

30

RECORDED THIS DATE  
JANE YAGNOS  
STARK COUNTY RECORDER

95021856

95 MAY 23 AM 11:39

REC 66-00

FIFTH AMENDED DECLARATION  
OF CONDOMINIUM OWNERSHIP  
under Chapter 5311 of the Ohio Revised Code  
for  
SHERBROOK CONDOMINIUM

May, 1995

This is to certify that copies of the Fifth Amended Declara-  
tion and Drawings for Sherbrook Condominium have been filed this  
date with the Auditor of Stark County, Ohio.

5/23/95  
*Jane Yagnos*  
Auditor of Stark County  
*Patricia Fallett*  
Deputy Auditor

Thomas E. Hartnett  
DAY, KETTERER, RALEY, WRIGHT & RYBOLT  
800 William R. Day Building  
121 Cleveland Ave., South  
Canton, Ohio 44702  
Telephone: (216) 455-0173  
Telecopier: (216) 455-2633

C:\HARTNETT\SHERBRK.AMD[TEH:llm]

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DESCRIPTION	
CROSS REF	

FIFTH AMENDMENT TO  
DECLARATION OF SHERBROOK CONDOMINIUM

This is the Fifth Amendment to the Declaration of Sherbrook Condominium made this 15<sup>th</sup> day of May, 1995 by SMITH DEVELOPMENT CORPORATION (hereinafter referred to as Declarant) pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio.

W I T N E S S E T H:

WHEREAS, Francis General Construction, Inc. (hereinafter "Francis") executed a Declaration of Condominium Ownership dated June 19, 1989, known as The Declaration of Condominium Ownership for Sherbrook Condominium which was filed for record in the Stark County, Ohio Records Office and recorded on June 19, 1989 in Volume 823, Page 453, a First Amendment to Declaration of Sherbrook Condominium dated March 5, 1990 and recorded in Volume 911, Page 777, of the Stark County, Ohio Official Records; a Second Amendment of Declaration of Condominium Ownership dated July 20, 1990 and recorded in Volume 957, Page 101 of the Stark County, Ohio Official Records; a Third Amendment to the Declaration of Condominium Ownership dated April 10, 1991 and recorded in Volume 1041, Page 301 of the Stark County, Ohio Official Records.

WHEREAS, Francis' interest in the remaining additional property in Sherbrook Condominium was sold as the result of a foreclosure proceeding, at sheriff's sale, and was acquired by Declarant along with the remaining unsold condominium units located at Sherbrook Condominiums.

WHEREAS, Declarant and the Sherbrook Condominium Unit Owners Association, Inc. have executed a Fourth Amendment of Declaration

of Condominium Ownership dated December 8, 1994 and recorded in Volume 1751, Page 547 of the Stark County, Ohio Official Records, for the purpose, among other things, to name Smith Development Corporation as the Declarant of Sherbrook Condominium.

WHEREAS, pursuant to Article XVII of the Declaration, Declarant has reserved the right to amend the original Declaration for the purpose of expanding and adding additional property to the condominium, said additional property being described in Exhibit "D" to the Declaration;

WHEREAS, Declarant has now determined to add a portion of the additional property to the original development so that said property shall become Condominium Property in all respects and be subject to the same requirements and conditions as the present Condominium Property in Sherbrook Condominium; and

NOW, THEREFORE, Declarant does hereby submit the following amendments to the Declaration of Condominium Ownership of Sherbrook Condominium:

1. Exhibit "A" to the Declaration of Condominium Ownership of Sherbrook Condominium is hereby amended by adding thereto the real property described in Exhibits "A-1" through "A-3" attached hereto and made a party hereof.

2. Exhibit "B" to the Declaration of Condominium Ownership of Sherbrook Condominiums is hereby amended by adding thereto the layout, location designation and dimension of units 415, 417, 419, 421, 423 and 425 as shown on the drawings in Exhibit "B-1" through "B-4" attached hereto and made a party hereof.

3. Exhibit "C" th to the Declaration of Condominium Ownership of Sherbrook Condominiums is hereby deleted and replaced with the following:

SCHEDULE OF COMMON AREA OWNERSHIP

	<u>Square Feet</u>	<u>Percentage of Common Area Ownership</u>
Building 140		
Unit A	1062	2.35
Unit B	1207	2.65
Unit C	1062	2.35
Unit D	1207	2.65
Sherbrook Circle		
Unit 410	1644	3.65
Unit 412	1846	4.10
Unit 414	1644	3.65
Building 142		
Unit A	1118	2.48
Unit B	1207	2.68
Unit C	1118	2.48
Unit D	1207	2.68
Building 144		
Unit A	1118	2.48
Unit B	1207	2.68
Unit C	1118	2.48
Unit D	1207	2.68
Sherbrook Circle		
Unit 422	1644	3.65
Unit 424	1644	3.65
Unit 426	2810	6.24
Unit 428	1644	3.65
Building 413		
Unit A	1365	3.03
Unit B	1344	2.99
Unit C	1354	3.00
Unit D	1354	3.00
Sherbrook Circle		
Unit 416	1289	2.86
Unit 418	1624	3.60
Unit 420	1311	2.91

	<u>Square Feet</u>	<u>Percentage of Common Area Ownership</u>
Sherbrook Circle		
Unit 415	1419	3.23
Unit 417	1419	3.23
Unit 419	1419	3.23
Unit 421	1419	3.23
Unit 423	1419	3.23
Unit 425	<u>1419</u>	<u>3.23</u>
Total	44,869	100%

4. Exhibit "D" of the Declaration of Condominium Ownership of Sherbrook Condominium is hereby amended by deleting the real property described in Exhibit "D" attached hereto and made a party hereof.

5. The original Declaration and Bylaws, original drawings and other Exhibits to the Declaration as each have been amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 18<sup>th</sup> day of May, 1995.

DECLARANT:

Teri K. Schetz Teri K. Schetz SMITH DEVELOPMENT CORPORATION  
Thomas Hartnett Thomas Hartnett  
 By: Steve Smith  
 Steve Smith, President

STATE OF OHIO            )  
                                   )    SS:  
 COUNTY OF STARK        )

Before me, a Notary Public in and for said County and State personally appeared the above-named SMITH DEVELOPMENT CORPORATION, an Ohio corporation, by Steve Smith, its President, who acknowledged that he did sign the foregoing instrument on behalf of said Corporation and that the same is its free act and deed, and the free act and deed of him personally as such officer.

In testimony whereof, I have hereunto set my hand and official seal, at Canton, Ohio, this 18<sup>th</sup> day of May, 1995.

Teri K. Schetz  
 Notary Public

BUCKEYE SURVEYING SERVICES, INC.

Suite 202 - Fulton Bldg.

2223 Fulton Drive N.W.

Canton, Ohio 44709

President  
Bruce D. Conery, P.S.

(216) 453-8339  
FAX (216) 453-5570

April 27, 1995

Description of a 0.469 Acre Tract

Situated in the City of North Canton, County of Stark, and State of Ohio and known as being part of Out Lot 59 in said City of North Canton, more fully bounded and described as follows, to-wit;

Beginning at the northeast corner of the Northeast Quarter of Section 7, Plain Township, (T-11,R-8), thence S03°50'00"W along the east line of said Section 7, a distance of 1331.25 feet to a point of deflection, thence S03°41'24"W continuing along the east line of said Section 7, a distance of 186.29 feet to the northeast corner of Lot 1781 in said City of North Canton, thence S76°56'52"W along the north line of said Lot 1781 and the north line of Lots 1780, 1779, and 1778 in said City of North Canton, a distance of 158.04 feet to a point at the southwest corner of Phase IIB in Sherbrook Condominium as recorded in Condo Plat Book 3 page 80 of the Stark County Condo Plat Records and the true place of beginning for the tract of land herein described;

1. Thence continuing S76°56'52"W along the north line of said Lot 1778 and the north line of Lots 1777 and 1776 in said City of North Canton, a distance of 155.59 feet to a point at the southeast corner of a tract of land now or formerly owned by First Federal Savings and Loan of Canton;
2. Thence N03°30'54"E along the east line of said First Federal tract, a distance of 97.10 feet to the northeast corner of said First Federal tract;
3. Thence N86°31'06"W along the north line of said First Federal tract, a distance of 8.38 feet to the southeast corner of a tract of land now or formerly owned by E. & M. Friedl;
4. Thence N03°45'49"E along the east line of said Friedl tract, a distance of 81.80 feet to a point;
5. Thence S85°53'45"E a distance of 113.78 feet to a point on the west line of said Phase IIB;
6. Thence S03°50'00"W along the west line of said Phase IIB, a distance of 26.22 feet to a point;
7. Thence S18°35'36"E continuing along the west line of said Phase IIB, a distance of 115.64 feet to the true place of beginning.

The above described tract of land contains 0.469 of an acres of land as determined by Bruce D. Conery, P.S. no. 6499 of Buckeye Surveying Services, Inc., of Canton, Ohio, in April of 1995 and is not of a boundary survey.

NCC9002.

EXHIBIT

A-1

BUCKEYE SURVEYING SERVICES, INC.

Suite 202 -- Fulton Bldg.

2223 Fulton Drive N.W.

Canton, Ohio 44709

President  
Bruce D. Conery, P.S.

(216) 453-8339  
FAX (216) 453-5570

April 27, 1995

Description of a 0.308 Acre Tract

Situated in the City of North Canton, County of Stark, and State of Ohio and known as being part of Out Lot 59 in said City of North Canton, more fully bounded and described as follows, to-wit;

Beginning at the northeast corner of the Northeast Quarter of Section 7, Plain Township, (T-11,R-8), thence  $S03^{\circ}50'00''W$  along the east line of said Section 7 a distance of 1331.25 feet to the northeast corner of said Out Lot 59, thence  $N85^{\circ}53'45''W$  along the north line of said Out Lot 59 a distance of 166.00 feet to the true place of beginning for the tract of land herein described;

1. Thence  $S03^{\circ}50'00''W$  along a west line of Phase IIB in Sherbrook Condominium as recorded in Condo Plat Book 3 page 80 of the Stark County Plat Records, a distance of 69.93 feet to a point;
2. Thence  $N86^{\circ}10'00''W$  continuing along said Phase IIB a distance of 28.87 feet to a point;
3. Thence  $S03^{\circ}50'00''W$  continuing along said Phase IIB a distance of 29.93 feet to a point;
4. Thence  $N85^{\circ}53'45''W$  a distance of 113.78 feet to a point on the east line of a tract of land now or formerly owned by E. & M. Friedl;
5. Thence  $N03^{\circ}45'49''E$  along the east line of said Friedl tract, a distance of 100.00 feet to a point on the north line of said Out Lot 59;
6. Thence  $S85^{\circ}53'45''E$  along the north line of said Out Lot 59, a distance of 142.78 feet to the true place of beginning.

The above described tract of land contains 0.308 of an acre of land as determined by Bruce D. Conery, P.S. no. 6499 of Buckeye Surveying Services, Inc., of Canton, Ohio, in April of 1995 and is not of a boundary survey.

NCC8004.

EXHIBIT A-2

BUCKEYE SURVEYING SERVICES, INC.

Suite 202 - Fulton Bldg.  
2223 Fulton Drive N.W.  
Canton, Ohio 44709

President  
Bruce D. Conery, P.S.

(216) 453-8339  
FAX (216) 453-5570

April 27, 1995

Description of a 0.266 Acre Tract

Situated in the City of North Canton, County of Stark, and State of Ohio and known as being part of Out Lot 58 in said City of North Canton, more fully bounded and described as follows, to-wit;

Beginning at the northeast corner of the Northeast Quarter of Section 7, Plain Township, (T-11,R-8), thence S03°50'00"W along the east line of said Section 7, a distance of 1331.25 feet to the northeast corner of Out Lot 59 in said City of North Canton, thence N85°53'45"W along the north line of said Out Lot 59, a distance of 166.00 feet to the true place of beginning for the tract of land herein described;

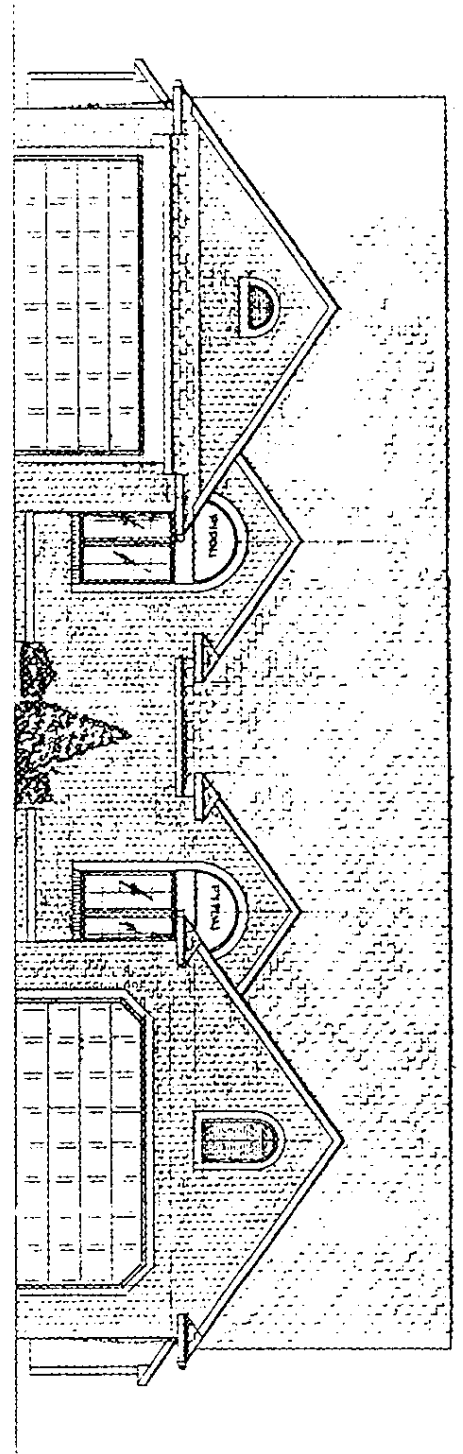
1. Thence continuing N85°53'45"W along the north line of said Out Lot 59, a distance of 129.01 feet to a point at the southeast corner of Phase IIA in Sherbrook Condominium as recorded in Condo Plat Book 3 page 79 of the Stark County Condo Plat Records;
2. Thence N03°49'04"E along the east line of said Phase IIA, a distance of 89.69 feet to a point;
3. Thence S86°03'33"E a distance of 129.03 feet to a point on the west curb line of Sherbrook Circle;
4. Thence S03°50'00"W along the west curb line of said Sherbrook Circle, a distance of 90.06 feet to the true place of beginning.

The above described tract of land contains 0.266 of an acre of land as determined by Bruce D. Conery, P.S. no. 6499 of Buckeye Surveying Services, Inc., of Canton, Ohio, in April of 1995 and is not of a boundary survey.

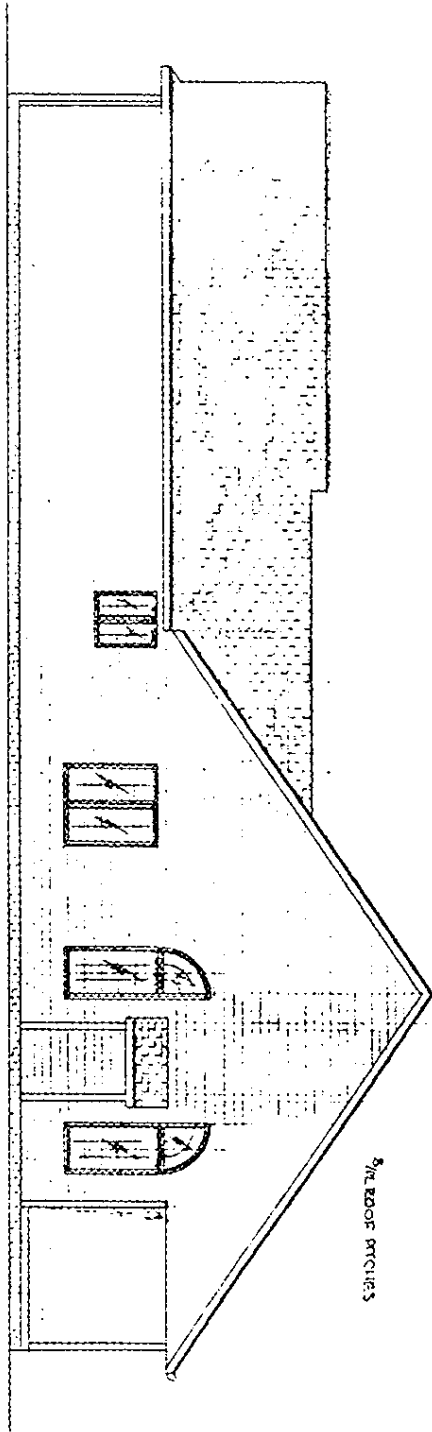
NCC8003

EXHIBIT A-3





FRONT ELEVATION

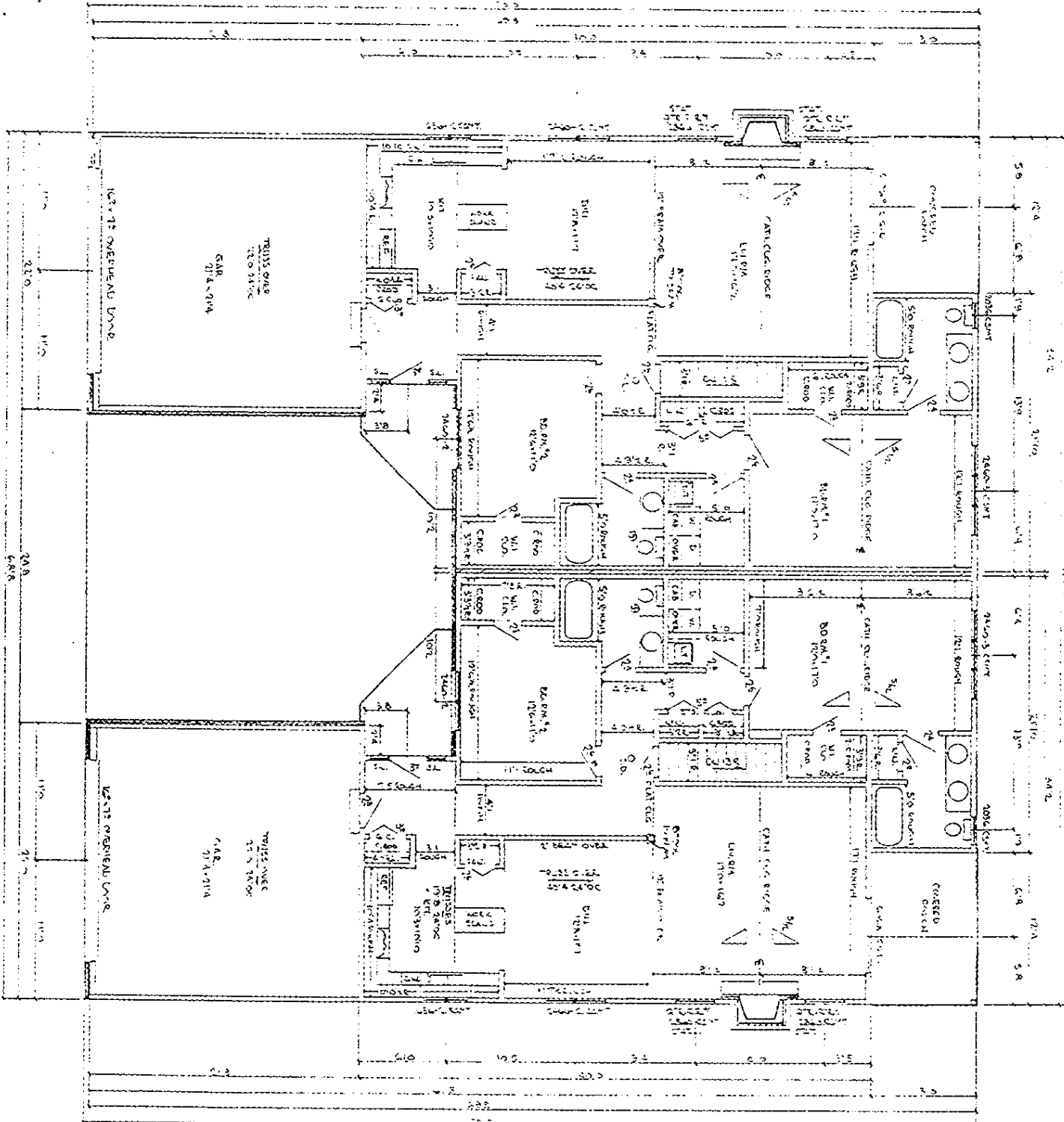


RIGHT ELEVATION

EXHIBIT B-1

J.M. RUPP ARCHITECTS 1401 N. 10th Street Phoenix, Arizona 85006 Telephone: (602) 254-1111	
PROJECT NO. 94122	DATE 1/95
CLIENT J.M. RUPP	ADDRESS 1401 N. 10th Street Phoenix, Arizona 85006
DRAWN BY J.M. RUPP	CHECKED BY J.M. RUPP
SCALE AS SHOWN	SHEET NO. 1401

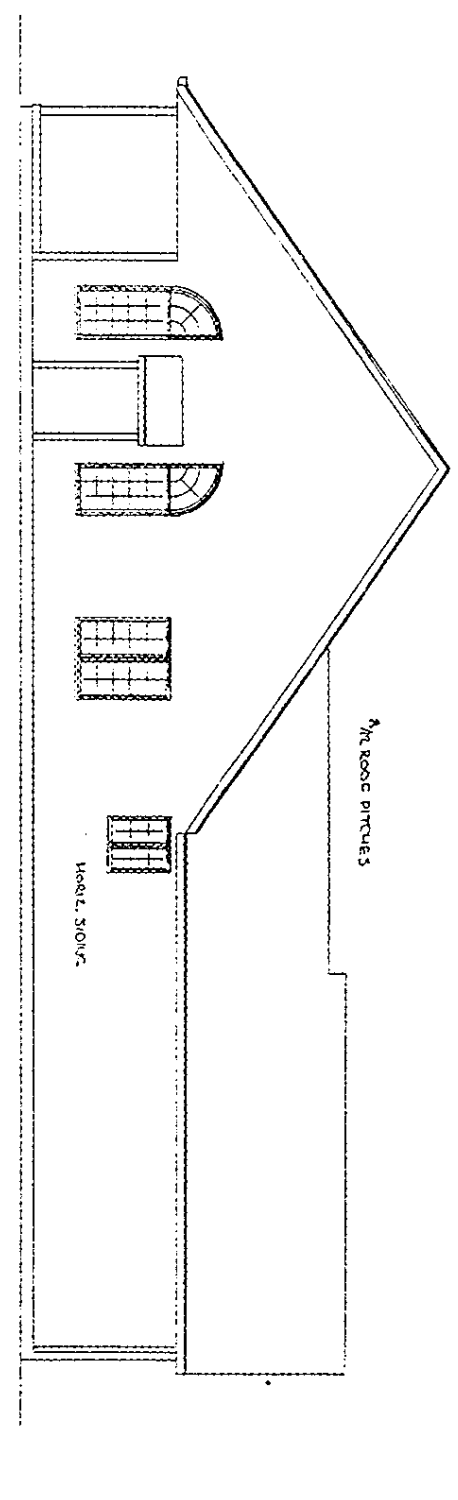
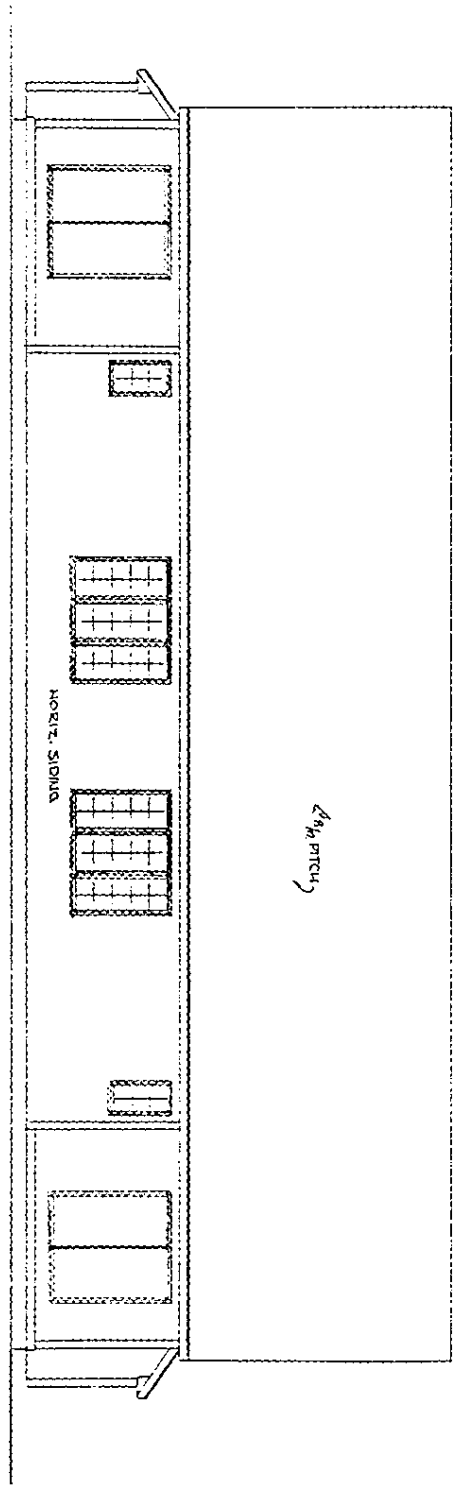




FLOOR PLAN  
 MAP 3 - 11-9-B

EXHIBIT B-3

3M SCALE 1" = 10'	
DRAWN BY: [Signature] CHECKED BY: [Signature]	
DATE: 10/21/98	PROJECT: [Blank]
SHEET: 1 OF 1	SCALE: 1" = 10'
DRAWING NO.: [Blank]	REVISIONS: [Blank]
PROJECT NO.: [Blank]	DATE: [Blank]
DRAWING TITLE: [Blank]	DRAWN BY: [Blank]
CHECKED BY: [Blank]	DATE: [Blank]




4 1/2 PITCH

REAR ELEVATION

3/4 ROOF PITCHES

LEFT ELEVATION

EXHIBIT B-4


  
**JMI GROUP**
  
 INCORPORATED

THE SET OF DRAWINGS AND ALL PROJECTS  
 THEREON ARE THE PROPERTY OF JMI GROUP  
 INCORPORATED. NO PARTS THEREOF ARE TO BE  
 REPRODUCED OR TRANSMITTED IN ANY FORM  
 OR BY ANY MEANS, ELECTRONIC OR MECHANICAL,  
 INCLUDING PHOTOCOPYING, RECORDING, OR BY  
 ANY INFORMATION STORAGE AND RETRIEVAL  
 SYSTEM, WITHOUT THE WRITTEN PERMISSION  
 OF JMI GROUP, INCORPORATED.

DATE	DESCRIPTION	BY	APP'D
4-15	SMITH DEVELOPMENT		

BUCKEYE SURVEYING SERVICES, INC.

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1. Thence continuing N85°53'45"W along the north line of said Out Lot 59, a distance of 129.01 feet to a point at the southeast corner of Phase IIA in Sherbrook Condominium as recorded in Condo Plat Book 3 page 79 of the Stark County Condo Plat Records;
2. Thence N03°49'04"E along the east line of said Phase IIA, a distance of 89.69 feet to a point;
3. Thence S86°03'33"E a distance of 129.03 feet to a point on the west curb line of Sherbrook Circle;
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NCC8003.

EXHIBIT D

BUCKEYE SURVEYING SERVICES, INC.

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NCC8002.

BUCKEYE SURVEYING SERVICES, INC.

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NCC8004.