

DECLARATION TO PROVIDE STORM WATER
DETENTION TO
KABLE'S MILL SUBDIVISION

1995 DEC 28 AM 10:49
LANEY
RECORDER
GREENE CO. OHIO
XENIA, OH.

The stamp or signature of the Auditor of Greene County, Ohio is evidence of the fact that a copy of this Declaration has been filed in the office of the County Auditor.

Plat Cabinet Volume "30" Pages 242B o 243B
Recorder's Records of
Greene County, Ohio

This instrument prepared by:
Charles F. Allbory, III
Attorney at Law
137 N. Main Street, Suite 900
Dayton, Ohio 45402

12/28/95
TRANSFER OF RECORDS
Fee
LAWANNA A. I LANEY GREENE COUNTY AUDITOR
L32-2-16-98 17
L32-2-16-94

**DECLARATION TO PROVIDE STORM WATER DETENTION
TO
KABLE'S MILL SUBDIVISION**

1. This Declaration is made by OBERER DEVELOPMENT CO., an Ohio corporation, hereinafter referred to as the "Declarant", for the purpose of establishing a Plan for maintaining storm water retention and detention facilities and other improvements for Kable's Mill Section One Subdivision.

2. The Declarant is the Owner of land situated in the Township of Sugarcreek, County of Greene and State of Ohio that Declarant intends to plat into residential lots as Kable's Mill Subdivision; said land is referred to as the "Properties" and is more particularly described in Exhibit A, attached hereto and made a part hereof. The Declarant will dedicate as part of its subdivision of land areas for storm water retention/detention which will be owned (or granted by an easement) and maintained by Kable's Mill Owners Association ("Association"), with the owners of the lots platted from the 22.687 acres, more or less, as Kable's Mill, Section One, (such Lots are described in Exhibit B, attached hereto) or other land in the immediate area subsequently brought under this Agreement, contributing to the Association for the cost of maintaining the retention/detention areas created by the platting process. The Declarant may also plat or create signage easements for Entrance Monuments, street lighting and other amenities that will be the obligation of the Association to maintain.

3. The purpose of this Declaration is to provide covenants, conditions and restrictions for storm water retention and detention areas for proposed Kable's Mill Subdivision that will be platted from the acreage referenced above and to create maintenance and control over the Entrance Monuments for the development and other amenities created for the common benefit of lot owners.

4. The Declarant, at its cost, will provide the land and improvements for the storm water retention and detention areas, signage and amenities as part of its development of Kable's Mill Subdivision with the permanent location for the storm water retention/detention areas being platted as separate lots, or as areas within an easement for storm water purposes, as identified on the record plan. The Declarant will convey to the Association any areas that are established or platted as storm water retention/detention areas and assign to the Association the storm water and signage easements (hereafter collectively referred to as "Common Area").

5. The Declarant will cause to be formed KABLE'S MILL OWNERS ASSOCIATION, a non-profit corporation organized under the laws of Ohio, ("Association") for the purpose of owning and managing the Common Area and to provide the maintenance and upkeep of the property, and to provide other possible services to its members as permitted by its Articles of Incorporation.

6. Every Owner of a lot in Kable's Mill Subdivision shall be a member of the Association. The record plan of Kable's Mill, Section One, will consist of Lots numbered One (1) through Forty-four (44), with Lots Forty-three (43) and Forty-four (44) to be the Common Area. As the Declarant elects to bring additional land from the Properties under the provisions of this Declaration, it shall do so by appropriate provisions on the record plan and the owners of those lots will also become members of the Association.

a. Owner. The term "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to a lot, including contract sellers, but excluding those having an interest as security for the performance of an obligation. Notwithstanding any applicable theory of mortgages, the term shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or other proceedings in lieu of foreclosure.

- b. Qualification. Ownership of a lot shall be the sole qualification for membership; upon the sale or other disposition of a lot that vests title in a new Owner, the new Owner shall automatically become a member of the Association and the previous Owner will cease to be a member of the Association, unless he owns other lots.
7. The Declarant will make such improvements to the Common Area as are provided or required in the subdivision process and the rules and regulations that are applicable thereto prior to the transfer of title to the Association. Such improvements may include entrance walls, lighting, signage and landscaping. The Association shall be responsible for the care, custody, maintenance, repair, regulation, and control of the Common Area. The Common Area may be subjected to such uses as will not be inconsistent with its use for water retention and detention or signage for the subdivision. Such maintenance shall include periodic removal of debris and sediment; assure the infow and discharge pipes are not obstructed; and mowing and maintenance of grounds. The Common Area shall be maintained as ponds surrounded by predominantly grassy area that can be readily mowed without significant obstruction. No structures or improvements shall be permitted on the Common Area with the exception of a physical barrier of shrubs or a fence surrounding the pond area with a gate for access as approved by the Association. Fountains and associated equipment may also be installed in a pond as approved by the Association.
8. The Sugarcreek Township Trustees shall have the right and authority to inspect and monitor the storm water facilities upon the Common Area. Upon written notice from the Township to the Association that the storm water drainage fails to meet Township or County regulations, the Association shall take prompt corrective action; upon its failure to so act within sixty (60) days of such written notice, the Township shall have the right, but not the obligation, to take reasonably necessary corrective action upon the Common Area and to assess the Association the actual cost of remediation.
9. The Declarant will construct on easements, created for that purpose, the Entrance Monuments for the subdivision that will be of a permanent nature. If the Entrance Monuments are lighted, the Declarant will provide separate meters for such lighting. The Association, after the transfer of title to it of the Common Area, will be obligated to maintain and keep in good repair the Entrance Monuments and to pay any utility charges for the lighting of the signs.
10. The Association, as a Common Expense, shall insure itself, the Board of Trustees, all Owners and members, and all persons lawfully in possession or control of any part of the Common Area, against liability for bodily injury or death and for injury to or destruction of property, occupancy upon, or about, or arising from the Common Area. Such insurance shall afford protection to a limit of not less than \$100,000 in respect to bodily injury or death suffered by any one person, and to the limit of not less than \$300,000 in respect to any one occurrence and to the limit of not less than \$25,000 in respect to damages to or destruction of property arising out of one accident.
11. The Association, by its Trustees, may delegate all or any portion of its authority to discharge its maintenance responsibilities to one or more independent contractors or to a managing agent. Such delegation shall be evidenced by a management contract for a term not to exceed three (3) years in duration, which shall provide for termination without cause and without payment of a termination fee on ninety (90) days notice.
12. The Association shall be responsible for the payment of all taxes and assessments, if any, that are from time to time levied against the Common Area owned by the Association.
13. Each Owner, by the acceptance of a deed to a lot subject to the provisions of this Declaration, for himself, his heirs, administrators, executors, personal representatives, successors and assigns, whether or not it shall be expressed in such deed, covenants, and agrees to pay the

assessments that are levied from time to time to pay his allocated share of the Common Expenses provided herein and levied by the Association.

- a. Payment. The Declarant shall pay such initial development costs and such incidental costs for maintenance of the Common Area until it shall transfer or assign the Common Area to the Association. Thereafter each Lot Owner, subject to the provisions of this Declaration, shall pay to the Association the aliquot assessments for the Common Area as payment is called for, but which will be not more often than on a quarterly basis, in advance, and not less often than annually, in advance.
- b. Budget. The Association, on or before December 1st of each year, shall prepare an estimate of the total amounts that will be necessary to pay the Common Expenses for each ensuing calendar year and shall forthwith supply each Owner a copy thereof. The Budget will be modified from time to time in order to conform to the actual costs.
- c. Pro-Rata Share. Each Owner of a Lot will pay an equal amount of the Common Expenses; provided that Lots which are adjacent to detention ponds shall be "Premium Lots" and the Owners of Premium Lots shall pay 150% the pro-rata share. The "pro-rata share" will be computed by dividing the total expense for any period by the number of lots that are not adjacent to detention ponds then a part of the plan and subject to the Declaration. As additional lots are submitted upon the filing of a record plan, the pro-rata share shall be recomputed. The Premium Lots within Kable's Mill, Section One, are Lots numbered 1, 2, 3, 5, and 6, as shown on the Record Plan thereof. Premium Lots of future sections will be identified in a Supplemental Declaration.
- d. Lien. The Association shall have a lien upon the estate and interest of any Owner in a lot for the payment of the portion of the Common Expenses which remains unpaid for thirty (30) days after the same have become due and payable, and when a certificate therefor or an affidavit thereabout has been filed with the Recorder of Greene County, pursuant to authorization given by the Trustees of the Association.
 - (i) Such certificate or affidavit shall contain a description of the lot, the name of the record owner thereof, and the amount of such unpaid portion of the Common Expenses and shall be subscribed by the President or other principal officer of the Association. Such lien may include late payment penalties and shall bear interest at 10% per annum until paid.
 - (ii) Such lien shall remain valid for a period of five (5) years from the time of filing thereof. The lien may be enforced by a foreclosure action and therein the Association will be entitled to collect such Common Expenses that have accrued and not been paid after recording the lien, as well as reasonable attorney fees and court costs.
 - (iii) The lien provided shall take priority over any lien or encumbrance subsequently arising or created, except for the lien for real estate taxes and assessments and liens of first mortgages which have been filed of record. It is agreed that where the mortgagee of a first mortgage of record or other purchaser at a foreclosure sale acquires title to the lot, said acquirer of title shall not be liable for the assessments of the Owner or lot that accrued prior to the transfer of title. Such unpaid expense, if not collected from the previous Owner, will be deemed a Common Expense against all lots, including the lot of the acquirer.
 - (iv) Upon request, the Association shall supply a certification of any amounts that are due, and the party receiving such certification may rely on its accuracy.

14. This Declaration may be amended only with the approval of Members exercising not less than seventy-five (75%) of the voting power of the entire membership of the Association. Any such Amendment shall be in writing and effective on the date when it is Recorded. Notwithstanding the foregoing, Declarant hereby reserves the right and power, and each Member by acceptance of a deed to a Lot is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with title to a Lot and is irrevocable, to amend this Declaration and to execute any and all documents deemed necessary or desirable by Declarant to conform to its present or future development plans, to correct scrivener, typographical and drafting errors, and to conform to requirements of any lending institution, the Federal Housing Administration, or the Veterans Administration.

15. By acceptance of a deed to a lot, the Grantee, for himself, his heirs, administrators, executors, personal representatives, successors and assigns, whether or not it shall be so expressed in such deed, covenants and agrees to be bound by the terms and conditions hereof.

IN WITNESS WHEREOF, the said Declarant, OBERER DEVELOPMENT CO., has hereunto subscribed their names this 31st day of October, 1994.

In witness whereof:

Charles F. Allbery, III

Jana L. McDonald

OBERER DEVELOPMENT CO.

George R. Oberer, Jr.
George R. Oberer, Jr., President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledge before this this 31st day of October, 1994, by Oberer Development Co., by George R. Oberer, Jr., it's President .

Charles F. Allbery, III

Notary Public

CHARLES F. ALLBERY III, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.

This instrument prepared by:
Charles F. Allbery, III, Attorney at Law

EXHIBIT B

The property referred to as lots platted from the 22.687 acres as Kable's Mills, Section One, and which are subject to the provisions of this Declaration is described as follows:

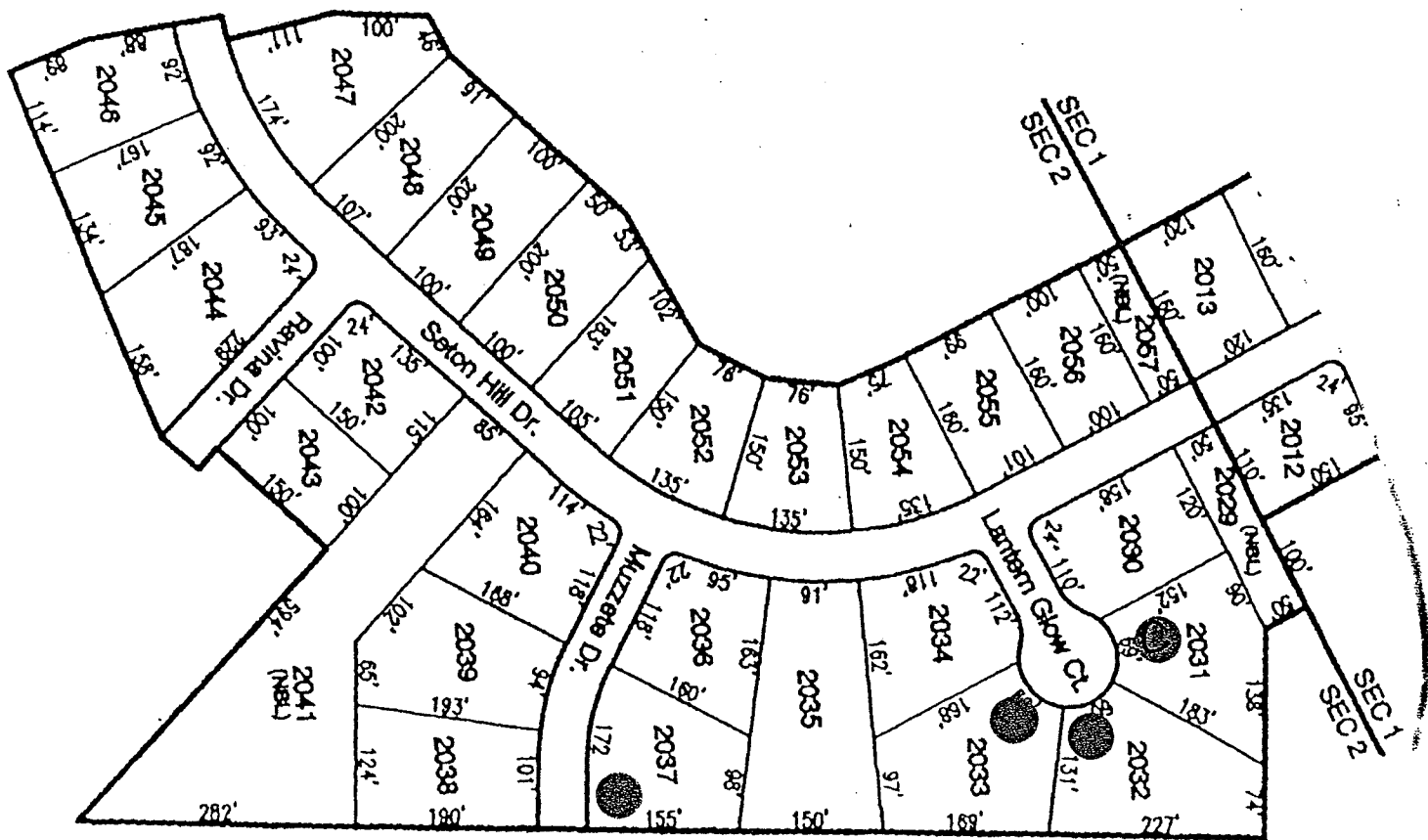
Situate in the Township of Sugarcreek, County of Greene and State of Ohio, and being lots numbered One (1) through Forty-four (44) Kable's Mill, Section One, as shown on the Record Plan recorded in Plat Cabinet _____, _____, Records of Greene County, Ohio.

the
Meadows at
Kable's Mill



Site Map - Section Two

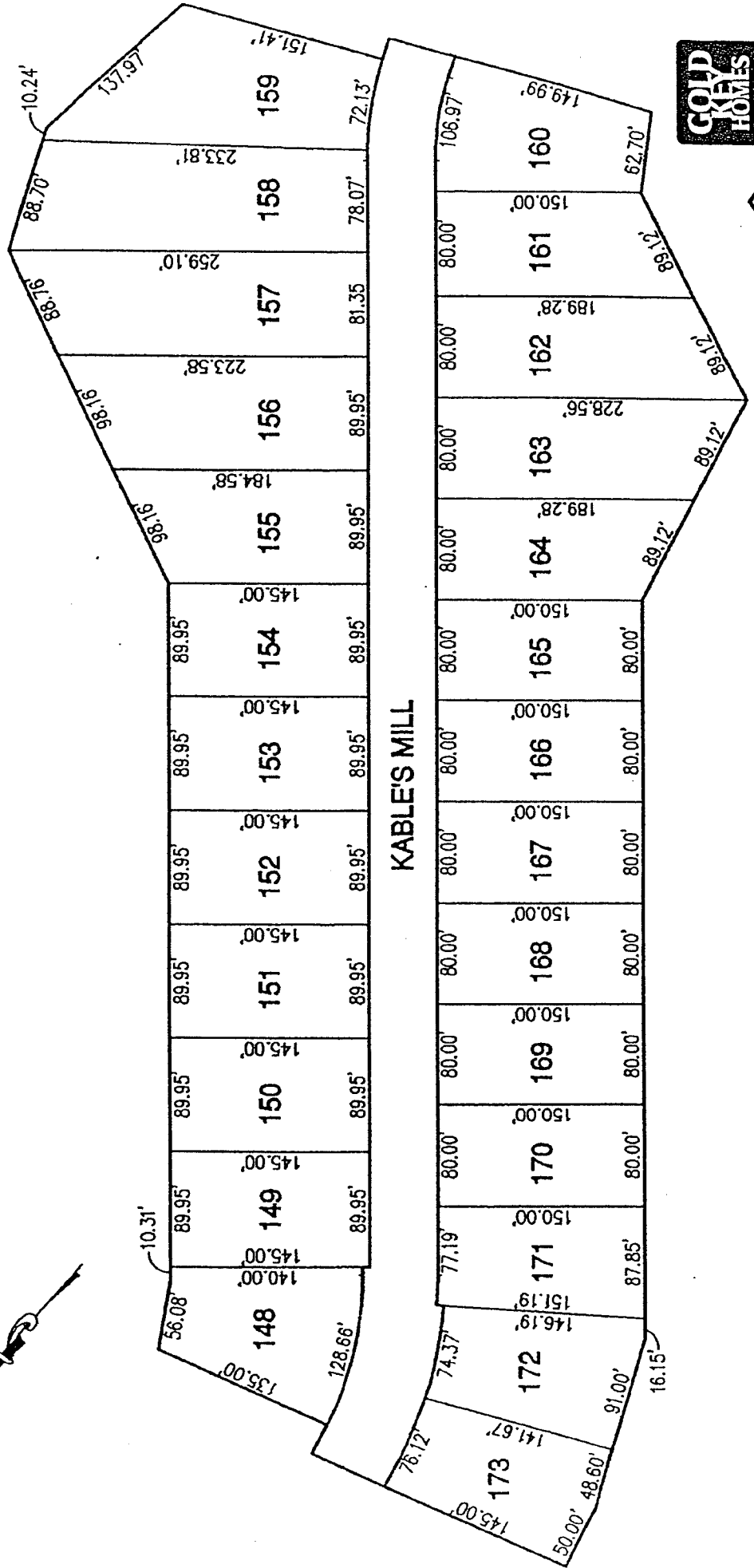
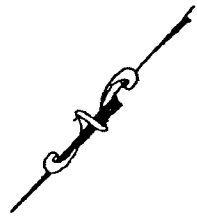
Phase 2





Site Map
Section 5
Phase 1

Call 848-2844



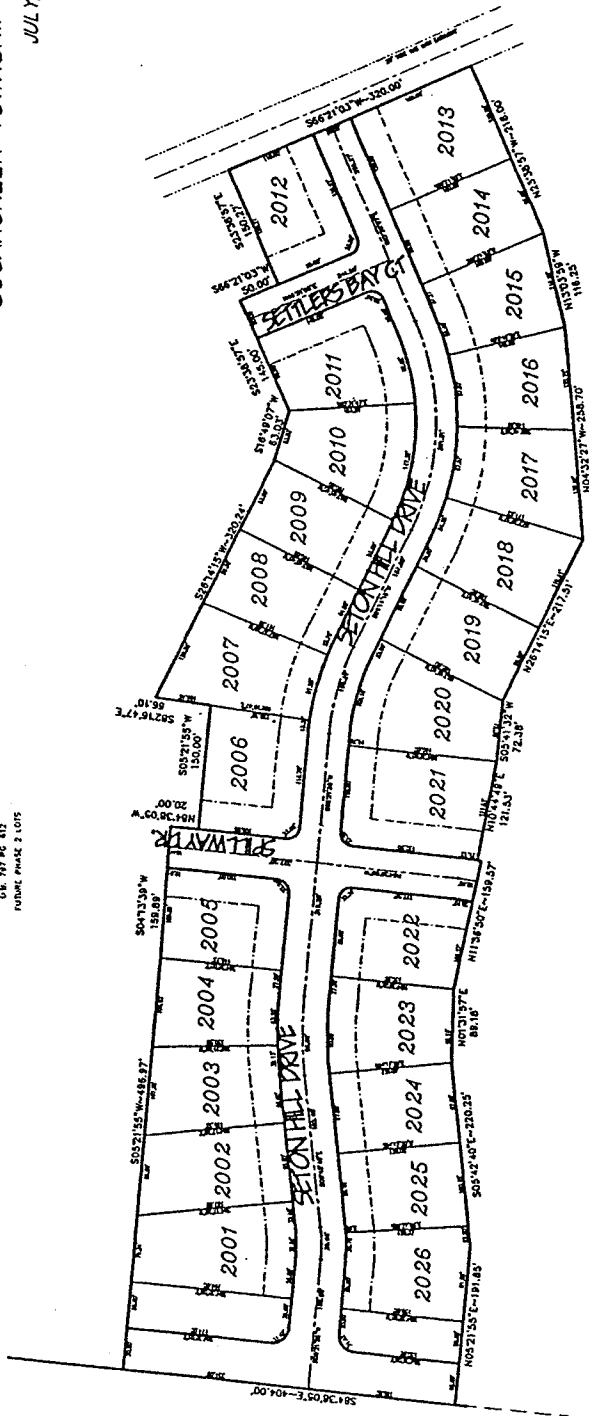
PHASE TWO
KABLE'S MILL
PHASE II, SECTION ONE

26 Lots

SECTION 33, TOWN. 3, RANGE 6
SUGARCREEK TOWNSHIP - GREENE COUNTY, OHIO.
JULY, 1995

OWNER DEVELOPMENT CO.
D.B. 797 PG. 812
FUTURE PHASE 2 LOTS

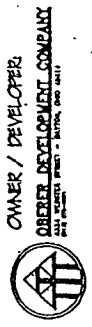
OWNER DEVELOPMENT CO.
D.B. 797 PG. 812



FUTURE KABLE'S MILL
PHASE ONE LOTS



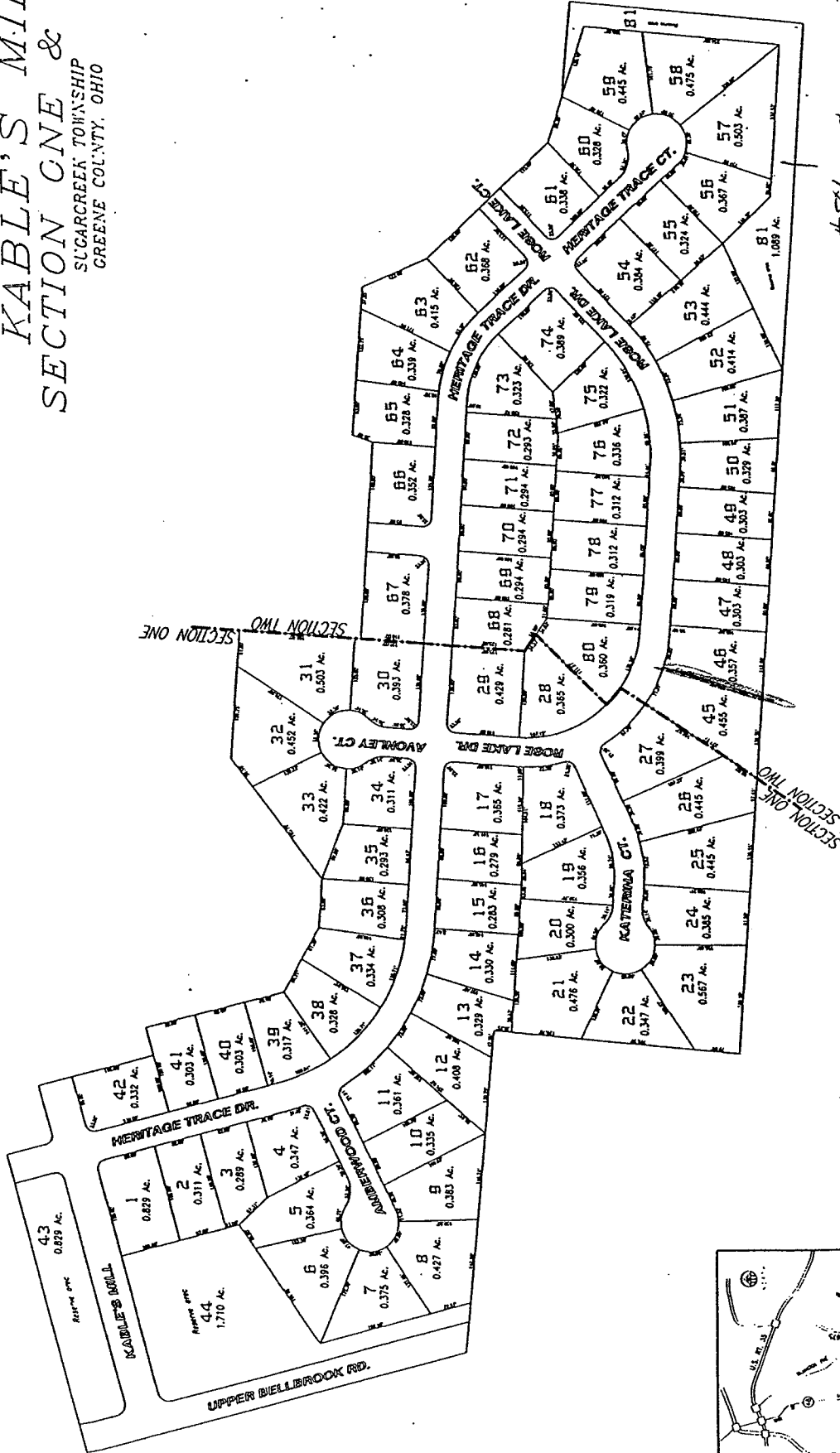
SCALE: 1" = 150'



SALES MAP FOR

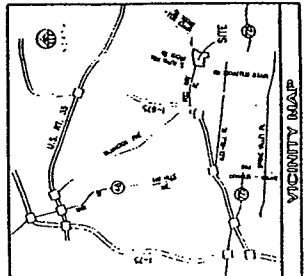
KABLE'S MILL SECTION ONE & TWO

SUGARCREEK TOWNSHIP
GREENE COUNTY, OHIO



#81 - COMMON AREA

SCALE OF INCHES
SUBJECT TO SURVEY

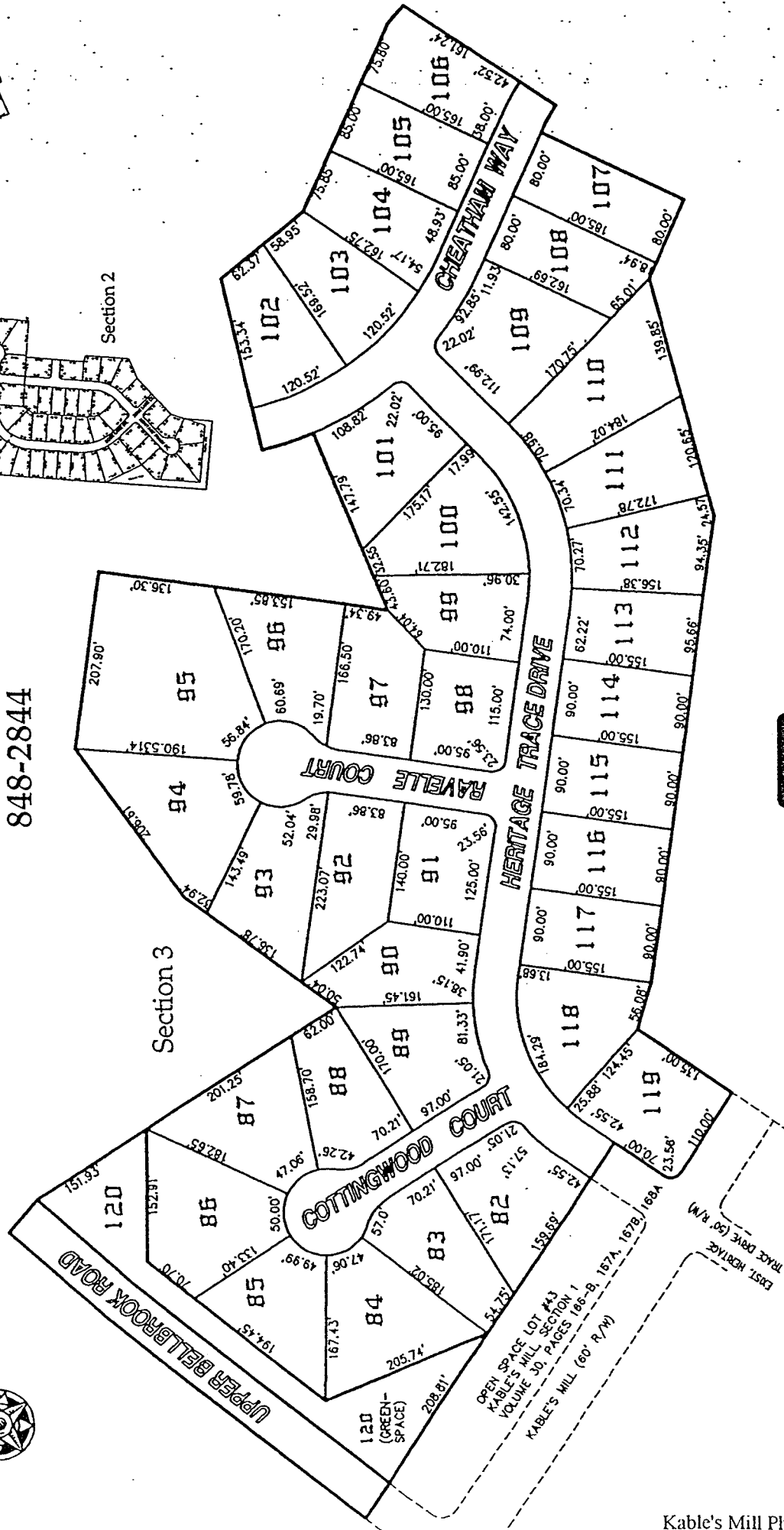
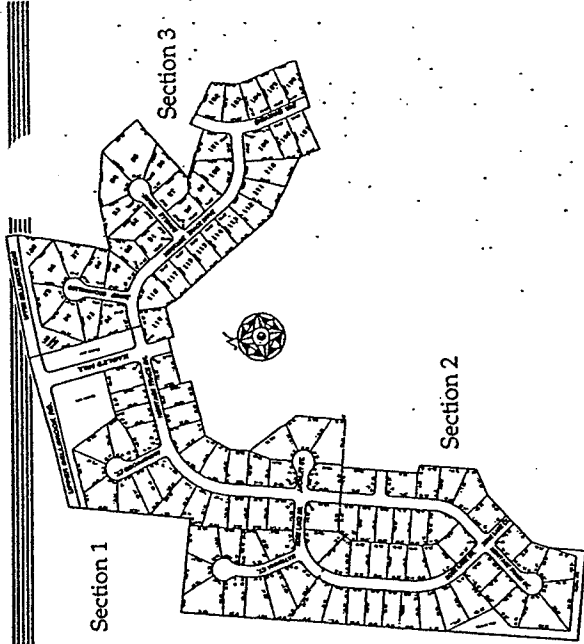


OBERER DEVELOPMENT COMPANY
437 WESTER STREET - DAYTON, OHIO 45414
(513) 233-1111



Site Map

Call Kable's Mill at --
848-2844



Gold Key Homes
278-0851 or
1-800-222-5137

Kable's Mill Phase I, Section 3

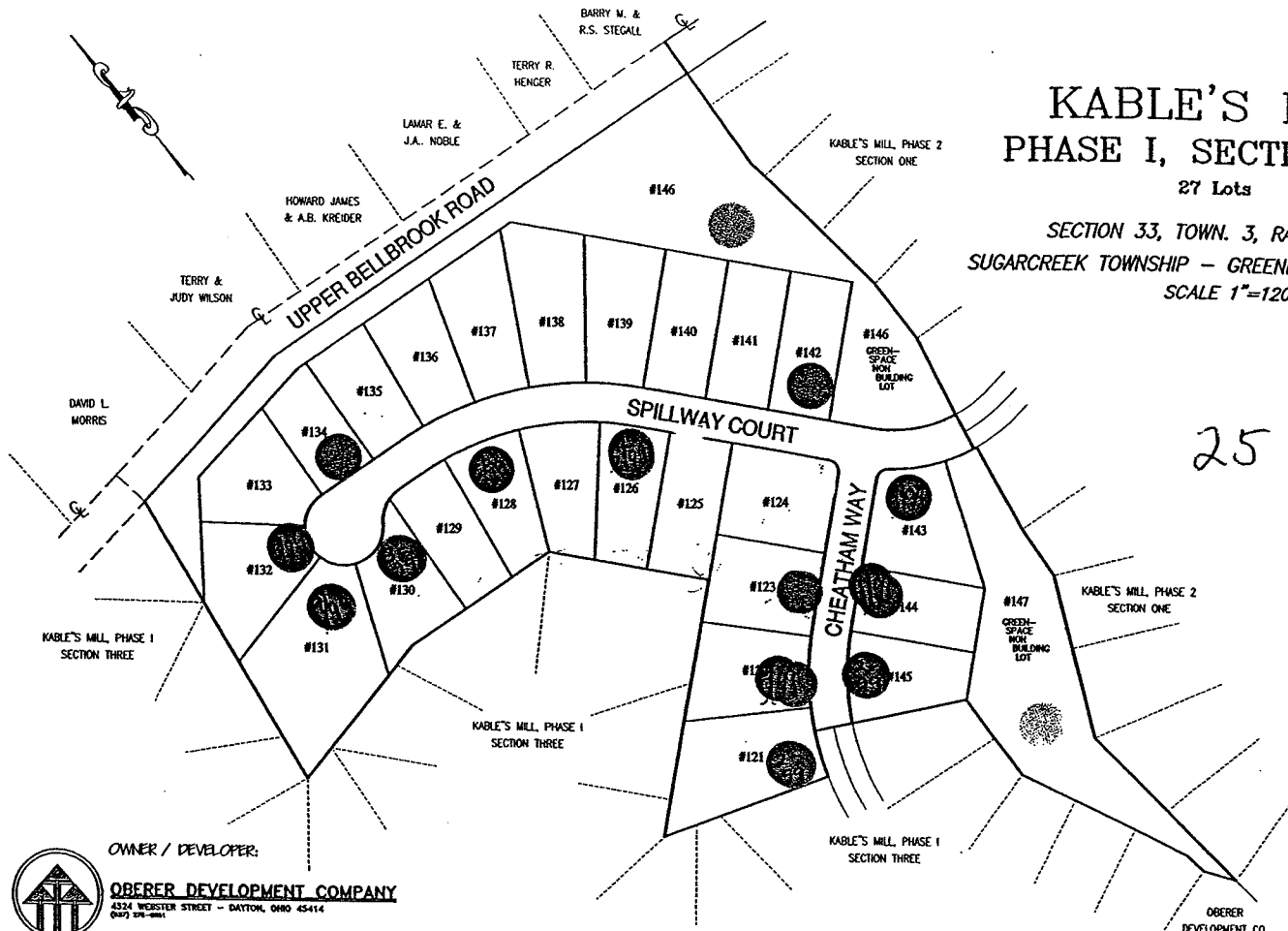


KABLE'S MILL PHASE I, SECTION FOUR

27 Lots

SECTION 33, TOWN. 3, RANGE 6
SUGARCREEK TOWNSHIP - GREENE COUNTY, OHIO
SCALE 1"=120'

25 LOTS



OWNER / DEVELOPER:



OBERER DEVELOPMENT COMPANY

4324 WEBSTER STREET - DAYTON, OHIO 45414
(937) 278-8881

OBERER
DEVELOPMENT CO.

**PROJECTED BUDGET
KABLE'S MILL SUBDIVISION**

1999

Activity Code	Line Item	1998	1999
63330-130	Detention Pond	0	1300.00
63330-140	Fountains		
63330-150	Mowing/Trimming	10154.82	11000.00
63330-151	Fertilizing/Weeding	2188.61	2200.00
63330-152	Mulch Beds	8961.98	7000.00
63330-153	Tree Maintenance	3594.36	1500.00
63330-154	Flower Program	800.00	1200.00
63330-155	Irrigation System		
63330-160	Miscellaneous		
61220-120	Professional Services - Legal	300.00	300.00
61230-000	Bookkeeping/Accounting Fees	100.00	100.00
61200-100	Management Fees	4000.00	3420.00
61200-110	Bank Fees	60.00	60.00
61200-120	Postage and Copying Fees	417.00	400.00
61200-130	Miscellaneous		
62000-000	Utilities		
62400-000	Insurance	700	700
74500-000	Real Estate Taxes	36	36
13200-000	Reserve for Replacement	1000.00	1000.00
63800-000	Snow Removal		
69900-000	Miscellaneous Expenses		
Total		32,317.00	30,216.00
Divided by number of lots			171
			<u>176.70</u>
<i>Assessment collected from homeowners</i>			<i>16992.00</i>
<i>Assessment collected from developer</i>			<i>13275.00</i>

Adjustments:

ASSESSMENT PER LOT \$177.00 per year