

RESOLUTION NO. 40-2007

Offered by All of Council

A RESOLUTION ACCEPTING TWO (2) STANDARD EASEMENTS FOR THE INSTALLATION AND MAINTENANCE OF A WATER MAIN FOR CIRCULATION PURPOSES ONLY FROM HEYWOOD PROPERTIES, LTD. (APPLE ORCHARD SUBDIVISION).

BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That there is hereby accepted two (2) Standard Easements for the Installation and Maintenance of a Water Main for Circulation Purposes Only from Heywood Properties, Ltd. (the Apple Orchard Subdivision), copies of which easements are attached hereto as Exhibits "A" and "B" and incorporated herein fully as if by reference.

SECTION 2. That the Mayor and Administration be, and hereby are, authorized and directed to execute all necessary instruments to accept the easements referenced herein.

SECTION 3. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 7/17/07

[Signature]  
President of Council

[Signature]  
Mayor

Dated: 7/17/07

ATTEST:  
[Signature]  
Clerk of Council

STANDARD EASEMENT  
FOR THE  
INSTALLATION AND MAINTENANCE OF A WATER MAIN  
FOR CIRCULATION PURPOSES ONLY

We, Heywood Properties, Ltd., the Grantor herein, for valuable consideration received and to be received to our full satisfaction, do hereby grant and convey to the Village of Richfield, and to the City of Cleveland, political subdivisions of the State of Ohio and Grantees herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premises (the "Premises"):

Situated in Village of Richfield, County of Summit and State of Ohio and known as being a part of Original Richfield Township Lot No. 2, Tract No. 3, also known as being a part of Parcel 2 in the Lot Split Plat for Heywood Properties, Ltd., recorded in Reception No. \_\_\_\_\_, and more fully described as follows:

Commencing at a railroad spike found at the intersection of the center line intersection of Hawkins Road (T.R. 185, 60 feet wide) and Broadview Road (S.R. 176, 60 feet wide); Thence S 89°57'26" E, along said center line of Hawkins Road, 69.96 feet to a railroad spike found therein; Thence, continuing S 89°57'26" E, along said centerline of Hawkins Road, 657.62 feet to an iron pin with a yellow cap marked "T.R.Allison S-7176," said point being the southwesterly corner of the aforementioned Parcel 2; Thence N 16°47'21" W, along the westerly line of said Parcel 2, 45.50 feet to a point therein and the TRUE PLACE OF BEGINNING.

Course No. 1 Thence N 59°52'53" E, 635.39 feet to a point, said point being in a westerly limited access line of Interstate Route 271 as recorded in Volume 4636, Page 509 of the Summit County Deed Record;

Course No. 2 Thence N 07°44'17" E, along said limited access line of Interstate Route 271, 63.33 feet to a point therein;

Course No. 3 Thence S 59°52'53" W, parallel with and 50.00 feet northwesterly by right angle measurement from Course No. 1, 662.41 feet to a point in the aforementioned westerly line of Parcel 2;

Course No. 4 Thence S 16°47'21" E, along said westerly line of Parcel 2, 51.38 feet to the TRUE PLACE OF BEGINNING and containing 0.745 acres of land, more or less, but subject to all legal roads, highways and easements of record.

Bearings herein are based upon the centerline bearing of Broadview Road as recorded in Reception No. 55200961.

Grantor and Grantee agree that all references to either part in this instrument shall include that party and the party's heirs, administrators, successors and/or assignees.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and conveys unto the Grantees the right and easement to enter upon the premises to lay, install and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service meters and appurtenances which the Grantee deems to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantees deems to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulation of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantor agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises, The water main and appurtenances, including valves and hydrants, shall upon completion, and approval by the Grantees, become and remain the property of the Grantee Village of Richfield, and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between said Grantee and Grantee, the City of Cleveland, now or hereafter in effect.

The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1 - ½) feet above or one and one-half (1 - ½) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees' access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the dept of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantees. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than thirty (30) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantees, become the property of Grantee, the Village of Richfield.

If the Grantor violates any of the provisions of this easement, the Grantees, either jointly or separately and at the expense of the Grantor, may enter upon the premises and discontinue water service or make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantees, jointly and separately, shall bear no responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantees from any and all damage, injury or loss to any person or property caused by, related to or resulting from any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantees. The Grantor further indemnifies and holds harmless the Grantees from any and all expense incurred and damage to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor further agrees that since the water main to be installed on the premises is for circulation purposes only, no service connections or hydrants shall be connected to it at any time, and that divisional valves of the same size as the water main shall be installed at each longitudinal end of the premises.

The Grantor and the Grantees mutually agree that neither the recording of this instrument nor its acceptance by the Grantees shall be construed as a dedication of the premises or an agreement by the Grantees to accept the premises for dedication for public use as a street.

The Grantor covenants with the Grantees that it is well seized of the premises as a good and indefeasible estate in fee simple and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that he will warrant and defend the premises with the appurtenances thereunto belonging to the Grantees against all lawful claims and demands whatsoever for the purposes described herein.

TO HAVE AND TO HOLD the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantor, for the purposes above mentioned, unto the Grantees forever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at Broadview Heights this 1<sup>st</sup> day of August, 2006.

Signed in the Presence of:

GRANTOR: Heywood Properties, Ltd.

*Neil F. Brennan*  
NEIL F. BRENNAN  
(print or type name)

*Sam Petros*  
Sam Petros  
(print or type name)

*Virginia Roberts*  
Virginia Roberts  
(print or type name)

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

Before me, a Notary Public in and for said County and State, personally appeared the above-named *Sam Petros*, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed, personally and as such officers and the free act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Broadview Heights, this 1<sup>st</sup> day of August, 2006.

*Darcy M. MacGregor*  
NOTARY  
**DARCY M. MacGREGOR**  
Notary Public, State of Ohio  
Recorded in Cuyahoga County  
My Commission Expires 6-27-2010

The legal form and correctness of the within instrument is hereby approved:

\_\_\_\_\_  
Director of Law  
Village of Richfield

\_\_\_\_\_  
(Date)

Accepted by the Council of Richfield by (Resolution) (Ordinance) No. \_\_\_\_\_  
Passed \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk or Assistant

\_\_\_\_\_  
(Date)

The City of Cleveland, by and through its Director of Public Utilities, does hereby accept the within easement and all the terms and conditions thereof this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as authorized by Section 129.20 of the Codified Ordinances of Cleveland, Ohio, 1976, passed by the Council of the City of Cleveland on June 17, 1991.

Signed in the presence of:

CITY OF CLEVELAND

\_\_\_\_\_  
\_\_\_\_\_

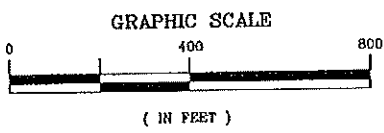
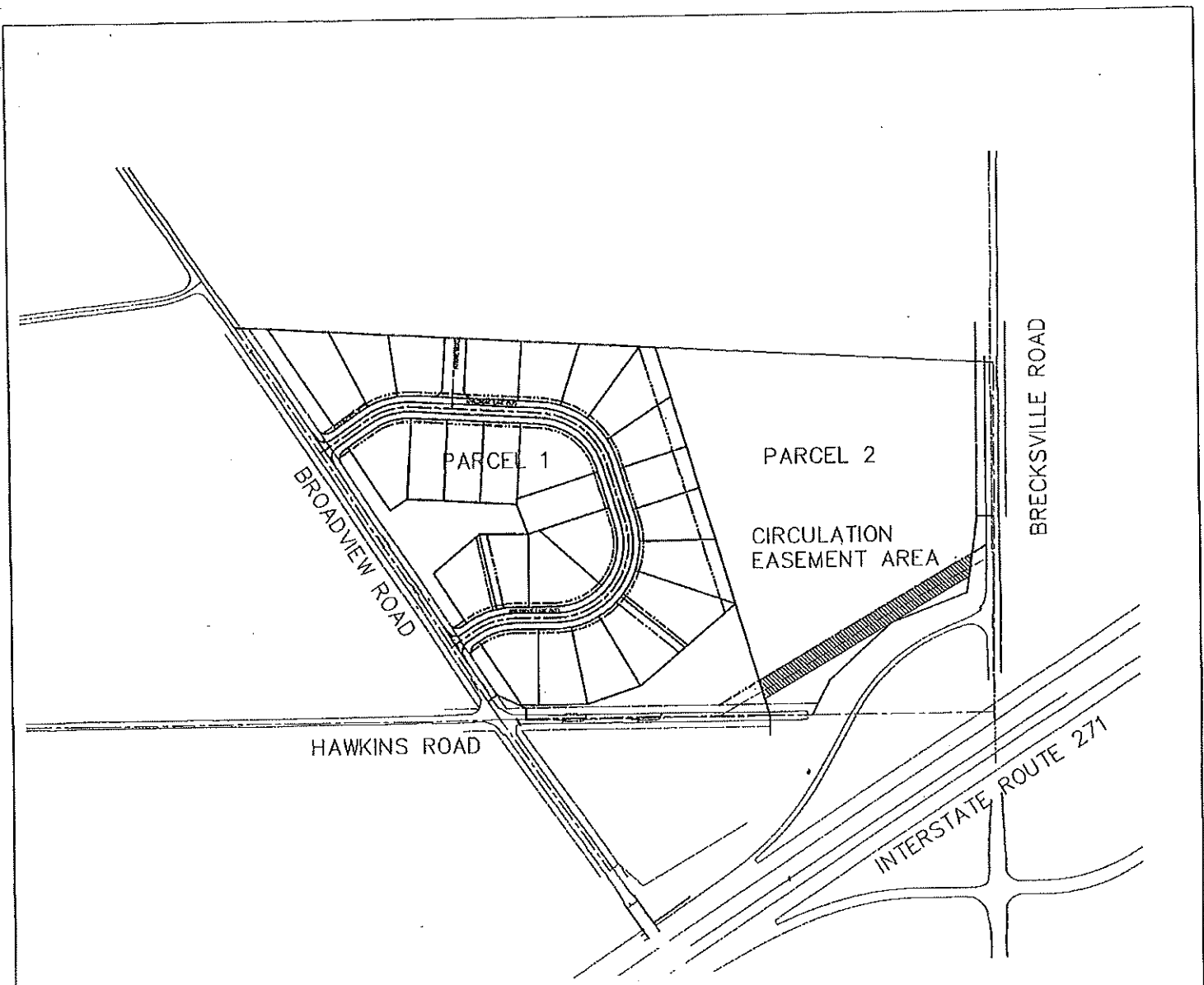
By: \_\_\_\_\_  
Director of Public Utilities

The legal form and correctness of the within instrument is hereby approved:

\_\_\_\_\_  
Director of Law

By: \_\_\_\_\_  
Assistant Director of Law

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



**Michael Benza & Associates Inc.**  
Consulting Engineers and Surveyors

**FIGURE 2**  
CIRCULATION EASEMENT  
AREA - HEYWOOD

STANDARD EASEMENT  
FOR THE  
INSTALLATION AND MAINTENANCE OF A WATER MAIN  
FOR CIRCULATION PURPOSES ONLY

We, Lifestyles Neighborhoods Co. the Grantor herein, for valuable consideration received and to be received to our full satisfaction, do hereby grant and convey to the Village of Richfield, and to the City of Cleveland, political subdivisions of the State of Ohio and Grantees herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premises (the "Premises"):

Situated in Village of Richfield, County of Summit and State of Ohio and known as being a part of Original Richfield Township Lot No. 2, Tract No. 3, also known as being a part of Parcel 1 in the Lot Split Plat for Heywood Properties, Ltd., recorded in Reception No. \_\_\_\_\_, and more fully described as follows:

Commencing at a railroad spike found at the intersection of the center line intersection of Hawkins Road (T.R. 185, 60 feet wide) and Broadview Road (S.R. 176, 60 feet wide); Thence S 89°57'26" E, along said center line of Hawkins Road, 69.96 feet to a railroad spike found therein; Thence, continuing S 89°57'26" E, along said centerline of Hawkins Road, 657.62 feet to an iron pin with a yellow cap marked "T.R.Allison S-7176," said point being the southeasterly corner of the aforementioned Parcel 1; Thence N 16°47'21" W, along the easterly line of said Parcel 1, 45.50 feet to a point therein and the TRUE PLACE OF BEGINNING.

Course No. 1 Thence S 59°52'53" W, 26.98 feet to a point in the northerly line of the aforementioned Hawkins Road;

Course No. 2 Thence N 89°57'26" W, along said northerly line of Hawkins Road, 99.51 feet to a point therein;

Course No. 3 Thence N 59°52'53" E, parallel with and 50.00 feet northwesterly by right angle measurement from Course No. 1, 124.87 feet to a point in the aforementioned easterly line of Parcel 1;

Course No. 4 Thence S 16°47'21" E, along said westerly line of Parcel 2, 51.38 feet to the TRUE PLACE OF BEGINNING and containing 0.087 acres of land, more or less, but subject to all legal roads, highways and easements of record.

Bearings herein are based upon the centerline bearing of Broadview Road as recorded in Reception No. 55200961.

Grantor and Grantee agree that all references to either part in this instrument shall include that party and the party's heirs, administrators, successors and/or assignees.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and



conveys unto the Grantees the right and easement to enter upon the premises to lay, install and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service meters and appurtenances which the Grantee deems to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantees deems to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulation of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantor agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises, The water main and appurtenances, including valves and hydrants, shall upon completion, and approval by the Grantees, become and remain the property of the Grantee Village of Richfield, and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between said Grantee and Grantee, the City of Cleveland, now or hereafter in effect.

The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1 - ½) feet above or one and one-half (1 - ½) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees' access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the dept of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantees. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than thirty (30) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantees, become the property of Grantee, the Village of Richfield.

If the Grantor violates any of the provisions of this easement, the Grantees, either jointly or separately and at the expense of the Grantor, may enter upon the premises and discontinue water service or make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantees, jointly and separately, shall bear no responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantees from any and all damage, injury or loss to any person or property caused by, related to or resulting from any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantees. The Grantor further indemnifies and holds harmless the Grantees from any and all expense incurred and damage to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

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TO HAVE AND TO HOLD the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantor, for the purposes above mentioned, unto the Grantees forever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at Broadview Heights this 1<sup>st</sup> day of August, 2006.

Signed in the Presence of:

GRANTOR: Neighborhoods Lifestyles Co.

*Neil F. Brennan*

*[Signature]*

NEIL F. BRENNAN  
(print or type name)

Sam Petros  
(print or type name)

Virginia Roberts

Virginia Roberts  
(print or type name)

STATE OF OHIO            )  
  ) SS:  
COUNTY OF CUYAHOGA )

Before me, a Notary Public in and for said County and State, personally appeared the above-named Sam Petros, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed, personally and as such officers and the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Broadview Heights, this 1<sup>st</sup> day of August, 2006.

*Darcy M. MacGregor*  
NOTARY

DARCY M. MacGREGOR  
Notary Public, State of Ohio  
Recorded in Cuyahoga County  
My Commission Expires 6-27-2010

The legal form and correctness of the within instrument is hereby approved:

\_\_\_\_\_  
Director of Law  
Village of Richfield

\_\_\_\_\_  
(Date)

Accepted by the Council of Richfield by (Resolution) (Ordinance) No. \_\_\_\_\_  
Passed \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk or Assistant

\_\_\_\_\_  
(Date)

The City of Cleveland, by and through its Director of Public Utilities, does hereby accept the within easement and all the terms and conditions thereof this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as authorized by Section 129.20 of the Codified Ordinances of Cleveland, Ohio, 1976, passed by the Council of the City of Cleveland on June 17, 1991.

Signed in the presence of:

CITY OF CLEVELAND

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Director of Public Utilities

The legal form and correctness of the within instrument is hereby approved:

\_\_\_\_\_  
Director of Law

By: \_\_\_\_\_  
Assistant Director of Law

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

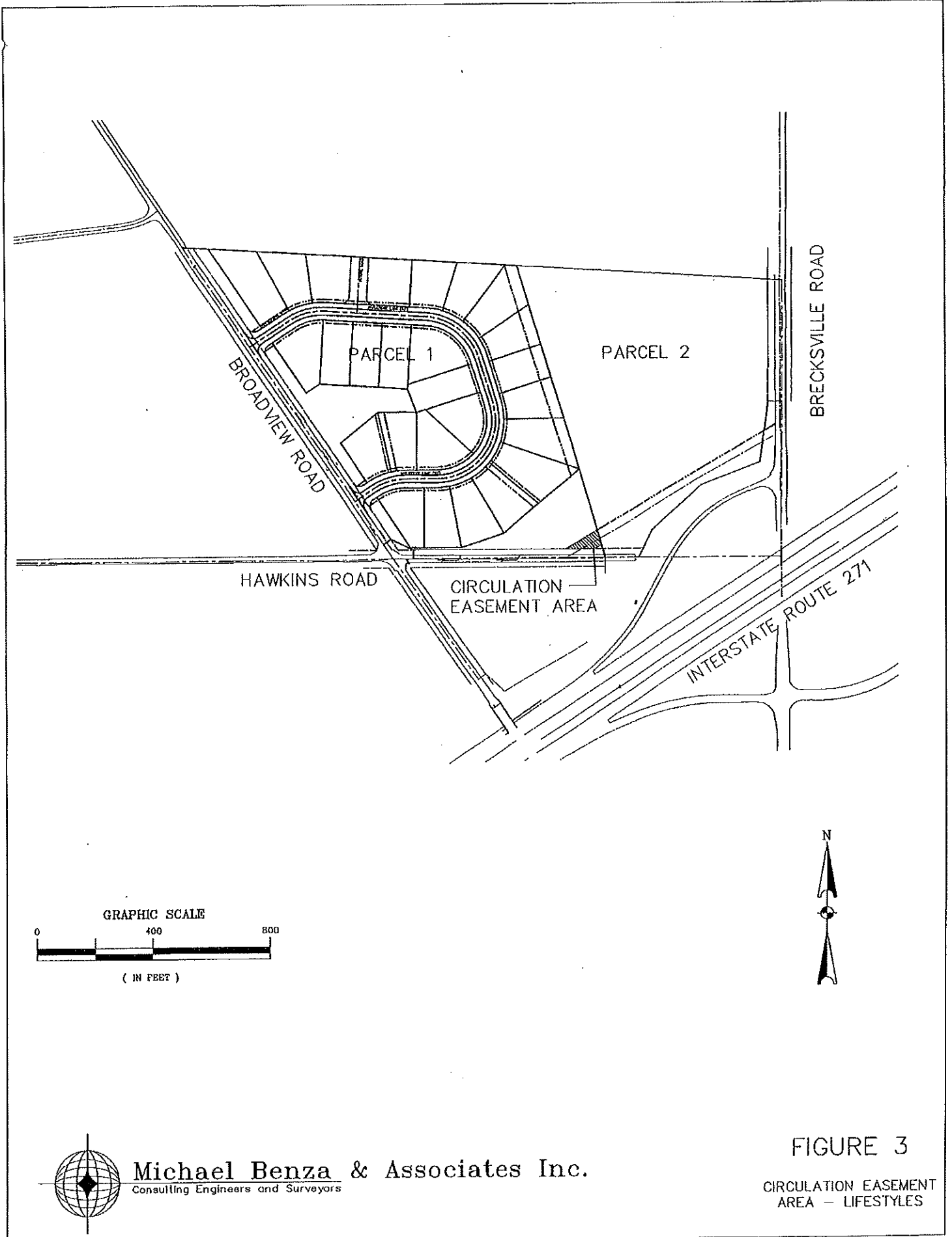


FIGURE 3

CIRCULATION EASEMENT  
AREA - LIFESTYLES



**Michael Benza & Associates Inc.**  
Consulting Engineers and Surveyors