maintenance of the Project is vested in the Conservatory Woods Condominium Association, which has been incorporated by the Developer as a non-profit corporation under Michigan law. Each Unit Co-owner automatically becomes a member of the Association when that party purchases a Unit in the Project. The owner of each Unit will be entitled to one vote at all meetings of the Association. Each Unit owner will share in the expenses and proceeds of administration of the Project based on that Unit's percentage of value, as set forth in the Master Deed.

The Association was formed by certain individuals acting at the request of the Developer. These persons now make up the board of directors of the Association and will control its affairs until a new board of directors is elected by the owners. This election will take place at the initial meeting of the members of the Association, as called by the Developer, which must be held within 120 days after legal or equitable title to 75% of the Units which may be created in the Project have been conveyed to non-Developer Co-owners, but in no event later than 54 months after the first conveyance of title to such a person has been made. The composition of the board as between Developer representatives and non-Developer Co-owners will thereafter be adjusted from time to time under the formula described in the Condominium Bylaws.

Not later than 120 days after conveyance of legal or equitable title to non-Developer Co-owners of 1/3 of the Units in the Project, or 1 year after the initial conveyance of a Unit to such a person, whichever first occurs, 2 or more persons will be selected from among the non-Developer Co-owners to serve as an advisory committee to the board of directors. The advisory committee is intended to function as an informal organization with which the board can consult on matters concerning the Condominium. At such meetings, the Developer intends to provide the advisory committee with information about the development of the Condominium and to receive

recommendations from the committee. The members of the advisory committee will be appointed by and serve at the pleasure of the Developer.

The Bylaws of the Association permit the hiring of a professional manager or management company to manage the Project. The Developer has not entered into any such management contract. Rather, the management of the Project is being handled by the Developer without charge for its time, but the cost of goods and services purchased and out-of-pocket expenses incurred by the Developer for management purposes are included in the annual budget of the Association attached as Exhibit A. This arrangement, as well as any formal contract between the Association and the Developer or a management agent or company related to the Developer which might be entered into before the date of the initial meeting of Co-owners, is subject to termination at the option of the Co-owners upon their assumption of control of the Condominium, with or without cause.

Additional information about the organization and operation of condominiums in Michigan may be found in the Condominium Buyer's Handbook published by authority of the Michigan Department of Commerce, a copy of which either has or will be furnished to you by the Developer.

**7. Project Warranties.** As described in the purchase agreement, the Developer will warrant the workmanship and materials of all Units (other than consumer products as defined in the Magnuson-Moss Warranty Federal Trade Commission Improvement Act which are included within a purchaser's Unit) for a period of 1 year from the date of occupancy against defects in workmanship and materials. If written notice of defect is given by a Unit owner within the warranty period, the Developer will make an inspection of the Unit and, where such inspection reveals defects in workmanship and materials, will make reasonable repairs to cure such defects without cost to the Co-owner. The Developer is also responsible for defects in workmanship and materials in the common elements of the Project as to which it receives written notice within 1 year from the date on which construction or installation of the particular common element is completed.

The Developer's warranty does not include alleged defects which are the result of characteristics common to the materials used, such as: warping of wood; fading, chalking or checking of paint due to sunlight; hairline cracks caused by the drying and curing of concrete, stucco, plaster, bricks and masonry; drying, shrinking or cracking of caulking and weather-stripping; heaving of cement; snow or ice buildup on roofs causing leakage in a Unit or in the common elements; or initial settlement of buildings and/or material shrinkage commonly associated with new construction.

All Developer warranties are freely assignable to subsequent purchasers of a Condominium Unit. In addition, any warranty given by the manufacturer of an appliance or other manufactured item installed in the Condominium Unit by the Developer will be assigned to the purchaser of that Unit. The Developer makes no warranties as to such items.

All notices with regard to warranty claims should be sent to the Developer, at the address noted on the front sheet of this Statement.

**CAUTION: THERE ARE NO WARRANTIES ON THIS CONDOMINIUM PROJECT OTHER THAN THOSE DESCRIBED IN THIS STATEMENT, AS EXPRESS WARRANTIES ARE NOT PROVIDED UNLESS SPECIFICALLY**



STATED. YOU, INDIVIDUALLY OR AS A MEMBER OF THE ASSOCIATION, MAY BE REQUIRED TO PAY FOR THE REPLACEMENT OR REPAIR OF ANY DEFECTS IN THIS CONDOMINIUM PROJECT THAT ARE NOT COVERED BY WARRANTY, IF ANY SUCH DEFECTS EXIST. UNDER NO CIRCUMSTANCES WILL THE DEVELOPER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

8. **Escrow Requirements.** Section 83 of the Condominium Act requires that all reservation deposits received from a prospective buyer under a preliminary reservation agreement must be deposited in an escrow account with an authorized escrow agent. In the event that the prospective buyer decides to cancel the preliminary reservation agreement, all such deposits must be refunded to that party within 3 business days after notice of cancellation is received.

Section 84 of the Condominium Act provides that all payments received from a prospective buyer under a purchase agreement must also be deposited in the escrow account, and must be refunded if the purchase agreement is canceled within 9 business days after receipt by the buyer of the Condominium Documents which the Developer is required to furnish under Section 84(a). Upon expiration of such withdrawal period, the Developer must retain sufficient amounts in the escrow account or provide other adequate security as provided in Section 103(b) of the Act to assure the completion of those uncompleted structures and improvements labeled "must be built" under the terms of the Condominium Documents.

Units 1 – 3 (Building 1) of Conservatory Woods have been designated "must be built" in the Master Deed. Sufficient funds will therefore need to be retained to ensure completion of all utility mains and leads, all major structural components of the building, all building exteriors and all sidewalks, driveways, landscaping and access roads appurtenant to these "must be built" improvements. Units 4 – 21 have been designated "need not be built."

9. **Budget and Assessments.** The Condominium Bylaws require that the board of directors adopt an annual budget for the operation of the Project. The initial budget was formulated by the Developer to estimate the reasonably predictable annual expenses of administration of the Project, including a reserve for replacement of major structural components of the buildings and other common elements as needed in the future. A copy of this budget is attached to this Statement as Exhibit A. The amount projected as annual expenses for the Association is \$26,480. This amount does not include expenses for utilities or real property taxes which are billed individually to and must be paid directly by each Co-owner.

Because the budget must necessarily be prepared in advance, it reflects estimates of expenses based on past experience. These estimates may prove to be inaccurate during actual operations on account of such factors as increases in the cost of goods and services, the need for repair or replacement of common elements and property improvements. If such adjustments should occur, the budget will need to be revised accordingly.

Until control of the Association has been turned over to the Co-owners on the "transitional control date", the Developer is required to supplement the income received by the Association to the extent necessary to keep the budget balanced and the Association "in the black". Units owned by



I.

the Developer are not subject to assessments from the Association. Those Units only become subject to assessment upon conveyance or lease by the Developer to a third party.

The Association's only other source of revenue to fund the budget is by assessment of its members who own Units, excepting the Developer. For this reason, each Co-owner must pay an annual assessment which is determined by dividing the balance of the projected budget expenses by the number of Units in the Project as established in the Master Deed. This annual assessment must be paid in monthly installments throughout the year. Thus, on the basis of the budget attached as Exhibit A, the estimated average monthly assessment for the Project will be in the amount of \$105.08 per Unit, although actual assessments will vary depending on the percentage of value assigned to each Unit and the number of Units at the time the assessment is levied.

To provide working capital, each buyer must also pay to the Association at closing of the purchase of a Unit both the pro-rata share of the current assessment for the Unit and an additional sum equal to 2 month's assessments for the Association reserves. This additional payment may, at the Developer's option, be placed either in a short-term operating capital reserve or in the long-term repair and replacement reserve, for use by the Association or Developer as needed from time-to-time. The reserve deposit is not refundable and will not apply as a credit against any future monthly installment or annual assessment. The board of directors may also levy special assessments to cover expenses which were not anticipated in the budget as permitted by the Condominium Bylaws.

*pro-rata monthly  
plus 2 months*

10. **Restrictions Applicable to the Condominium.** Owners of Condominium Units will be bound by various use and occupancy restrictions applying to both the Condominium Units and the common elements. For example, there are prohibitions against conducting commercial or quasi-commercial activities from any Unit, and making changes in the exterior appearance of any Unit or common element, leasing Units on a transient basis or for less than prescribed periods of time, using firearms, fireworks or other dangerous projectiles on the Condominium property, using or parking recreational vehicles, boats or trailers outside a closed garage, and/or keeping pets or other animals on the Condominium property without prior written permission from the board of directors of the Association.

It is impossible to paraphrase all the restrictions without risking the omission of some portion that may be of significance to a particular purchaser. Consequently, each buyer should carefully review the Master Deed and Condominium Bylaws to be sure that they do not infringe on an intended use which the buyer feels is important. None of the restrictions prohibit the Developer from carrying on sales activities as long as the Developer is selling Units in the Condominium.

11. **Enforcement Provisions.** Compliance with use restrictions may be enforced by the levy of fines, or by legal action seeking damages or an injunction against the offending Co-owner. The board may also take direct action to correct any condition which violates the Bylaws, may prohibit use of the common elements by a Co-owner in default, or may elect to discontinue furnishing services to the Unit involved upon 7 days notice to the Co-owner in default. If assessments are not paid by the Co-owner of a Condominium Unit when due, the Association may charge reasonable interest or assess late charges from and after the due date. The Association is also given a lien on the Unit which may be enforced as described above, or by foreclosure proceedings in the manner provided by the Condominium Act. Co-owners should be aware, however, that



Section 58 of the Michigan Condominium Act provides that if the holder of a first mortgage or other buyer obtains title to a Unit as a result of foreclosure of that mortgage, such holder of the first mortgage or other buyer is not liable for unpaid assessments against that Unit and which had become due prior to foreclosure. These unpaid assessments then become common expenses which are collectible from all Unit Co-owners.

12. **Insurance.** The Condominium documents require that the Association carry fire and extended coverage for vandalism and malicious mischief, and liability insurance and worker's compensation insurance (if applicable) with respect to all of the common elements of the Project. Such policies may contain deductible clauses which, in the event of a loss, may result in a portion of such loss being borne by the Association. The board of directors is responsible for obtaining such insurance coverage for the Association, and each Co-owner's pro rata share of the annual Association insurance premiums is included in the Condominium assessment. The Association insurance policies will be available for inspection at the offices of the Developer, at the address shown on the face sheet of this Statement.

The insurance coverage provided by the Association will not cover the interior of the Condominium Units, except for interior walls, nor other common elements appurtenant solely to a Unit. No coverage will be provided for property of a Co-owner located outside the Unit on the grounds of the Project or on a limited common element appurtenant to a Unit. For that reason, all Co-owners are cautioned that it is their own responsibility to insure the interior of the Unit, its contents and any improvements.

Each Co-owner must also obtain personal liability coverage against injury to persons or damage to property resulting from accidents in and about the Co-owner's Unit, naming the Condominium Association as an additional insured. An insurance agent should be consulted in order to decide just what coverage will be needed for protection, since without such coverage a Co-owner will be uninsured for any loss that might occur within the Co-owner's Unit, to the Co-owner's property or to the Co-owner's guests.

13. **Private Drives and Easements.** Conservation Trail, a private drive, provides access from the Project to Ridgeview Avenue. As a public street, Ridgeview Avenue will be maintained and plowed by Kent County.

All private drives within the Project, as well as open parking areas and common walkways, are General Common Elements of the Project and must be snowplowed, maintained and repaired as needed by the Condominium Association. These expenses will ultimately be paid by the Co-owners as a part of their assessed fees. The drives and parking areas are asphalt and will require some routine maintenance, although it is impossible to estimate just how much maintenance may be required in any given year as their life expectancy will vary depending upon the extent of maintenance provided, type of use and weather conditions encountered.

The Condominium premises will be subject to a number of easements. The Master Deed describes certain reciprocal easements granted to Co-owners and to the Association. There may also be easements relating to drainage and utilities which will be described in each title insurance commitment and title insurance policy furnished to buyers.

Until development of all the land described in the Master Deed has been completed, the Developer has reserved the right to unrestricted use of all roads, drives and walkways of the Condominium, and easements to utilize, tap and tie into, extend and enlarge all utility mains located on Association property without the payment of any charge or fee to the Association.

14. **Real Estate Taxes.** Real property taxes on the Units in the Condominium are assessed by the City of Lowell, County of Kent and the Lowell School District. Under Michigan law, such taxes are required to be assessed on the basis of 50% of true cash value.

Except for the year in which the Project is established (or the year in which an expansion amendment is recorded), real property taxes and assessments are levied individually against each Unit and not against the Project as a whole. These taxes cover both the Unit and its proportionate share of the common elements. No taxes or assessments are levied separately against the common elements, either general or limited.

In the year in which the Project is established or expanded, however, the taxes and assessments for the property on which Units are to be located will be billed to the Developer. Upon the construction and sale of a Unit in that year, the proportionate amount of taxes and assessments attributable to a Unit and paid by the Developer in the year of sale will be prorated and charged to the buyer of such newly constructed Unit at the closing. The Developer will also pay or contribute its pro-rata share to the payment of such taxes and assessments based upon the number of Units which it owns at the time the taxes are billed.

It is impossible to determine with any degree of accuracy at this date the amount of real property taxes and/or assessments which may be levied in subsequent years. Such taxes are a function of both property values and tax rates which may either rise or fall in response to inflation levels, community needs and other factors beyond the Developer's control.

15. **Recreational Facilities.** The Developer does not plan to construct any recreational facilities as a part of the Conservatory Woods project. The board of directors of Conservatory Woods Condominium Association has designated a portion of the general common elements of the project for use as a community garden, for the benefit of Unit owners in Conservatory Woods.

16. **Legal Matters.** There are no pending proceedings, either legal or administrative, which involve either the Condominium Project or the Developer and its officers and shareholders in their capacity as such, and the Developer has no knowledge as to any such proceedings which have been threatened in the future. Varnum, Riddering, Schmidt & Howlett LLP, 17th Floor, Bridgewater Place, P.O. Box 352, Grand Rapids, Michigan, have served as legal counsel in connection with the preparation of this Disclosure Statement and other Condominium Documents. Legal counsel has not passed upon the accuracy of the factual matters contained in such documents.

THE MATTERS DISCUSSED IN THIS DISCLOSURE STATEMENT ARE INTENDED TO HIGHLIGHT CERTAIN IMPORTANT FACTS RELATING TO THE PROJECT. BUYERS ARE URGED TO READ ALL CONDOMINIUM DOCUMENTS CAREFULLY AND TO

ENGAGE A LAWYER OR OTHER ADVISOR IN CONNECTION WITH ANY DECISION TO PURCHASE A UNIT IN THE PROJECT.



EXHIBIT A

CONSERVATORY WOODS CONDOMINIUM ASSOCIATION

Estimated Annual Operating Budget\*

Operating Expenses:	TOTAL ANNUAL	PER UNIT ANNUAL
Insurance	\$5,000	\$238
Electric (exterior)	1,008	48
Snow Removal/Fertilizer/Lawn Care	12,600	600
Irrigation system maintenance	840	40
Supplies	1,680	80
Prof. Services Account	588	28
Trash removal	2,352	112
Reserve for Replacement	<u>2,412</u>	<u>115</u>
Total Annual Maintenance Charge	\$26,480	\$1,261
Monthly Maintenance Charge		\$105.08

Expected Income:

21 Units @ \$105.08/ month	\$26,480
----------------------------	----------

In the year in which a Master Deed for the Project is recorded, the real property taxes will be billed to the Developer and divided among the Unit owners on a pro-rata basis and that charge will be in addition to the estimated monthly assessment noted above. Starting with the second year, real property taxes will be assessed and billed directly to each condominium Unit owner for individual payment by the owner.

\*Estimated by B.B.S. Capital, L.L.C., Developer, on the basis of 21 occupied Units.

EXHIBIT B

DEVELOPMENT TEAM

Function	Name and Address	Previous Condominium Experience
Developer	B.B.S. Capital, L.L.C. 309 East Main Street Lowell, MI 49331	None
Management Agent	None	N/A
Real Estate Broker	Smith-Diamond Realty 2828 Wilson Ave., SW Grandville, MI 49418	Numerous
General Contractor	Overbeck Construction Co., Inc. 309 East Main Street Lowell, MI 49331	Numerous
Escrow Agent	Transnation Title Insurance Company 4301 Canal Ave., SW Grandville, MI 49418	Numerous
Project Engineer	Nederveld Associates, Inc. 5570 - 32 <sup>nd</sup> Avenue, PO Box 10 Hudsonville, MI 49426	Numerous
Project Attorney	Jonathan W. Anderson Varnum, Riddering, Schmidt & Howlett Bridgewater Place - P.O. Box 352 Grand Rapids, MI 49501-0352	Numerous

STATE OF MICHIGAN  
COUNTY OF KENT  
RECEIVED FOR RECORD

2001 NOV 15 PM 4:36

*Mary Holmlund*  
REG. OF DEEDS

COPY

MASTER DEED  
OF  
CONSERVATORY WOODS

(Act 59, Public Acts of 1978)  
as amended

Kent County Condominium Subdivision Plan No. 563 containing:

- (1) Master Deed establishing Conservatory Woods, a residential Condominium Project.
- (2) Exhibit A to Master Deed: Condominium Bylaws of Conservatory Woods.
- (3) Exhibit B to Master Deed: Condominium Subdivision Plan for Conservatory Woods.
- (4) Exhibit C to Master Deed: Mortgagee's Consent to Submission to Condominium Ownership.
- (5) Exhibit D to Master Deed: Affidavit of Mailing as to Notices required by Section 71 of the Michigan Condominium Act.

No interest in real estate being conveyed hereby, no revenue stamps are required.

This Instrument Drafted by:

Jonathan W. Anderson, Esq.  
Varnum, Riddering, Schmidt & HowlettLLP  
Bridgewater Place - P.O. Box 352  
Grand Rapids, Michigan 49501-0352

## TABLE OF CONTENTS

SECTION 1. ESTABLISHMENT OF CONDOMINIUM .....	1
1.1 PROJECT.....	1
1.2 ESTABLISHMENT OF CONDOMINIUM.....	1
1.3 PROJECT DESCRIPTION .....	1
1.4 CO-OWNER RIGHTS.....	1
SECTION 2. LEGAL DESCRIPTION OF THE PROPERTY.....	2
2.1 CONDOMINIUM PROPERTY.....	2
2.2 BENEFICIAL EASEMENTS.....	2
SECTION 3. DEFINITIONS .....	2
3.1 DEFINITIONS .....	2
3.2 APPLICABILITY.....	4
SECTION 4. COMMON ELEMENTS.....	4
4.1 GENERAL COMMON ELEMENTS.....	4
4.2 LIMITED COMMON ELEMENTS.....	6
4.3 MAINTENANCE RESPONSIBILITIES.....	7
4.4 ASSIGNMENT OF LIMITED COMMON ELEMENTS.....	8
4.5 POWER OF ATTORNEY .....	8
4.6 SEPARABILITY.....	8
SECTION 5. DESCRIPTION, VALUE AND MODIFICATION OF UNITS.....	8
5.1 DESCRIPTION OF UNITS.....	8
5.2 DETERMINATION OF PERCENTAGE .....	8
5.3 ASSIGNMENT OF PERCENTAGE.....	9
5.4 UNIT MODIFICATION .....	9
SECTION 6. EXPANDABILITY OF CONDOMINIUM.....	10
6.1 FUTURE DEVELOPMENT AREA.....	10
6.2 ADDITION OF UNITS.....	10
6.3 EXPANSION NOT MANDATORY.....	10
6.4 AMENDMENT(S) TO MASTER DEED.....	11
6.5 REDEFINITION OF COMMON ELEMENTS.....	11
6.6 ADDITIONAL PROVISIONS.....	11
SECTION 7. CONTRACTABILITY OF CONDOMINIUM .....	11
7.1 LIMITS OF CONTRACTION .....	11
7.2 WITHDRAWAL OF UNITS .....	11
7.3 CONTRACTION NOT MANDATORY.....	12
7.4 AMENDMENT(S) TO MASTER DEED.....	12
7.5 ADDITIONAL PROVISIONS.....	12
SECTION 8. EASEMENTS .....	12
8.1 EASEMENTS FOR MAINTENANCE AND REPAIR .....	12
8.2 EASEMENTS RESERVED BY DEVELOPER .....	13
SECTION 9. AMENDMENT AND TERMINATION.....	13
9.1 PRE-CONVEYANCE AMENDMENTS.....	13
9.2 POST-CONVEYANCE AMENDMENTS.....	13

9.3	PROJECT TERMINATION .....	15
SECTION 10. ASSIGNMENT OF DEVELOPER RIGHTS .....		15
10.1	TIME FOR COMPLETION .....	15
10.2	ACCESS AND USE.....	16
10.3	ASSIGNMENT .....	16

Exhibit A - Condominium Bylaws of Conservatory Woods

Exhibit B - Condominium Subdivision Plan for Conservatory Woods

Exhibit C - Mortgagee's Consent to Submission to Condominium Ownership

Exhibit D - Affidavit of Mailing as to Notices required by Section 71 of the Michigan Condominium Act



**MASTER DEED**  
**of**  
**CONSERVATORY WOODS**

(Act 59, Public Acts of 1978)  
as amended

This Master Deed is made on the 15 day of November, 2001, by B.B.S. CAPITAL, L.L.C., a Michigan limited liability company, of 309 E. Main Street, Lowell, Michigan (the "Developer") upon the terms and conditions set forth below.

**Section 1. Establishment of Condominium**

**1.1 Project.** The Developer is engaged in the development of a condominium project to be known as Conservatory Woods (the "Project"), in the City of Lowell, Kent County, Michigan on a parcel of land as described on the attached Exhibit B.

**1.2 Establishment of Condominium.** The Developer desires, by recording this Master Deed together with the condominium bylaws attached as Exhibit A and the condominium Subdivision Plan attached as Exhibit B to establish the real property described in Section 2 (the "Property"), together with the improvements located and to be located on such Property, as a condominium project (the "Condominium") under the provisions of the Michigan Condominium Act, as amended (the "Act"). The Developer does hereby declare that upon the recording of this Master Deed, Conservatory Woods shall be a Project under the Act and the Project shall be held, conveyed, encumbered, leased, rented, occupied, improved or in any other manner used, subject to the provisions of the Act and to the covenants, conditions, restrictions, uses, limitations and affirmative obligations contained in this Master Deed, all of which shall be deemed to run with the land and to be a burden upon and a benefit to the Developer, its successors and assigns, and to any persons who may acquire or own an interest in such real property, their grantees, successors, heirs, personal representatives, administrators and assigns.

**1.3 Project Description.** The Project is a residential condominium. The 21 Condominium units which will be developed in the first phase of the Project, including the number, boundaries, dimensions and area of each unit ("Unit"), are shown on the Condominium Subdivision Plan. Each of the Units is capable of individual use by reason of having its own entrance from and exit to a common element of the Project.

**1.4 Co-Owner Rights.** Each owner of a Unit ("Co-owner") in the Project shall have an exclusive property right to the Owner's Unit and to the limited common elements which are appurtenant to the Owner's Unit, and shall have an undivided right to share with other Co-owners in the ownership and use of the general common elements of the Project as described in this Master Deed.

## Section 2. LEGAL DESCRIPTION OF THE PROPERTY

**2.1 Condominium Property.** The land which is being submitted to Condominium ownership in accordance with the provisions of the Act, is described as follows:

That part of the Southwest 1/4 of Section 3, Town 6 North, Range 9 West, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence North 00°06'00" West 1385.57 feet along the North-South 1/4 line of said Section to the Point of Beginning; thence South 89°54'00" West 727.00 feet; thence North 00°06'00" West 334.55 feet along the West line of the East 727.00 feet of the Southwest 1/4 of said Section; thence North 89°28'00" West 0.25 feet along the South line of the North 930.00 feet of the Southwest 1/4 of said Section; thence North 00°06'00" West 65.45 feet; thence North 89°54'00" East 727.25 feet; thence South 00°06'00" East 400.00 feet along the North-South 1/4 line to the Point of Beginning.

**2.2 Beneficial Easements.** The Condominium Project and the Units located in the Project are benefitted by the ingress, egress, utility and other easements described and/or shown on Exhibit B, including an easement for ingress, egress and utilities over the following real property:

That part of the Southeast 1/4 of Section 3, Town 6 North, Range 9 West, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence North 00°06'00" West 1511.20 feet along the North-South 1/4 line of said Section to the Point of Beginning; thence South 89°45'00" East 100.00 feet; thence North 00°06'00" West 200.00 feet; thence North 89°45'00" West 100.00 feet; thence South 00°06'00" East 200.00 feet along the North-South 1/4 line of said Section to the Place of Beginning.

## Section 3. DEFINITIONS

**3.1 Definitions.** Certain terms used in this Master Deed are defined terms and have the meaning given them in the text where they are defined, and the same meaning shall be ascribed to the term in various other instruments with regard to the Project such as, by way of example and not of limitation, the Articles of Incorporation, Association Bylaws and Rules and Regulations of the Conservatory Woods Condominium Association, a Michigan non-profit corporation, and various deeds, mortgages, land contracts, easements and other instruments affecting the establishment or transfer of interests in the Project. As used in documents regarding the Project, unless the context otherwise requires:

(a) **Act.** "Act" or "Condominium Act" means the Michigan Condominium Act, which is Act 59 of the Public Acts of 1978, as amended.



(b) **Administrator.** "Administrator" means the Michigan Department of Consumer and Industry Services, which is designated to serve as administrator of the Act.

(c) **Association.** "Association" or "Association of Co-owners" means Conservatory Woods Condominium Association, the Michigan non-profit corporation of which all Co-owners shall be members, which shall administer, operate, manage and maintain the Project.

(d) **Association Bylaws.** "Association Bylaws" means the corporate Bylaws of the Association organized to manage, maintain and administer the Project.

(e) **Common Elements.** "Common Elements" means the portions of the Project other than the Condominium Units, including all general and limited common elements described in Section 4 of this Master Deed.

(f) **Condominium Bylaws.** "Condominium Bylaws" means Exhibit A to this Master Deed, which are the Bylaws which describe the substantive rights and obligations of the Co-owners.

(g) **Condominium Documents.** "Condominium Documents" means this Master Deed with its exhibits, the Articles and Bylaws of the Association, the Rules and Regulations adopted by the board of directors of the Association and any other document which affects the rights and obligations of a Co-owner in the Condominium.

(h) **Condominium Property.** "Condominium Property" means the land described in Section 2, as the same may be amended, together with all structures, improvements, easements, rights and appurtenances located on or belonging to such property.

(i) **Condominium Subdivision Plan.** "Condominium Subdivision Plan" or "Subdivision Plan" means Exhibit B to this Master Deed, which is the site, survey, floor plans and other drawings depicting both existing and proposed structures and improvements to be included in the Project.

(j) **Condominium Unit.** "Condominium Unit" or "Unit" means that portion of the Project which is designed and intended for separate ownership and use, as described in this Master Deed.

(k) **Co-owner.** "Co-owner" means the person, firm, corporation, partnership, association, trust or other legal entity or any combination of such entities who or which own a Condominium Unit in the Project. The term "Owner", wherever used, is synonymous with the term "Co-owner".

(l) **Developer.** "Developer" means B.B.S. Capital, L.L.C., a Michigan limited liability company, which has signed, delivered and recorded this Master Deed, its successors and assigns.

(m) **Development and Sales Period.** "Development and Sales Period", for purposes of the Condominium Documents and the rights reserved by the Developer and its successors, shall be deemed to continue for as long as the Developer or its successors continue to own and offer for sale any Unit in the Project.

(n) **General Common Elements.** "General Common Elements" means those Common Elements described in Section 4.1, which are for the use and enjoyment of all Co-owners in the Project.

(o) **Limited Common Elements.** "Limited Common Elements" means those Common Elements described in Section 4.2, which are reserved for the exclusive use of the Co-owners of a specified Unit or Units.

(p) **Master Deed.** "Master Deed" means this document, together with the exhibits attached to it and all amendments which may be adopted in the future, by which the Project is being submitted to condominium ownership.

(q) **Percentage of Value.** "Percentage of Value" means the percentage assigned to each Unit by this Master Deed, which is determinative of the value of a Co-owner's vote at meetings of the Association and the proportionate share of each Co-owner in the Common Elements of the Project.

(r) **Project.** "Project" or "Condominium" means Conservatory Woods, a residential condominium development established under the provisions of the Act.

(s) **Transitional Control Date.** "Transitional Control Date" means the date on which a board of directors for the Association takes office pursuant to an election in which the votes that may be cast by eligible Co-owners unaffiliated with the Developer exceed the votes which may be cast by the Developer.

**3.2 Applicability.** Whenever any reference is made to one gender, it will be assumed to include any and all genders where such reference is appropriate; similarly, whenever a reference is made to the singular, it will be assumed to include the plural where such reference is appropriate.

#### **Section 4. COMMON ELEMENTS**

**4.1 General Common Elements.** The General Common Elements are:

(a) **Land.** The land described in Section 2 of this Master Deed, including easement interests benefiting the Condominium for ingress, egress and utility

installation and other purposes, over, across and through adjoining properties whether now existing or granted to the Condominium at a later date;

(b) **Exterior Improvements.** The private drive(s), common parking spaces, common walkways, lawns, yards, trees, shrubs, and other improvements;

(c) **Electrical.** The street lighting system and the electrical transmission system throughout the common areas of the Project, including those transmission lines contained within common walls, floors and ceilings;

(d) **Gas.** The natural gas line network and distribution system throughout the common areas of the Project, including those distribution lines contained within common walls, floors and ceilings;

(e) **Heating and Air-Conditioning.** The heating and/or air-conditioning conduits and ducts throughout the common areas of the Project, including those conduits and ducts contained within common walls, floors and ceilings;

(f) **Water.** The underground sprinkling system, and the water distribution system throughout the common areas of the Project, including those distribution lines contained within common walls, floors and ceilings;

(g) **Sanitary Sewer.** The sanitary sewer system throughout the common areas of the Project, including those service lines contained within common walls, floors and ceilings;

(h) **Storm Drainage.** The storm drainage and/or water retention system throughout the Project;

(i) **Telephone.** The telephone wiring system throughout the common areas of the Project, including those transmission lines contained within common walls, floors and ceilings;

(j) **Telecommunications.** The cable television and/or other telecommunications systems installed throughout the common areas of the Project, including those transmission lines contained within common walls, floors and ceilings;

(k) **Building Elements.** The foundations, roofs, perimeter walls, and interior walls as shown on Exhibit B (including the exterior portion of the chimneys, outside of the perimeter walls), ceilings and floors, entrances and exits of the Project;

(l) **Attic Spaces.** The attic spaces, and any other building areas not otherwise designated as a Limited Common Element on Exhibit B;



**(m) Project Entrance Improvements.** Any entry signage and other improvements located at or near the entrance to the Project; and

**(n) Miscellaneous.** All other Common Elements of the Project not designated as Limited Common Elements and not enclosed within the boundaries of a Condominium Unit, which are intended for common use or are necessary to the existence, upkeep or safety of the Project.

**(o) Utility and Telecommunications Systems.** Some or all of the utility lines, equipment and systems (including mains and service leads), and the telecommunications systems described above may be owned by the local public authority or by the company that is providing the pertinent service. Accordingly, such utility and/or telecommunication lines, equipment and systems shall be General Common Elements only to the extent of the Co-owners' interest in them, and the Developer makes no warranty whatsoever with respect to the nature or extent of such interest.

#### **4.2 Limited Common Elements.** The Limited Common Elements are:

**(a) Utility Service Lines.** The pipes, ducts, wiring and conduits supplying service for electricity, gas, water, sewage, telephone, television and/or other utility or telecommunication services located within a Condominium Unit and supplying service to that Unit alone;

**(b) Decks and Porches.** The deck and/or porch attached to each Unit in the Project and the exterior hardware of each Unit;

**(c) Delivery Boxes.** The mail and/or newspaper box located on a Unit or permitted by the Association on the General Common Elements to serve the Unit;

**(d) Heating and Cooling Appliances.** The fireplace combustion chamber and flue, and the separate furnace, water heater, air conditioner and/or compressor located within or adjacent to a Unit and serving that Unit exclusively;

**(e) Windows, Sliders, Doors and Screens.** The automatic garage door opening mechanism and the windows, sliders, doors and/or screens located within or adjacent to any Unit perimeter wall;

**(f) Garage Interiors.** Garage interior spaces, and the interior surfaces of garage walls, ceilings and floors;

**(g) Interior Unit Surfaces.** The interior surfaces of perimeter walls, doors, ceilings and floors located within a Condominium Unit;

**(h) Miscellaneous.** Any other improvement designated as a Limited Common Element appurtenant to a particular Unit or Units in the Subdivision Plan or in any future amendment to the Master Deed made by the Developer or the Association; and

**(i) Subsequent Assignment.** In the event that no specific assignment of one or more of the Limited Common Elements described in this Section has been made in the Subdivision Plan, the Developer (during the Development and Sales Period) and the Association (after the Development and Sales Period has expired) reserve the right to designate each such space or improvement as a Limited Common Element appurtenant to a particular Unit by subsequent amendment or amendments to this Master Deed.

**4.3 Maintenance Responsibilities.** Responsibility for the cleaning, decoration, maintenance, repair and replacement of the Common Elements will be as follows:

**(a) Limited Common Elements.** Each Co-owner shall be individually responsible for the routine cleaning, maintenance, repair and replacement of all Limited Common Elements appurtenant to the Co-owner's Unit, except for the following: the painting and/or staining of the decks and/or porches described in subparagraph 4.2(b), which shall be maintained by the Association.

**(b) Unit Improvements.** If any Unit Owner shall elect to construct or install any improvements to the interior of a Unit or, with the prior written consent of the Association, to the Unit exterior or the Common Elements appurtenant to the Unit which increase the costs of maintenance, repair or replacement for which the Association is responsible, such increased costs or expenses may, at the option of the Association, be specially assessed against that Unit or Units.

**(c) Association Oversight.** The appearance of the decks, porches, driveways and Unit walkways shall at all times be subject to the approval of the Association. In the event that the cleaning and decoration of such Common Elements by the responsible Co-owner does not conform to reasonable aesthetic and maintenance standards established by the Association, the Association will have the right to take such action as may be necessary to bring such Common Elements up to required standards and to charge all costs incurred to the Owner responsible for cleaning, repair and maintenance.

**(d) Other Common Elements.** The cost of cleaning, decoration, maintenance, repair and replacement of all Common Elements other than as described above shall be the responsibility of the Association, except to the extent of repair or replacement of a Common Element due to the act or neglect of a Co-owner or a Co-owner's agent, invitee, family member or pet, as to which the Co-owner shall be responsible.



**4.4 Assignment of Limited Common Elements.** A Limited Common Element may be assigned or re-assigned, upon notice to any affected mortgagee, by written application to the board of directors of the Association by all Co-owners whose interest will be affected by the assignment. Upon receipt of such an application, the Board shall promptly prepare and execute an amendment to this Master Deed assigning or reassigning all rights and obligations with respect to the Limited Common Elements involved, and shall deliver the amendment to the Co-owners of the Units affected upon payment by them of all reasonable costs for the preparation and recording of the amendment.

**4.5 Power of Attorney.** By acceptance of a deed, mortgage, land contract or other instrument of conveyance or encumbrance all Co-owners, mortgagees (other than Developer's construction lender/mortgagee) and other interested parties are deemed to have appointed the Developer (during the Development and Sales Period) and/or the Association (after the Development and Sales Period has expired), as their agent and attorney to act in connection with all matters concerning the Common Elements and their respective interests in the Common Elements. Without limiting the generality of this appointment, the Developer (or Association) will have full power and authority to grant easements over, to sever or lease mineral interests and/or to convey title to the land or improvements constituting the General Common Elements or any part of them, to dedicate as public streets any parts of the General Common Elements, to amend the Condominium Documents for the purpose of assigning or reassigning the Limited Common Elements and in general to execute all documents and to do all things necessary or convenient to the exercise of such powers.

**4.6 Separability.** Except as provided in this Master Deed, Condominium Units shall not be separable from their appurtenant Common Elements, and neither shall be used in any manner inconsistent with the purposes of the Project, or in any other way which might interfere with or impair the rights of other Co-owners in the use and enjoyment of their Units or their appurtenant Common Elements.

## **Section 5. DESCRIPTION, VALUE AND MODIFICATION OF UNITS**

**5.1 Description of Units.** A complete description of each Condominium Unit in the Project, with elevations referenced to an official benchmark of the United States Geological Survey sufficient to accurately relocate the space enclosed by the description without reference to any structure, is contained in the Subdivision Plan as surveyed by Nederveld Associates, Inc., consulting engineers and surveyors. Detailed architectural plans and specifications have been filed with the City of Lowell, Kent County, Michigan. Each such Unit shall include all the space contained within certain horizontal planes and vertical planes designated by a heavy outline on the interior finished surface of the walls, floors and ceilings as depicted in the Subdivision Plan and as delineated by detailed dimensional descriptions contained by the outline, less any Common Elements located within the description. In determining dimensions, each Condominium Unit will be measured from the interior finished unpainted surfaces of the walls and ceilings and from the interior surfaces of the finished subfloor.

**5.2 Determination of Percentage.** The total percentage value of the Project is 100, and the percentage of 100 assigned to each Condominium Unit is described in Section 5.3. These



Percentages of Value have been determined based on square footage. Except as otherwise provided in this Master Deed, the Percentages may be changed only in the manner described in Section 9 expressed in an amendment to the Master Deed and recorded in the public records of Kent County, Michigan; provided, that the Developer reserves the exclusive right to adjust such Percentages prorata by application of the formula described above as subsequent phases are added to the Project without the consent of any Co-owner, mortgagee or other interested person.

**5.3 Assignment of Percentage.** The number of each Condominium Unit in the Project as it is shown on the Condominium Subdivision Plan and the Percentage of Value assigned to each Unit are as follows:

UNIT NUMBER	SQUARE FOOTAGE	PERCENTAGE OF VALUE ASSIGNED
1	1,677 Sq. Ft.	4.91%
2	1,581 Sq. Ft.	4.63%
3	1,588 Sq. Ft.	4.65%
4	1,677 Sq. Ft.	4.91%
5	1,581 Sq. Ft.	4.63%
6	1,581 Sq. Ft.	4.63%
7	1,677 Sq. Ft.	4.91%
8	1,990 Sq. Ft.	5.84%
9	1,517 Sq. Ft.	4.44%
10	1,581 Sq. Ft.	4.63%
11	1,444 Sq. Ft.	4.24%
12	1,677 Sq. Ft.	4.91%
13	1,677 Sq. Ft.	4.91%
14	1,677 Sq. Ft.	4.91%
15	1,513 Sq. Ft.	4.43%
16	1,581 Sq. Ft.	4.63%
17	1,677 Sq. Ft.	4.91%
18	1,677 Sq. Ft.	4.91%
19	1,513 Sq. Ft.	4.43%
20	1,581 Sq. Ft.	4.63%
21	1,677 Sq. Ft.	4.91%
TOTAL	34,325 Sq. Ft.	100%

**5.4 Unit Modification.** The number, size, style and/or location of Units or of any Limited Common Element appurtenant to a Unit may be modified from time to time by the Developer or its successors without the consent of any Co-owner, mortgagee (other than Developer's construction lender/mortgagee) or other interested person, so long as such modifications do not unreasonably impair or diminish the appearance of the Project or the view, privacy or other significant attribute of any Unit which adjoins or is proximate to the modified Unit or Limited Common Element; provided, that no Unit which has been sold or which is subject to a binding Purchase Agreement shall be modified without the consent of the Co-owner or Purchaser and the mortgagee of such Unit.

The Developer may also, in connection with any such modification, readjust Percentages of Value for all Units in a manner which gives reasonable recognition to such changes based upon the method of original determination of Percentages of Value for the Project.

All Co-owners, mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have granted a Power of Attorney to the Developer and its successors for such purpose which is similar in nature and effect to that described in Section 4.5 of this Master Deed.

## **Section 6. EXPANDABILITY OF CONDOMINIUM**

**6.1 Future Development Area.** The Condominium Project established by this Master Deed consists of 21 Condominium Units which may, at the election of the Developer, be treated as the first phase of an expandable condominium under the Act to contain in its entirety a maximum of 55 Units. Additional Units, if any, will be established upon all or some portion of the following described land (the "Future Development Area"):

That part of the Southwest 1/4 of Section 3, Town 6 North, Range 9 West, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence North 00°06'00" West 1785.57 feet along the North-South 1/4 line to the Point of Beginning; thence South 89°54'00" West 727.25 feet; thence North 00°06'00" West 864.61 feet; thence South 89°28'00" East 100.00 feet along the East-West 1/4 line of said Section; thence South 00°06'00" East 200.00 feet; thence South 89°28'00" East 627.29 feet; thence South 00°06'00" East 656.57 feet along the North-South 1/4 line of said Section to the Point of Beginning.

**6.2 Addition of Units.** The number of Units in the Project may, at the option of the Developer from time to time within a period ending not later than six (6) years after the initial recording of a Master Deed, be increased by the addition of all or any portion of the Future Development Area and the establishment of Units on such area. The nature, location, size, types and dimensions of the Units and other improvements to be located within the Future Development Area will be determined by the Developer in its sole discretion. No Unit will be created within any part of the Future Development Area which is added to the Condominium that is not restricted exclusively to residential use.

**6.3 Expansion Not Mandatory.** None of the provisions of this Article will in any way obligate the Developer to enlarge the Condominium Project beyond the initial phase established by this Master Deed and the Developer may, in its discretion, establish all or a portion of the Future Development Area as a separate condominium project (or projects) or as any other form of development. There are no restrictions on the election of the Developer to expand the Project other than as explicitly provided in this Article. There is no obligation on the part of the Developer to add to the Condominium Project all or any portion of the Future Development Area as described in this Article nor is there any obligation to add portions in any particular order nor to construct any particular improvements on the added property.



**6.4 Amendment(s) to Master Deed.** An increase in the size of the Project by the Developer will be given effect by an appropriate amendment or amendments to the Master Deed, which amendment(s) will not require the consent or approval of any Co-owner, mortgagee (other than Developer's construction lender/mortgagee) or other interested person. Such amendment(s) will be prepared by and at the sole discretion of the Developer, and may proportionately adjust the Percentages of Value assigned by Section 5.3 in order to preserve a total value of one hundred (100%) percent for the entire Project. The precise determination of the readjustments in Percentages of Value (if any) will be made in the sole judgment of the Developer. Such readjustments, however, will reflect a continuing reasonable relationship among Percentages of Value based upon the original method of determining Percentages of Value for the Project.

**6.5 Redefinition of Common Elements.** The amendment or amendments to the Master Deed made by the Developer to expand the Condominium may also contain such further definitions and redefinitions of General or Limited Common Elements as the Developer may determine to be necessary or desirable in order to adequately describe, serve and provide access to the additional parcel or parcels being added to the Project. In connection with any such amendment(s), the Developer will have the right to change the nature of any Common Element previously included in the Project for any purpose reasonably necessary to achieve the intent of this Article, including, but not limited to, the connection of roadways in the Project to any roadways that may be located on or planned for the area of future development, and to provide access to any Unit that is located on or planned for the area of future development from the roadways located in the Project.

**6.6 Additional Provisions.** The amendment or amendments to the Master Deed made by the Developer to expand the Condominium may also contain such provisions as the Developer may determine necessary or desirable: (i) to make the Project contractible and/or convertible as to portions of the parcel or parcels being added to the Project; (ii) to create easements burdening or benefitting portions of the parcel or parcels being added to the Project; and (iii) to create or change restrictions or other terms and provisions affecting the additional parcel or parcels being added to the Project or affecting the balance of the Project as may be reasonably necessary in the Developer's judgment to enhance the value or desirability of the Units to be located within the additional parcel or parcels being added.

## **Section 7. CONTRACTABILITY OF CONDOMINIUM**

**7.1 Limits of Contraction.** The Condominium Project established by this Master Deed consists of 21 Units and may, at the election of the Developer, be contracted to a minimum of three (3) Units.

**7.2 Withdrawal of Units.** The number of Units in the Project may, at the option of the Developer from time to time within a period ending not later than 6 years after the recording of a Master Deed, or six (6) years after the prior exercise of Developer rights to expand, contract or convert, be decreased by the withdrawal of all or any portion of the lands described in Section 2.1; provided, that no Unit which has been sold or which is the subject of a binding Purchase Agreement



may be withdrawn without the consent of the Co-owner, purchaser and/or mortgagee of such Unit. The Developer may also, in connection with any such contraction, readjust the Percentages of Value for Units in the Project in a manner which gives reasonable recognition to the number of remaining Units, based upon the method of original determination of the Percentages of Value. Other than as provided in this Section 7, there are no restrictions or limitations on the right of the Developer to withdraw lands from the Project or as to the portion or portions of land which may be withdrawn, the time or order of such withdrawals or the number of Units and/or Common Elements which may be withdrawn; provided, however, that the lands remaining shall not be reduced to less than that necessary to accommodate the remaining Units in the Project with reasonable access and utility service to such Units.

**7.3 Contraction not Mandatory.** There is no obligation on the part of the Developer to contract the Condominium Project nor is there any obligation to withdraw portions of the Project in any particular order nor to construct particular improvements on any withdrawn lands. The Developer may, in its discretion, establish all or a portion of the lands withdrawn from the Project as a separate condominium project (or projects) or as any other form of development. Any development on the withdrawn lands will not be detrimental to the adjoining residential development.

**7.4 Amendment(s) to Master Deed.** A withdrawal of lands from this Condominium Project by the Developer will be given effect by an appropriate amendment or amendments to the Master Deed, which amendment(s) will not require the consent or approval of any Co-owner, mortgagee (other than Developer's construction lender/mortgagee) or other interested person. Such amendment(s) will be prepared by and at the sole discretion of the Developer, and may adjust the Percentages of Value assigned by Section 5.2 in order to preserve a total value of 100% for the entire Project resulting from such amendment(s).

**7.5 Additional Provisions.** Any amendment or amendments to the Master Deed made by the Developer to contract the Condominium may also contain such provisions as the Developer may determine necessary or desirable: (i) to create easements burdening or benefitting portions or all of the parcel or parcels being withdrawn from the Project; and (ii) to create or change restrictions or other terms and provisions, including designations and definition of Common Elements, affecting the parcel or parcels being withdrawn from the Project or affecting the balance of the Project, as reasonably necessary in the Developer's judgment to preserve or enhance the value or desirability of the parcel or parcels being withdrawn from the Project.

## **Section 8. EASEMENTS**

**8.1 Easements for Support, Maintenance and Repair.** Every portion of a Condominium Unit which contributes to the structural support of a building not entirely within the Unit shall be burdened with an easement of structural support for the benefit of the Common Elements within the building. In the event that any portion of a Unit or Common Element encroaches upon another Unit or Common Element due to the shifting, settling or moving of a building, or due to survey errors or construction deviations, reciprocal easements shall exist for the maintenance of the encroachment

for so long as the encroachment exists, and for the maintenance of the encroachment after rebuilding in the event of destruction. There shall also be permanent easements in favor of the Association (and/or the Developer during the Development and Sale Period) for the maintenance and repair of Common Elements for which the Association (or Developer) may from time to time be responsible or for which it is permitted to and elects to assume responsibility, and there shall be easements to, through and over those portions of the land, structures, buildings, improvements and walls (including interior Unit walls) as may be reasonable for the installation, maintenance and repair of all utility services furnished to the Project. Public utilities shall have access to the Common Elements and to the Units at such times as may be reasonable for the installation, repair or maintenance of such services, and any costs incurred in the opening or repairing of any building, wall or other improvement to install, repair or maintain utility services shall be an expense of administration assessed against all Co-owners in accordance with the Condominium Bylaws.

**8.2 Easements Reserved by Developer.** Until the initial sale of all Units that may be created under the provisions of this Master Deed or of any other project developed by the Developer or its successors on the Property has been completed, the Developer reserves non-exclusive easements for the benefit of itself, its successors and assigns which may be utilized at any time or times without the payment of any fee or charge other than the reasonable cost of corrective work performed, utilities consumed and/or maintenance required as a direct result of such use:

(a) to use, improve and/or extend all roadways, drives and walkways in the Condominium for the purpose of ingress and egress to and from any Unit or real property owned by it; and

(b) to utilize, tap, tie into, extend and/or enlarge all utility lines and mains, public and private, located on the land described in Section 2.

Provided, the Condominium is contracted and any portion of the Property is removed under Section 7, the easements described above shall be permanent, subject to payment by the Owners of a proportionate share (based on the total number of residences using the easements) of the cost of maintenance and repair of the improvements constructed in such easements.

## **Section 9. AMENDMENT AND TERMINATION**

**9.1 Pre-Conveyance Amendments.** If there is no Co-owner other than the Developer, the Developer may unilaterally amend the Condominium Documents or, with the consent of any interested mortgagee, unilaterally terminate the Project. All documents reflecting such amendment or termination shall be recorded in the public records of Kent County, Michigan.

**9.2 Post-Conveyance Amendments.** If there is a Co-owner other than the Developer, the recordable Condominium Documents may be amended for a proper purpose as follows:

(a) **Non-Material Changes.** The amendment may be made without the consent of any Co-owner or mortgagee if the amendment does not materially alter or



change the rights of any Co-owner or mortgagee of a Unit in the Project, including, but not limited to: (i) amendments to modify the types and sizes of unsold Condominium Units and their appurtenant Limited Common Elements; (ii) amendments correcting survey or other errors in the Condominium Documents; or (iii) amendments for the purpose of facilitating conventional mortgage loan financing for existing or prospective Co-owners, and enabling the purchase of such mortgage loans by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association and/or any other agency of the federal government or the State of Michigan. A mortgagee's rights are not materially altered or changed by any Amendment as to which the Developer or Association has obtained a written opinion of a licensed real estate appraiser that such amendment does not detrimentally change the value of any Unit affected by the change.

**(b) Material Changes.** The amendment may be made, even if it will materially alter or change the rights of the Co-owners, with the consent of not less than two-thirds of the Co-owners and mortgagees; provided, that a Co-owner's Unit dimensions or Limited Common Elements may not be modified without the Co-owner's consent, nor may the formula used to determine Percentages of Value for the Project or provisions relating to the ability or terms under which a Unit may be rented be modified without the consent of the Developer and each affected Co-owner. Rights reserved by the Developer, including without limitation rights to amend for purposes of contraction and/or modification of units, shall not be amended without the written consent of the Developer so long as the Developer or its successors continue to own and to offer for sale any Unit in the Project.

**(c) Compliance with Law.** Amendments may be made by the Developer without the consent of Co-owners and mortgagees, even if the amendment will materially alter or change the rights of Co-owners and mortgagees, to achieve compliance with the Act or rules, interpretations or orders adopted by the Administrator or by the Courts pursuant to the Act, or with other federal, state or local laws, ordinances or regulations affecting the Project.

**(d) Reserved Developer Rights.** A material amendment may also be made unilaterally by the Developer without the consent of any Co-owner or mortgagee for the specific purpose(s) reserved by the Developer in this Master Deed. During the Development and Sales Period, this Master Deed and Exhibits A and B hereto shall not be amended nor shall provisions be modified in any way without the written consent of the Developer, its successors or assigns.

**(e) As-Built Plans.** A Consolidating Master Deed or Amendment with as-built plans attached shall be prepared and recorded by the Developer within one year after construction of the Project has been completed.

**(f) Costs of Amendments.** A person causing or requesting an amendment to the Condominium Documents shall be responsible for costs and expenses of the



amendment, except for amendments based upon a vote of the prescribed majority of Co-owners and mortgagees or based upon the Advisory Committee's decision, the costs of which are expenses of administration. The Co-owners shall be notified of proposed amendments under this Section not less than 10 days before the amendment is recorded.

**9.3 Project Termination.** If there is a Co-owner other than the Developer, the Project may be terminated only with consent of the Developer and not less than 80% of the Co-owners and mortgagees, in the following manner:

(a) **Termination Agreement.** Agreement of the required number of Co-owners and mortgagees to termination of the Project shall be evidenced by their execution of a Termination Agreement, and the termination shall become effective only when the Agreement has been recorded in the public records of Kent County, Michigan.

(b) **Real Property Ownership.** Upon recordation of an instrument terminating the Project, the property constituting the Condominium shall be owned by the Co-owners as tenants in common in proportion to their respective undivided interests in the Common Elements immediately before recordation. As long as the tenancy in common lasts, each Co-owner, their heirs, successors, or assigns shall have an exclusive right of occupancy of that portion of the property which formerly constituted their Condominium Unit.

(c) **Association Assets.** Upon recordation of an instrument terminating the Project, any rights the Co-owners may have to the net assets (if any) of the Association shall be in proportion to their respective undivided interests in the Common Elements immediately before recordation, except that common profits (if any) shall be distributed in accordance with the Condominium Documents and the Act.

(d) **Notice to Interested Parties.** Notification of termination by first class mail shall be made to all parties interested in the Project, including escrow agents, land contract vendors, creditors, lien holders, and prospective purchasers who deposited funds. Proof of dissolution must also be submitted to the administrator.

## **Section 10. MISCELLANEOUS PROVISIONS**

**10.1 Time for Completion.** If the development and construction of all improvements to the Project has not been completed within a period ending ten (10) years after the date on which construction was commenced, or six (6) years after the date on which rights of expansion, contraction or convertibility were last exercised, whichever first occurs, the Developer shall have the right to withdraw all remaining undeveloped portions of the Project without the consent of any Co-owner, mortgagee or other party in interest. Any undeveloped portions not so withdrawn shall remain as General Common Elements of the Project, and all rights to construct Units on such lands shall cease.


**10.2 Access and Use.** At the option of the Developer, any undeveloped portions of the Project which have been withdrawn under the provisions of Section 10.1 shall be granted easements for access and utility installation over, across and through the remaining Condominium Project, subject to the payment of a pro rata share of the cost maintaining such easements based upon the number of units developed on the withdrawn lands to the number of units developed in the condominium Project. Removed lands shall be developed in a manner which is not detrimental to, or inconsistent with, the character of the remaining Condominium Project.

**10.3 Assignment.** Any or all of the rights and powers granted to or reserved by the Developer in the Condominium Documents or by law, including without limitation the power to approve or to disapprove any act, use or proposed action, may be assigned by the Developer to any other entity or person, including the Association. Any such assignment or transfer shall be made by appropriate instrument in writing, and shall be duly recorded in the office of the Kent County Register of Deeds.

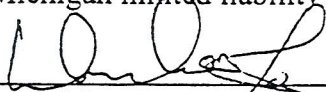
[ Signatures appear on the following page.]

This Master Deed has been signed by the Developer as of the day and year which appear on page one.

Witnesses:

  
\_\_\_\_\_  
Roy Hight

B.B.S. CAPITAL, L.L.C.,  
a Michigan limited liability company


By:   
\_\_\_\_\_  
William Overbeck, Jr.

  
\_\_\_\_\_  
Tanya R. Blow

Its: MEMBER

STATE OF MICHIGAN    )  
                                  ) ss.  
COUNTY OF KENT        )

This document was acknowledged before me the 17<sup>th</sup> day of July, 2001, by \_\_\_\_\_  
WILLIAM OVERBECK JR, the PRESIDENT of B.B.S. Capital, L.L.C., a  
Michigan limited liability company, on behalf of the limited liability company.

  
\_\_\_\_\_  
Notary Public, W.A. County, MI NOTING IN KEN  
My commission expires: 4-8-2003  
Tonya R. Blow

#561751



EXHIBIT C

CONSENT TO SUBMISSION OF REAL PROPERTY  
TO CONDOMINIUM PROJECT

WHEREAS, B.B.S. CAPITAL, L.L.C., a Michigan limited liability company, as Developer, intends to establish Conservatory Woods as a condominium project by recordation in the Office of the Kent County Register of Deeds of a Master Deed of Conservatory Woods, submitting to condominium ownership the real property in the City of Lowell, Kent County, Michigan, described therein; and

WHEREAS, INDEPENDENT BANK, a Michigan banking corporation, is interested in the above-described premises as mortgagee under a certain mortgage dated September 7, 2001, and recorded in Liber 5600, Page 392 of Kent County Records;

NOW, THEREFORE, INDEPENDENT BANK, as Mortgagee, hereby consents to the submission of the aforesaid property to the condominium project described and set forth in said Master Deed, and consents to the recordation of said Amendment in the Office of the Register of Deeds for Kent County, Michigan.

INDEPENDENT BANK is signing and delivering this Consent in consideration of the Developer executing and delivering to the Bank the direct assignment by Developer of all of its rights as Developer under the condominium documents of the Conservatory Woods condominium project pursuant to the terms of the Assignment of Developer's Rights between Independent Bank and Developer to be recorded in the office of the Register of Deeds for Kent County, Michigan.

October  
Dated: ~~August~~ 10, 2001.

Witnesses:

Laura J. Luyendyk  
Laura J. Luyendyk

Joann Witter  
Joann Witter

INDEPENDENT BANK,  
a Michigan banking corporation

By [Signature]  
Its VP COMMERCIAL LOANS

L

STATE OF MICHIGAN     )  
  )ss.  
COUNTY OF IONIA     )

This instrument was acknowledged before me the 10<sup>th</sup> day of ~~August~~ <sup>October</sup>, 2001, by Tracy Straight the Assistant Vice President of Independent Bank, a Michigan banking corporation, on behalf of the corporation.

Joann Witter  
Joann Witter  
Notary Public, Ionia County, MI  
My commission expires: 8/12/05

DRAFTED BY:  
Jonathan W. Anderson  
Varnum, Riddering, Schmidt & Howlett  
Bridgewater Place - P.O. Box 352  
Grand Rapids MI 49501-0352

#600855v4

EXHIBIT D

AFFIDAVIT OF MAILING

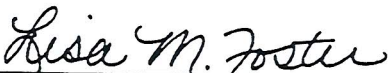
STATE OF MICHIGAN     )  
                                      ) ss  
COUNTY OF KENT        )

Lisa M. Foster, being duly sworn, deposes and says that:


1.       She is employed by the legal firm of Varnum, Riddering, Schmidt & Howlett LLP, and acts as legal assistant to Jonathan W. Anderson, attorney for the developer of the Conservatory Woods Condominium Project.

2.       On March 29, 2001 notices were sent to seven (7) governmental agencies as required by Section 71 of the Michigan Condominium Act. Such notices were sent by certified mail, return receipt requested, and confirmation of receipt has been received from all seven agencies.

Further deponent saith not.

  
\_\_\_\_\_  
Lisa M. Foster

Subscribed and sworn to before me this 16<sup>th</sup> day of April, 2001.

  
\_\_\_\_\_  
Nikki Klungle  
Notary Public, Kent County, MI  
My commission expires: 08/11/2001

DRAFTED BY:  
Jonathan W. Anderson  
Varnum, Riddering, Schmidt & HowlettLLP  
Bridgewater Place - P.O. Box 352  
Grand Rapids, MI 49501-0352