

This document was prepared by and after
Recording should be returned to:
Gloria L. Freye
McGuireWoods, LLP
One James Center
901 East Cary Street
Richmond, Virginia 23219-4030

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034111
COURT STAMP

GPIN: 725-659-1397 - 00000
7296622782 - 00000

mail to: Jerry McClachen
9406 Summerbrook Ct.
Chesterfield, VA 23832

**CONSTRUCTION ACCESS RESTRICTION, EASEMENT AND JOINT
MAINTENANCE AGREEMENT**

THIS CONSTRUCTION ACCESS RESTRICTION, EASEMENT AND JOINT
MAINTENANCE AGREEMENT (the "Agreement") is made as of this 8th day of
AUGUST, 2000, by and between SUMMERFORD HOMEOWNERS
ASSOCIATION, a ~~NON-PROFIT CORPORATION~~ having an address at
1111 EAST MAIN STREET, RICHMOND VA 23219 ("Summerford"), and BJ SUMMERFORD
LLC, a limited liability company, having an address at 1670 Mountain Road, Glen Allen,
Virginia 23060 ("BJ") and its successors and assigns.

RECITALS

A. Summerford owns and/or is responsible for maintaining certain common
areas, easements and rights of way located in Section A of the Summerford subdivision,
in Chesterfield County, Virginia, which subdivision is more particularly described on
Exhibit A, attached hereto and incorporated herein by reference ("Summerford Parcel");

B. BJ is the owner of a certain parcel of real property containing
approximately 142.5264 acres located at 13720 Hensley Road in Chesterfield County,
Virginia, which real property is located near the Summerford Parcel and is more
particularly described on Exhibit B attached hereto and incorporated herein by reference
("BJ Parcel");

C. BJ plans to develop the BJ Parcel as a residential subdivision on the west
side of Hensley Road to be named The Woods at Summerford ("Woods") which will
include a passive park area ("Park Area") as shown on Subdivision Case 98TS0136;

D. BJ and Summerford desire to share the costs of maintaining the Park Area,
the landscaping and all improvements located at the Summerford Parcel subdivision main
entrance at Winterpock Road, the Summerford Drive median, landscaped shoulders,
sidewalks and any future medians, and the medians and landscaped shoulders, sidewalks
in or along West Hensley Road, all as shown on Exhibit C attached hereto and
incorporated herein by reference (collectively, the "Joint Maintenance Areas");

E. Summerford and BJ agree that Summerford Drive may only be used for construction access until the thirty-two (32) lots situated along Summerford Drive in the Woods as shown on Exhibit D attached hereto and incorporated herein by reference, have been developed, and thereafter, West Hensley Road must be used for construction access to the Woods; and

F. BJ and Summerford wish to enter an agreement which establishes an easement for the benefit of Summerford to use the Park Area, to provide for the maintenance and operation of the Joint Maintenance Areas and to restrict the construction access for the BJ Parcel, all for the mutual benefit of the parties hereto and their respective successors and assigns.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the parties agree as follows:

1. Grant of Easement. BJ grants to Summerford for the benefit of the Summerford members a perpetual, non-exclusive easement in, on and over, the Park Area for ingress, egress, access and pedestrian traffic upon or across the Park Area, with rights to use the Park Area pursuant to reasonable rules and regulations promulgated by BJ, its successors and assigns, and provided that Summerford shares with the maintenance costs of the Park Area as provided herein.

2. Private Use. Nothing contained in this Agreement shall ever be deemed to create a gift or dedication of all or any portion of the BJ Parcel or the Summerford Parcel to the general public or for any public use or public purpose whatsoever, it being the intention of Summerford and BJ that this Agreement will be strictly limited to and for the purposes expressed herein. It is the intention of Summerford and BJ that this Agreement shall be for the exclusive benefit of their respective subdivision residents. Nothing contained herein, express or implied, shall confer upon any person or entity other than Summerford and BJ and their respective successors and assigns, any rights or remedies under or by reason of this Agreement. BJ shall have the right to close any portion of the Park Area easement area, but only for such period of time and only to the extent required (i) by law to prevent prescriptive rights from accruing as to such parcel and (ii) for necessary construction, maintenance, repair and replacement. BJ shall have the right to grant a license, right or permission to their respective officers, employees, tenants, business invitees and all licensees and guests to use any of the Park Area, provided, however, except as provided below, any action to enforce any of such rights may be maintained only by Summerford and BJ or their respective successors and assigns. The rights and benefits hereunder may not be assigned for the benefit of any parcels other than the BJ Parcel or Summerford Parcel unless this Agreement is amended as hereinafter provided.

3. Maintenance.

A. Summerford shall be responsible for all maintenance of the Joint Maintenance Areas located on the Summerford Parcel, including, but not limited to cleaning, landscaping, repair, replacement, irrigation, insuring and lighting (if any). BJ shall be responsible for all maintenance of the Joint Maintenance Areas located on the BJ Parcel and including, but not limited to cleaning, landscaping, repair, replacement, irrigation, insuring and lighting (if any). The actual costs of such maintenance shall be shared pro-rata 47% by Summerford and 53% by BJ or its successors and assigns commencing with the execution of this Agreement. Any such maintenance contribution which is not paid within thirty (30) days after receipt of an invoice shall be subject to a late charge of five percent (5%) and, if such amount is not paid within ten (10) days after written notice of the delinquency the non-performing party shall be responsible for payment of all costs and expenses incurred in connection with the collection of such amount, including reasonable attorney's fees. The standard for such maintenance shall be that which would be equal in quality at least to that maintained by owners of first class facilities of the same type in the vicinity.

B. In the event Summerford fails to maintain the Joint Maintenance Areas on the Summerford Parcel in good repair and in accordance with the terms hereof or BJ fails to maintain the Joint Maintenance Areas on the BJ Parcel in good repair and in accordance with the terms hereof, the other party shall have the right to perform such maintenance and repairs, subject to reimbursement by the non-performing party of its share of the cost of such maintenance as set forth above. Ad valorem taxes and assessments, maintenance of insurance and other requirements or incidentals of ownership with respect to the Joint Maintenance Areas on the BJ Parcel and the Summerford Parcel shall be borne by BJ and Summerford, respectively.

4. Condemnation Award. In the event of condemnation by and duly constituted authority for a public or quasi-public use of all or any part of the Joint Maintenance Areas, that portion of the award attributable to the value of the land within the area covered by the Park Area easement granted herein and so taken shall be payable to BJ and no claim thereon shall be made by Summerford.

5. Construction Access. BJ is permitted to use Summerford Drive for construction access until the 32 lots of the Woods subdivision as shown on Exhibit D are completed. After the 32 lots as shown on Exhibit D are completed, BJ shall limit its construction access to West Hensley Drive.

6. Amendment. The provisions of this Agreement may be amended only with the consent of Summerford and BJ or the successor owners, respectively, of the Joint Maintenance Areas located on the BJ Parcel or Summerford Parcel by amendment, in writing, executed and acknowledged by Summerford and BJ, or such other owners, and duly recorded in the public real property records of Chesterfield County, Virginia.

7. Non-Exclusive Benefit. BJ hereby reserves the right, for themselves and their respective successors and assigns, to grant such other or similar easements, rights, rights-of-way and privileges over, across and under the BJ Parcel, so long as any such easements, rights, rights-of-way and privileges hereinafter granted over, across or under the BJ Parcel does not have a material adverse effect on the use of the Park Area easement herein granted.

8. Indemnification. Summerford agrees to indemnify and hold harmless BJ from any and all liability or damages which BJ may suffer as a result of claims, demands, costs, liens, judgments or awards against BJ arising out of or as a result of any use by Summerford, its guests, employees and invitees of the Park Area easement herein created.

9. Miscellaneous.

A. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of such counterparts together shall be deemed to constitute one original agreement.

B. Summerford and BJ covenant and agree that, except as provided in Section 2 hereof, the Park Area easement, agreements, covenants and restrictions and all other terms hereof shall be binding upon and inure to the benefit of their respective successors and assigns and all other persons or entities having or hereafter acquiring any right, title or interest in the Joint Maintenance Areas on the BJ Parcel or Summerford Parcel, and all other persons and entities claiming by, through or under said owners and their respective successors and assigns. BJ covenants and agrees that its rights and obligations provided in this Agreement shall be assigned to a homeowners association representing the Woods following the expiration of its declarant period of the Woods development.

C. This Agreement, and any amendment, modification or revision thereto, shall be recorded in the public real property records of Chesterfield County, Virginia.

D. The terms, conditions, and provisions of this Agreement shall be prior and superior to each and every mortgage, lien or deed of trust now or hereafter encumbering all or any part of the Joint Maintenance Areas. Both parties agree to cause any mortgagee holding a valid mortgage lien or any beneficiary under a deed of trust encumbering all or any part of the Joint Maintenance Areas as of the date hereof to subordinate its lien or its rights and interest to the terms, conditions and provisions set forth herein by written subordination agreement executed by any such mortgagee or by the trustee of any such deed of trust, with the consent of any such beneficiary, in a form and substance reasonably satisfactory to the other party, such writing to be recorded in the public real property records of Chesterfield County, Virginia.

E. Any notice, request, demand or other communication to be given to either party hereunder shall be in writing and shall be deemed to be delivered: (i) when received, if hand-delivered or (ii) if sent by mail, two (2) days following deposit of same in a U. S. Postal Service receptacle, postage prepaid, as registered or certified mail, return receipt requested, to the addresses set out herein below.


F. This Agreement shall be governed by and enforced in accordance with the laws of the Commonwealth of Virginia.

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IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

SUMMERFORD:

SUMMERFORD
HOMEOWNERS
ASSOCIATION, Inc.



By: _____
Name: Jerry E. McCracken
Title: PRESIDENT

Notice Address:

Jerry McCracken
9406 Summerford Court
Chesterfield, Virginia 23832

With copy to:

Theodore F. Adams, III
Mays & Valentine, L.L.P.
1111 East Main Street
Richmond, Virginia 23219

BJ:

BJ SUMMERFORD LLC,
a
LIMITED LIABILITY COMPANY

By: William W. Johnson
Name: William W. Johnson
Title: MEMBER

Notice Address:

William W. Johnson
1670 Mountain Road
Glen Allen, Virginia 23060

With copy to:

Gloria L. Freye, Esquire
McGuireWoods, LLP
901 East Cary Street
Richmond, Virginia 23219

STATE OF Virginia
COUNTY/CITY OF Chesterfield

The foregoing instrument was acknowledged before me in the above stated jurisdiction this 09 day of August, 2000, by JERRY F. McCracken the PRESIDENT of SUMMERFORD HOMEOWNERS ASSOC. INC., a NONPROFIT CORPORATION on behalf of the ASSOCIATION.

Janet L. Varnier
Notary Public

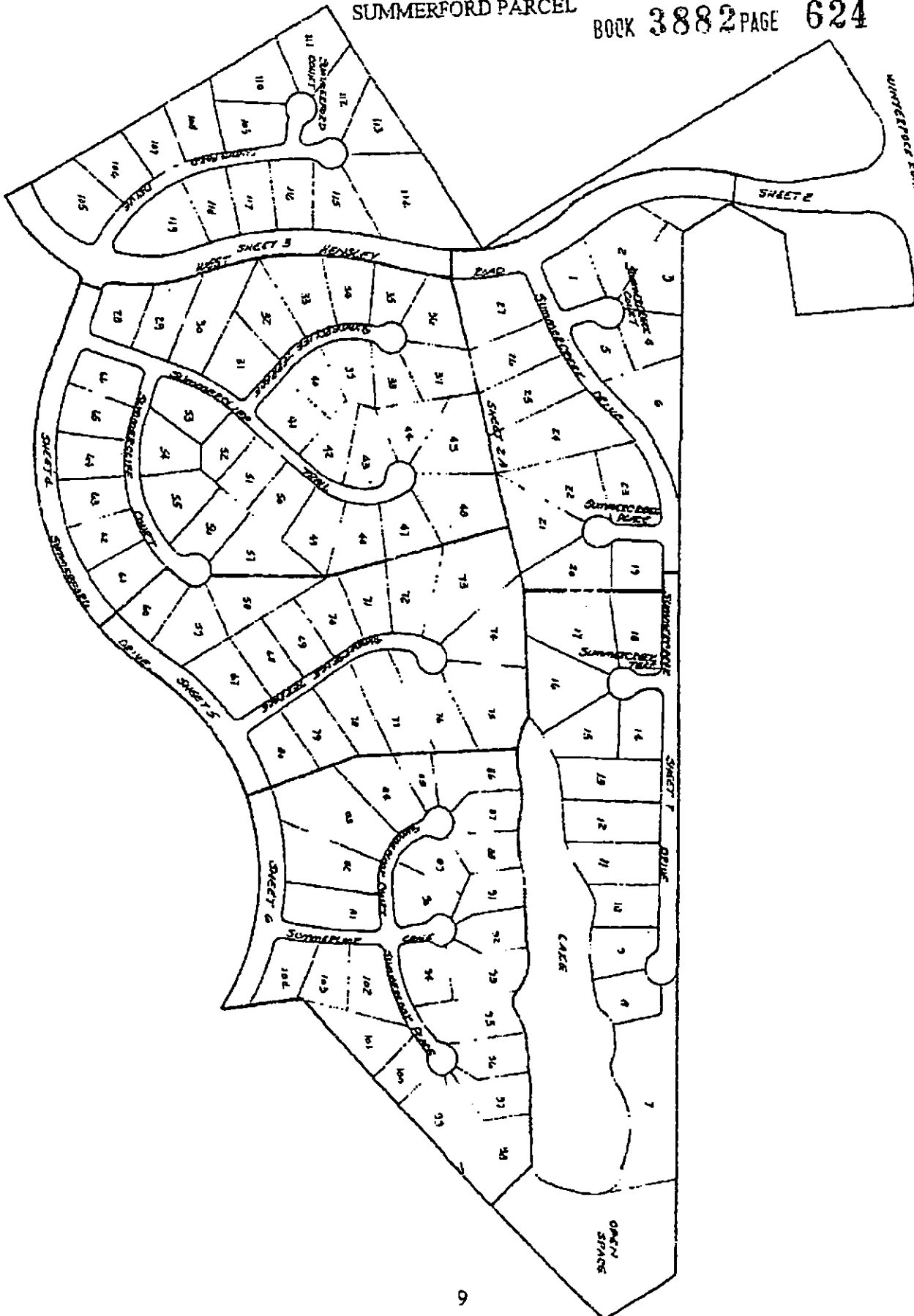
My commission expires: December 31, 2002

STATE OF VIRGINIA
COUNTY/CITY OF HENRICO

The foregoing instrument was acknowledged before me in the above stated jurisdiction this 8th day of AUGUST, 2000, by WILLIAM JOHNSON the MEMBER of BJ SUMMERFORD LLC, a LIMITED LIABILITY COMPANY on behalf of the COMPANY.

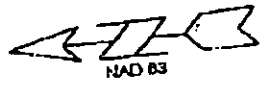
William P. Johnson
Notary Public

My commission expires: JUNE 30, 2004



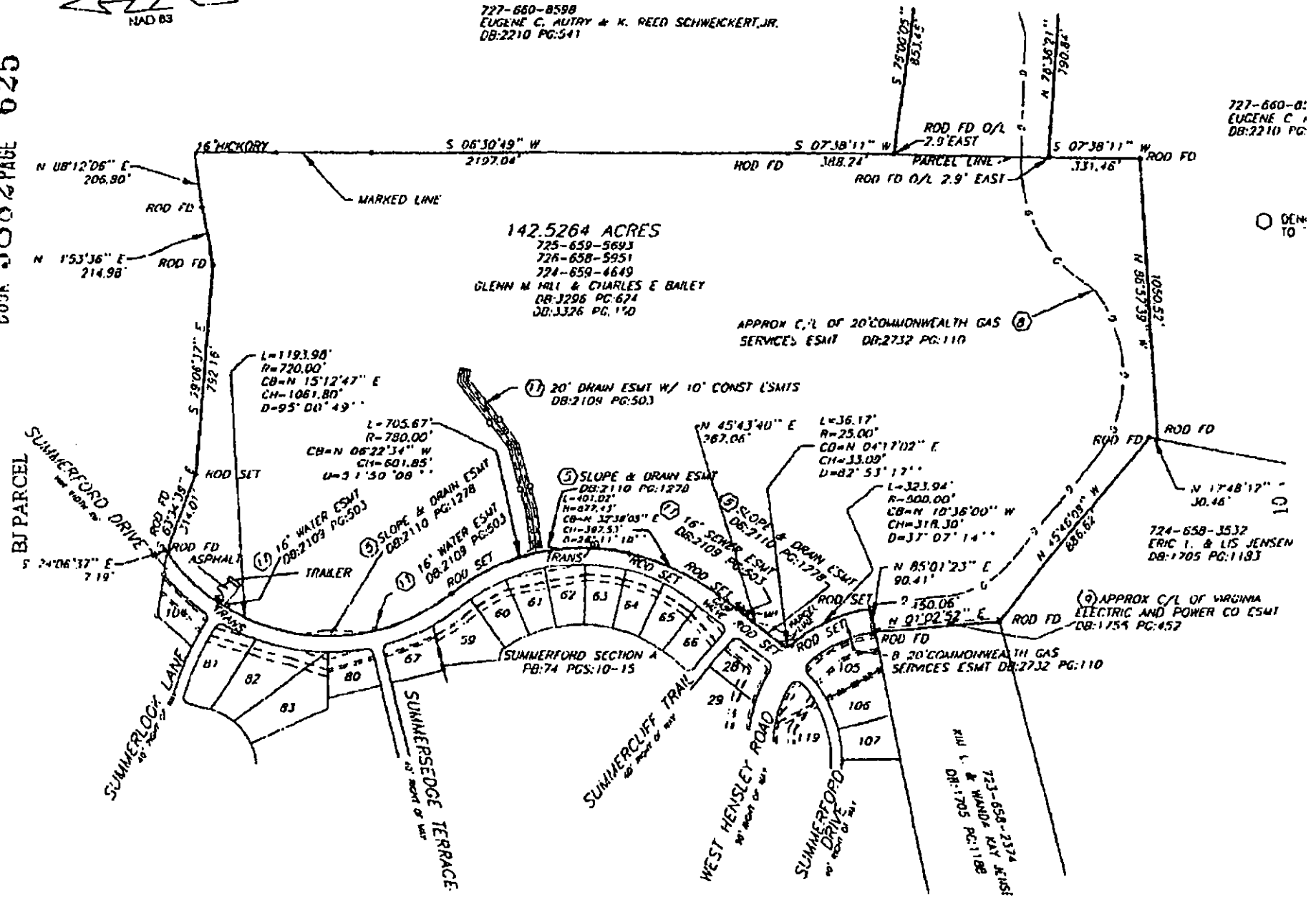
SUMMERFORD ROAD - STATE HIGHWAY

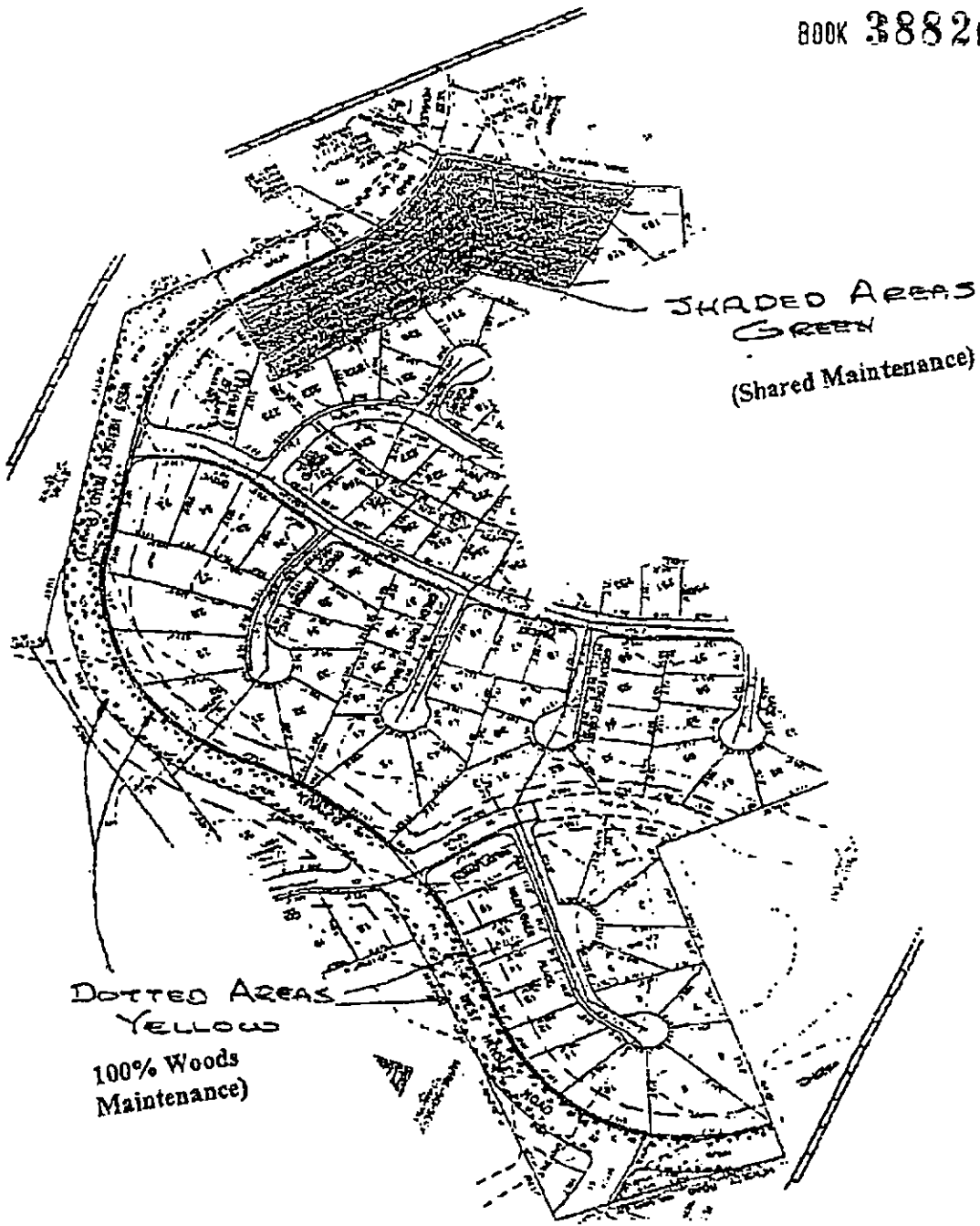
BOOK 308 PAGE 025



727-660-8598
EUGENE C. AUTRY & K. REED SCHWEICKERT, JR.
DB:2210 PG:541

727-660-01
EUGENE C. I
DB:2210 PG:



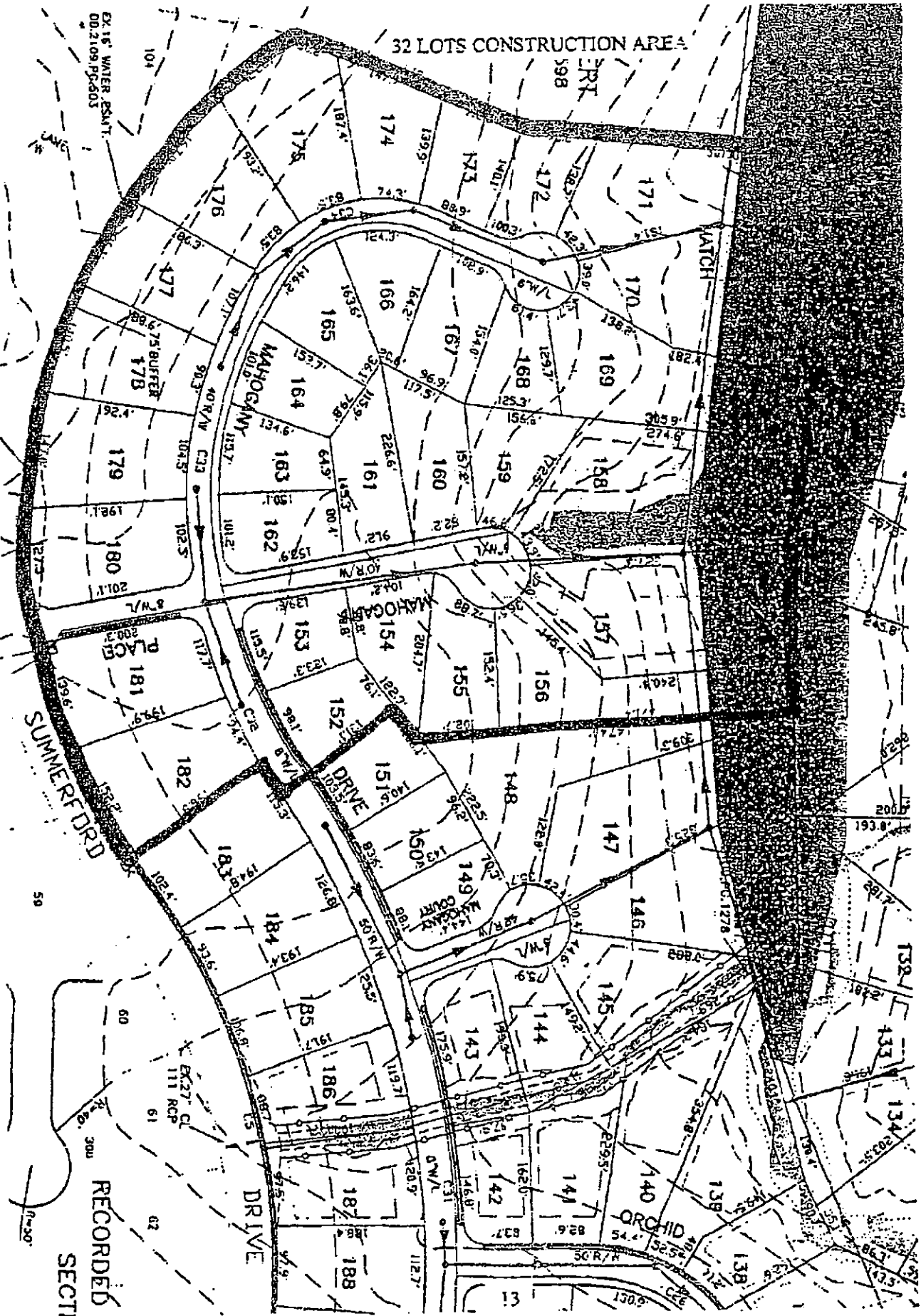


DOTTED AREAS
YELLOW
(100% Woods
Maintenance)

SHADED AREAS
GREEN
(Shared Maintenance)

THE WOODS AT
SUMMERFORD
SCALE: 1" = 300'
D.B.C.G. 1999

32 LOTS CONSTRUCTION AREA



EX 15' WATER EASMT.
00.2109 PG-603

RECORDED
SECT 1