

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain at all times a policy or policies of workmen's compensation insurance to meet the requirements of the laws of the State of Tennessee.

(d) Fidelity Bonds. The Association shall obtain and maintain fidelity bonds for any person who either handles or is responsible for funds held or administered by the Association naming the Association as the obligee. The amount of the fidelity bond should cover the maximum funds that will be in the custody of the Association, but not less than the sum of three months' assessments on all Units plus the reserve funds of the Association.

(e) Other Insurance. The Association shall obtain and maintain such other insurance coverage as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interest of the Association and the Owners of all Units.

**Section 8.03 Governing Provisions.** All insurance obtained and maintained by the Association as provided in Section 8.02 above shall be governed by the following provisions:

(a) All policies shall (i) comply with the hazard and casualty insurance requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association as they shall apply to condominium loans; and (ii) be written with a company licensed to do business in the State of Tennessee and holding a financial rating of Class V or better and a general policyholders rating of "A" or better by Best's Insurance Reports or other then comparable rating. To the extent that the provisions of this Master Deed with respect to the maintenance of insurance shall conflict with the hazard and casualty insurance requirements of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, then the requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association shall control and such requirements shall be complied with by the Association.

(b) Exclusive authority to adjust all claims under the policies hereafter in force on the Condominium Property shall be vested in the Association or its authorized representatives.

(c) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with the insurance purchased by the individual Owners or their Mortgagees.

(d) The Association shall be required to make every effort to secure insurance policies that will provide for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Association, the Board of Directors, the Developer or the Owners;

(ii) An agreement by the insurer that the insurance coverage cannot be terminated or materially changed without thirty (30) days prior written notice to the Association and the Mortgagee of each Unit;

(iii) The insurance coverage will be primary, even if a Unit Owner has other insurance that covers the same loss; and

(iv) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

**Section 8.04 Premiums and Deductibles.** Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense; except that the amount of increase over the usual premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements or Limited Common Elements by an Owner shall be assessed against that Owner. Any deductible incurred by reason of a loss or claim under any insurance policy purchased under this Article VIII shall be paid by the Association, unless such loss or claim was caused by any Unit Owner, lessee or guest or invitee thereof or resulted from the use, misuse, occupancy, negligence or abandonment of a Unit or any portion thereof. In such event the Unit Owner from whose Unit the cause originated, will be responsible for the deductible under the Associations insurance policy.

**Section 8.05 Insurance Trustee.** The Association may engage the services of a bank or trust company authorized to do trust business in the State of Tennessee and having a capital and surplus of not less than \$50,000,000.00 to act on its behalf as an insurance trustee ("Insurance Trustee") and to receive and disburse the insurance proceeds in accordance with the provisions of this Master Deed. In the event the lowest of two bids from reputable contractors for making all repairs required by any such loss shall exceed \$20,000, the Association upon written demand of the Mortgagee of any Unit shall engage the services of a bank or trust company to act as Insurance Trustee as aforesaid. The Association, as a Common Expense, shall pay a reasonable fee to said Insurance Trustee for its services rendered hereunder, and shall pay such costs and expenses as said Insurance Trustee may incur in the performance of any duties and obligations imposed upon it hereunder. Said Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then for only such money which comes into the possession of said Insurance Trustee. Whenever the Insurance Trustee may be required to make distribution of insurance proceeds to Owners of Units and their Mortgagees, as their respective interests may appear, or to any other party for repair, replacement or reconstruction of property, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath, which certificate will be provided to said Insurance Trustee upon request made to the Association. Such certificate is to certify unto said Insurance Trustee the name of the Owner of each Unit, the name of the Mortgagee who may hold a Mortgage encumbering each Unit, and the respective percentages of any distribution which may be required to be made to the Owner of any Unit, and his respective Mortgagee, as their respective interests may appear, or to certify the name of the party to whom payments are to be made for repair, replacement or reconstruction of all or a portion of the Condominium Property. The rights of the Mortgagee of any Unit under any standard mortgage clause endorsement to such policy shall, notwithstanding anything to the contrary therein or in any Mortgage contained, at all

times be subject to the provisions hereof with respect to the application of insurance proceeds to reconstruction of the damaged Condominium Property; provided, however, that if the Association or the Insurance Trustee fails to perform all the conditions precedent required by the policy or policies of insurance, and fails to collect the amount of the loss within the time required by law, and the Mortgagee or Mortgagees are required to avail themselves of their rights under the standard mortgage clause to collect the proceeds of the policy or policies of insurance, any amount so collected through the efforts of said Mortgagee or Mortgagees shall be applied as directed by said Mortgagee or Mortgagees. No provision hereof shall entitle an Owner or any other party to any priority over a Mortgagee with respect to the distribution of any insurance proceeds with respect to such Unit.

**Section 8.06 Loss to Common Elements Only.** In the event of the loss of or damage to only Common Elements, real or personal, by reason of fire or other casualties, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or the Insurance Trustee, as the case may be, to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such Common Elements, then such excess insurance proceeds shall be paid by the Insurance Trustee to the Owners of all Units, the distribution to be separately made to the Owner of each Unit and his respective Mortgagee, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the Owner of each Unit and his Mortgagee shall bear the same ratio to the total excess insurance proceeds as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Common Elements appurtenant to all Units. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire or casualty loss or damage payable to the Association or the Insurance Trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Association shall pay, or shall deposit with the Insurance Trustee, as the case may be, a sum, which together with the insurance proceeds received or to be received, if any, will enable said Insurance Trustee to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The monies to be so paid, or deposited by the Association with the Insurance Trustee, may be paid by the Association out of its reserve for replacement fund and if the amount in such reserve for replacement fund is not sufficient, or if the Board of Directors determines not to use such fund for said purpose, then the Association shall levy and collect an assessment against the Owners of all Units in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction.

**Section 8.07 Loss to Common Elements, Limited Common Elements and/or Units.** In the event of loss of or damage to Common Elements, Limited Common Elements and/or any private element of any Unit by reason of fire or other casualty, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or Insurance Trustee, as the case may be, to cover such loss or damage, shall be first applied to the repair, replacement or reconstruction of the Common Elements, then to the repair, replacement or reconstruction of the Limited Common Elements and any remaining insurance proceeds shall be applied to the repair, replacement or reconstruction of the private elements of any Unit which may have sustained any loss or damage so covered. If the insurance proceeds are in excess of

the cost of the repair, replacement or reconstruction of the Common Elements, the Limited Common Elements and the private elements of Units sustaining any loss or damage, then such excess insurance proceeds shall be paid and distributed by the Insurance Trustee to the Owners of all Units, and to their Mortgagees, as their respective interests may appear. Such distributions are to be made in the manner and in the proportions as are provided for the distribution of insurance proceeds under Section 8.06 above. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee, as the case may be, are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be sufficient, then the Board of Directors of the Association shall, based on reliable and detailed estimates obtained by it from competent and qualified parties, determine and allocate the cost of repair, replacement or reconstruction among the Common Elements, the Limited Common Elements and the private elements of Units sustaining any loss or damage. If the proceeds of said fire or casualty insurance, if any, are sufficient to pay for the repair, replacement or reconstruction of any loss of or damage to the Common Elements and Limited Common Elements, but are not sufficient to repair, replace or reconstruct any loss of or damage to the private elements of Units sustaining damage, then the Association shall levy and collect an assessment from the respective Owners of the Units sustaining any loss or damage, and the assessment so collected from said Owners shall be deposited with the Insurance Trustee, so that the sum on deposit with said Insurance Trustee shall be sufficient to completely pay for the repair, replacement or reconstruction of all Common Elements, Limited Common Elements, and private elements of Units. In said latter event, the assessment to be levied and collected from the Owners of the Units shall be apportioned among such Owners in such manner that the assessment levied against each Owner of a Unit shall bear the same proportion to the total assessment levied against all of said Owners of Units sustaining loss or damage as the cost of repair, replacement or reconstruction of each Owner's Unit bears to the cost applicable to all of said Units sustaining loss or damage. If the fire or casualty insurance proceeds, if any, payable to the Association or the Insurance Trustee are not an amount which will pay for the complete repair, replacement or reconstruction of the Common Elements and Limited Common Elements, it being recognized that such insurance proceeds are to be first applied to the payment for repair, replacement or reconstruction of said Common Elements and Limited Common Elements before being applied to the repair, replacement or reconstruction of any private element of a Unit sustaining loss or damage, then the cost to repair, replace, or reconstruct said Common Elements and Limited Common Elements in excess of available fire and casualty insurance proceeds shall be levied and collected as an assessment from the Owners of all Units in the same manner as would be levied and collected had the loss or damage sustained been solely to the Common Elements and Limited Common Elements and the fire or casualty insurance proceeds had been insufficient to cover the cost of repair, replacement or reconstruction. The cost of repair, replacement or reconstruction of the private elements of each Unit sustaining loss or damage shall then be levied and collected by assessment against the Owners of the private elements sustaining the loss or damage in the same manner as is above provided for the apportionment of such assessment between Owners of and private elements sustaining loss or damage.

**Section 8.08 Estimates of Repair; Plans and Specifications; Payment of Assessments.** In the event of loss or damage to Condominium Property, the Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost

of restoring damaged property to a condition as good as that which prevailed before such loss or damage. The estimate of repair shall be based upon the plans and specifications of the original buildings, as reflected on Exhibit "D" to this Master Deed as the same may from time to time be amended, or such other plans and specifications as may be approved by the Board of Directors of the Association, by all of the Owners of the damaged Units, and by not less than seventy-five percent (75%) of the Owners of all Units including the Owners of damaged Units. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing the Unit Owners in any proceeding, negotiation, settlement, or agreement arising from any loss or damage to the Condominium Property. Such estimates are to contain and include the cost of any professional fees and premiums for such bonds as the Board of Directors of the Association may deem to be in the best interest of the membership of said Association. Whenever it shall appear that the insurance proceeds payable for such loss or damage will not be sufficient to defray the cost of repair, replacement or reconstruction thereof, the additional money required to completely pay for such repair, replacement or reconstruction of said loss or damage whether to be paid by all of the Owners of Units or only by the Owners of Units sustaining loss or damage, or both, as herein provided, shall be paid to the Association and deposited with the Insurance Trustee, if any, not later than thirty (30) days from the date on which the Association or the Insurance Trustee, as the case may be, shall receive the monies payable from the policies of fire and casualty insurance.

#### ARTICLE IX

#### CONDEMNATION

**Section 9.01 Condemnation Considered a Casualty Loss.** The taking of a portion of a Unit, the Common Elements or the Limited Common Elements by eminent domain shall be deemed to be a casualty loss, and except as otherwise provided in Section 9.02 below, the awards for such taking shall be deemed to be proceeds from insurance on account of the casualty and shall be applied and distributed by the Association in accordance with the provisions of Article VIII. Even though the awards may be payable to the Owners, the Owners shall deposit the awards with the Association or Insurance Trustee, as the case may be; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a special assessment shall be made against a defaulting Owner in the amount of his award, or the amount of such award shall be set off against the sums hereinafter made payable to such Owner. If any Unit or portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Mortgagee of such Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition as provided in Section 7.01, and no provision hereof shall entitle the Owner of such Unit or other party to priority over such Mortgagee with respect to the distribution of any award or settlement to the Owner of the Unit.

**Section 9.02 Partial Condemnation.** In the event that the Condominium Property is not to be terminated and one or more Units are taken in part, the taking shall have the following effects:

- (a) If the taking reduces the size of a Unit and the remaining portion of that Unit can be made tenantable, the award for the taking for a portion of the Unit shall be

used for the following purposes in the order stated, and the following changes shall be effected in the Condominium Property:

(i) The Unit shall be made tenantable and if the cost of such work exceeds the amount of the award, the additional funds shall be assessed against the Owner of the Unit.

(ii) The balance of the award, if any, shall be distributed to the Owner of the Unit and the Mortgagee of the Unit, as their respective interests may appear.

(iii) If there is a balance of the award distributed to the Owner and the Mortgagee, the share of the Common Elements or Limited Common Elements, if any, appurtenant to the Unit shall be equitably reduced. This shall be done by reducing such share by the proportion which the balance of the award so distributed bears to the market value of the Unit immediately prior to the taking, and then recomputing the shares of all Owners in the Common Elements and the Owners of all Limited Common Elements as percentages of the total of their shares as reduced by the taking.

(b) If the taking destroys or so reduces the size of a Unit so that it may not be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium Property:

(i) The market value of such Unit immediately prior to the taking, shall be paid to the Owner of the Unit and to each Mortgagee of the Unit, as their respective interests may appear.

(ii) The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all of the Owners, in the manner approved by the Board of Directors of the Association; provided, however, that if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner required for further improvement of the Common Elements under Section 5.03 above.

(iii) The shares in the Common Elements and Limited Common Elements appurtenant to the Units which continue as a part of the Condominium Property shall be equitably adjusted to distribute the ownership to the Common Elements among the reduced number of Owners. This shall be done by recomputing the shares of such continuing Owners in the Common Elements as percentages of the total of the shares of such Owners as they exist prior to the adjustment.

(iv) If the amount of the award for taking is not sufficient to pay the market value of the condemned Unit to the Owner and to restore the remaining

portion of the Unit in condition for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by assessments against all of the Owners who will continue as Owners of the Units after the changes in the Condominium Property affected by the taking. Such assessment shall be made in proportion to the share of such Owners in the Common Elements after the changes affected by the taking.

(c) If the market value of a Unit prior to the taking cannot be determined by agreement between the Owner and the Mortgagee and the Association within thirty (30) days after notice by any such party that agreement cannot be reached, such value shall be determined by three independent qualified appraisers with one appraiser to be selected by the Association, one appraiser to be selected by the Owner and Mortgagee, and the third appraiser to be selected by the two appraisers so appointed, and the fair market value of the Unit shall be deemed to be the average of the two appraisals of the fair market value of the Unit made by said appraisers having the least difference in amount. The cost of such appraisal shall be assessed against all Owners in the shares of the Owners in the Common Elements as they existed prior to the changes affected by the taking.

(d) Changes in the Units, in the ownership of the Common Elements and Limited Common Elements, and in the share of liability for Common Expenses and Limited Common Expenses which are affected by eminent domain, shall be evidenced by an amendment of this Master Deed which needs be approved only by a majority of the Board of Directors of the Association.

**Section 9.03 Association Appointed As Attorney-In-Fact for Unit Owners.** The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement or agreement arising from the condemnation or taking by eminent domain of the Condominium Property or any portion thereof.

## ARTICLE X

### TERMINATION

#### **Section 10.01 Destruction of the Condominium Property.**

(a) Notwithstanding anything to the contrary contained in this Master Deed, if the Board of Directors shall determine that either of the following conditions exist;

(i) Two-thirds (2/3) or more of the Units in the Condominium Property shall have been destroyed or substantially damaged by fire or other casualty (including condemnation); or

(ii) The Condominium Property has been in existence in excess of forty (40) years and substantially all of the Units in the structure have substantially deteriorated and have been rendered substantially obsolete;

then the Board of Directors may call a meeting of the members of the Association to consider and vote upon whether to restore, repair and/or rebuild the Condominium Property, and if not, whether to terminate the Master Deed and remove the Condominium Property from the provisions of the Act. If the termination of the Master Deed and the removal of the Condominium Property from the provisions of the Act is approved by the affirmative vote of at least eighty percent (80%) of the Owners of all Units (based upon one vote for each Unit) and by at least sixty-seven percent (67%) of all Mortgagees (based upon one vote for each Mortgage owned) after notice given as provided in Section 7.01 hereof, the Master Deed and plan of condominium ownership established herein shall be subject to termination as provided in the Act and the Association shall be authorized to file on behalf of and in the name of the Unit Owners a petition for such termination and removal with the Court of Hamilton County, Tennessee. If less than eighty percent (80%) of the Owners of all Units and/or less than sixty-seven percent (67%) of the Mortgagees vote in favor of terminating the Condominium Property as herein required, the Condominium Property shall be restored, repaired and/or rebuilt in accordance with the provisions of Sections 8.06, 8.07 and 8.08 above.

(b) In the event that the Court of Hamilton County shall grant the petition for termination of this Master Deed and the plan of condominium ownership as provided in subparagraph (a) above, all of the Owners of Units shall be and become tenants in common as to ownership of the Land and any then remaining improvements thereon. The undivided interest in the Land and remaining improvements, except for Limited Common Elements, held by the Owner of each Unit shall be the same as the undivided interest in the Common Elements which were formerly appurtenant to such Unit, and the lien of any Mortgage or other encumbrance upon each Unit shall attach to the percentage of undivided interest of the Owner of a Unit in the Land and then remaining improvements as above provided. The Owners of the Limited Common Elements shall have an undivided interest in said Limited Common Elements which is the same as the undivided interest in the Limited Common Elements formerly appurtenant to the Units owned by such Owners, and the lien of any Mortgage or other encumbrance upon such Units shall attach to the undivided interest in the Limited Common Elements. Upon termination of this Master Deed and the plan of condominium ownership established herein, the Owners of all Units still inhabitable shall, within sixty (60) days from the date of grant of the petition, deliver possession of their respective Units to the Association, or, if the former Units are for sale, may make arrangements for the purchaser thereof from the Association at a fair market value. Upon such delivery of possession, the Owners of inhabitable Units and their respective Mortgagees, as their interests may appear, shall become entitled to participate proportionately together with all Owners of uninhabitable Units in the distribution of proceeds in the possession of the Association or the Insurance Trustee. Upon such termination of this Master Deed and the plan of condominium ownership established herein, the Association or the Insurance Trustee, as the case may be, shall distribute any insurance indemnity which may be due under any policy of casualty insurance to the Owners of the Units and their Mortgagees as their respective interests may appear, such distribution to be made to the Owner of each Unit in accordance with his then undivided interest in the Land and remaining improvements as herein provided. The Land and any remaining improvements thereon shall be subject to



all easements of record, except the easements created in the Condominium Documents. The assets of the Association upon termination of the plan of condominium ownership created by this Master Deed shall then be distributed to the Owner of each Unit and his Mortgagee, as their respective interests may appear, in the same manner as is above provided for the distribution of any final insurance indemnity.

**Section 10.02 Termination by Consent.** Except in the event of this Master Deed and plan of condominium ownership established herein being terminated as provided above, this Master Deed and said plan of condominium ownership may only be otherwise terminated by the consent of ninety percent (90%) of the Owners of all Units and all parties holding Mortgages, liens or other encumbrances, against any of said Units, in which event the termination of the Condominium Property shall be by such plans as may be then unanimously adopted by said Owners and parties holding any Mortgages, liens, or other encumbrances. Such election to terminate this Master Deed and the plan of condominium ownership established herein shall be evidenced by a termination agreement executed in writing by all of the aforesaid parties in recordable form, and such instrument shall be recorded in the Office of the Register of Deeds of Hamilton County, Tennessee.

**Section 10.03 The Association Appointed as Attorney-In-Fact for Unit Owners.** The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement or agreement arising from the termination of this Master Deed and plan of condominium ownership established herein.

## ARTICLE XI

### AMENDMENT

**Section 11.01 Amendments by Developer.** Without limiting the rights of the Developer to alter the plans as described in Sections 2.02 and 2.03 above, and notwithstanding any other provision herein contained, the following provisions shall be deemed to be in full force and effect.

(a) The Developer reserves the right to amend the Bylaws of the Association until such time as Developer relinquishes control of the Association as provided in Section 12.01 below.

(b) The Developer reserves the right to amend this Master Deed so long as there is no Unit Owner other than the Developer.

(c) The Developer reserves the right at any time to amend this Master Deed without the consent of other Owners to correct a scrivener's error or if required by any Mortgagee as a condition of making a loan secured by an interest in a Unit in order to meet the requirements of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association; provided that any such changes or amendments requested by a Mortgagee shall not materially affect the rights of the Unit Owners or the

value of the Condominium Unit or the undivided interest in the Common Elements or Limited Common Elements, if any, attributable to each Unit Owner.

(d) The Developer reserves the right to amend the Master Deed to correct any scrivener's errors or to assign or re-assign Limited Common Elements.

**Section 11.02 Amendments by Unit Owners.** At such time as there is a Unit Owner other than the Developer, then, in addition to the amendments permitted under Section 11.01 above, the Master Deed may be amended in the following manner:

(a) A proposal to amend this Master Deed may be considered at any meeting of the members of the Association called for that purpose in accordance with the provisions of the Bylaws; provided that the Association provides prior written notice of such meeting to the Mortgagees as provided in Section 7.01 above. The proposal to amend the Master Deed must be approved by the affirmative vote of the members representing not less than sixty-seven percent (67%) of the total allocated votes of the Association and by the affirmative vote of the Mortgagees representing fifty-one percent (51%) of the total allocated votes of the Units subject to Mortgages.

(b) Notwithstanding the foregoing, no amendment to the Master Deed under this Article XI shall:

(i) change a Unit, including the ownership in Common Elements, responsibility for Common Expenses and voting rights, without the prior written approval of the Unit Owner or Unit Owners so affected and prior written approval of the holders of record of any mortgage or other liens on the Unit or Units so affected; or

(ii) change, impair or prejudice the rights of Developer or change the provisions of this Master Deed with respect to the Developer's rights hereunder without Developer's prior written approval.

**Section 11.03 Effectiveness of Amendments.** A copy of each amendment so adopted shall be certified by the President or a Vice President and Secretary or Assistant Secretary of the Association as having been duly adopted, and shall be effective when recorded in the Office of the Register of Deeds of Hamilton County, Tennessee.

## ARTICLE XII

### CONTROL OF THE ASSOCIATION

**Section 12.01 Election of Board of Directors.** Developer, its successors or assigns, shall elect the members of the Board of Directors of the Association, and in the event of vacancies, the Developer shall fill the vacancies, until no later than the earlier of either (a) sixty (60) days after 90% of the total number of Units that may ever be created have been conveyed to purchasers of Units, or (b) seven (7) years have elapsed from the conveyance of the first Unit to a purchaser thereof; provided that the Developer may, at its option, terminate its control of the

Association at an earlier date. The Developer shall be entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least one Unit within the Condominium.

**Section 12.02 Notice of Meeting.** Within sixty (60) days before the date of termination of control of the Association by the Developer, the Association shall call and give not less than ten (10) days nor more than thirty (30) days notice of a meeting of the Unit Owners for the purpose of electing the members of the Board of Directors of the Association. Such meeting shall be called and the notice given in accordance with the Bylaws.

**Section 12.03 Status of Unsold Units.**

(a) Developer shall be deemed to be the Owner of each Unit which has not been conveyed to a person other than the Developer. Unless otherwise provided in the Condominium Documents, the Developer shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Unit under the Condominium Documents.

(b) Any person having a first mortgage lien against any Unit which has not been conveyed to a person other than Developer, whether under a blanket mortgage affecting the Condominium Property generally or under a mortgage on one or more specific Units, shall be deemed to be a Mortgagee with respect to any such Unit, and shall be entitled to all rights and privileges available to a Mortgagee of any such Unit under the Condominium Documents so long as the Mortgagee has give notice to the Association that it is a Mortgagee.

(c) Notwithstanding the provisions of Sections 4.02 and 12.03(a) above, no assessments shall be imposed by the Association against the Developer as the Owner of unsold Units until ninety (90) days after the conveyance of the first Unit. During such period, Developer shall be responsible for the Common Expenses and Limited Common Expenses of the Condominium Property, except that the Developer shall be entitled to use and apply to the payment of such Common Expenses and Limited Common Expenses any and all assessments made against the Unit Owners other than Developer and collected by the Association for Common Expenses and Limited Common Expenses, including the two months' assessment paid by each Owner as working capital. The Developer shall be solely responsible for the maintenance, repair and operation of the private elements of the unsold Units.

**Section 12.04 Professional Management and Other Contracts.** Any management contract, employment contract or lease of recreational or parking facilities or any agreement between the Association and an affiliate of the Developer entered into by the Association prior to the passage of control of the Association from the Developer pursuant to Section 12.01 above shall provide the following:

(a) The Association shall have the right of termination which is exercisable without penalty any time upon not more than ninety (90) days' written notice to the other party thereto; and

(b) The Association shall have a right of termination for cause which is exercisable without penalty at any time upon not more than thirty (30) days' written notice to the other party thereto.

### ARTICLE XIII

#### DEVELOPMENT RIGHTS TO ADD ADDITIONAL PROPERTY TO THE CONDOMINIUM

**Section 13.01 Reservation of Development Rights.** Declarant hereby expressly retains and reserves the right, but no obligation, except as expressly provided herein, to submit all or any portion of the Additional Property, a description of which is attached hereto as Exhibit "B", to the provisions of this Declaration. Prior to being added to the Condominium, if so added, no portion of the Additional Property shall be subject to this Declaration. If any portion of the Additional Property is added to the Condominium, only such portion added shall be subject to this Declaration.

**Section 13.02 Exercise of Development Rights.** Except as otherwise specifically set forth in this Declaration, there shall be no limitations on the development right to add property to the Condominium or the exercise thereof. The right may be exercised to add all or any portion of the Additional Property to the Condominium at one time or at different times, or the right may not be exercised at all, in Declarant's sole discretion. There shall be no limitations to the boundaries of any portion of the Additional Property added to the Condominium. The exercise of the right as to a portion of the Additional Property shall not prohibit Declarant from, or obligate Declarant to, further exercise of the right as to any other portion of the Additional Property.

**Section 13.03 Expiration of Development Rights.** The development right to submit all or any portion of the Additional Property to the Condominium may be exercised by Declarant at any time and from time to time for a period of seven (7) years from the date this Declaration is recorded in the Office of the Register of Deeds of Hamilton County, Tennessee. Upon the expiration of said seven (7) year period, to the extent not exercised or previously terminated by Declarant by express amendment to this Declaration, the right shall expire and terminate; provided, however, that Declarant may extend said period for the exercise of the development right with the consent of the Unit Owners of Units to which two-thirds (2/3) of the votes in the Association appertain, exclusive of any vote or votes appurtenant to any Unit or Units then owned by Declarant, within one (1) year prior to the date upon which the development right would otherwise have expired.

**Section 13.04 Improvements on Additional Property.** Any and all structures erected on any portion of the Additional Property added to the Condominium will be compatible with the structures on the Property in terms of quality of construction, the principal materials to be used and architectural style, except that one of the buildings that may be built on the Additional Property will be in the townhome architectural style as opposed to flats. The maximum number of Units that may be created on the Additional Property added to the Condominium is forty-six (46) Units. Except as provided above, there is no requirement that the

Units to be constructed on the Additional Property will be similar to the Units submitted with this Declaration. All Units constructed on the Additional Property added to the Condominium shall be restricted exclusively to single-family residential use in accordance with the terms of this Declaration, subject to Declarant's right reserved to use any Unit owned by it in connection with the development, construction, sales and promotional activities relating to the Condominium. There are no limitations as to the particular location of any improvements that may be made on any portion of the Additional Property added to the Condominium. Declarant shall construct on any portion of the Additional Property added to the Condominium such roads and drives, if any, as Declarant shall deem necessary to provide access to the Units within the Additional Property. Declarant shall have the right, but not the obligation, to construct such improvements on the Additional Property, or any portion thereof added to the Condominium as Declarant shall deem advisable for the common use and enjoyment of the Unit Owners. No limitations are placed on the right of Declarant reserved hereby to create Limited Common Elements within any portion of the Additional Property or to designate Common Elements therein which may subsequently be assigned as Limited Common Elements. Except as expressly provided in this Section, there are no assurances that any Units created on any portion of the Additional Property added to the Condominium will be substantially identical to the Units submitted with this Declaration and there are no assurance as to what types of Units may be created on the Additional Property. All improvements on the Additional Property will be substantially completed prior to being added to the Condominium.

**Section 13.05 Reallocations and Amendment.** Upon the addition of any portion of the Additional Property to the Condominium, the share of undivided interest in the Common Elements and the share of liability for Common Expenses allocable to all Units then included in the Condominium shall be reallocated so that the undivided interest of each Unit shall be as set forth on Exhibit "F," subject to the right of Declarant to make adjustments, so that the total of all interests equals approximately one hundred percent (100%). Each Unit located upon any portion of the Additional Property added to the Condominium shall be allocated one vote in the Association, which shall be of equal voting power with the vote allocated to each other Unit in the Condominium. To add Additional Property to the Condominium, Declarant alone shall execute and record an amendment to this Declaration and the Plat, submitting such Additional Property to the Act and this Declaration and reallocating the undivided interests in the Common Elements, the liabilities for Common Expenses and the votes in the Association.

#### ARTICLE XIV

#### MISCELLANEOUS

**Section 14.01 Rights and Powers of Successors and Assignees.** The rights and powers reserved to or exercisable by the Developer under the Condominium Documents or the Act may be exercised by any successor or assignee of the Developer (i) who acquires title from the Developer by foreclosure or other judicial sale or deed in lieu of foreclosure, or (ii) to whom the Developer specifically assigns such rights and powers.

**Section 14.02 Headings.** The captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Master Deed.

**Section 14.03 Gender/Number.** Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

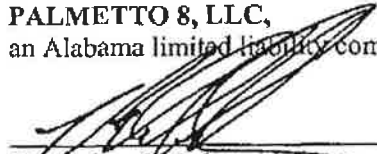
**Section 14.04 Exhibits.** Exhibits "A", "B", "C", "D", "E", "F", "G", "H", and "I" attached to this Master Deed are an integral part of this Master Deed.

**Section 14.05 Invalidity and Severability.** It is the intention of the Developer that the provisions of this Master Deed are severable so that if any provision is invalid or void under any applicable federal, state or local law or ordinance, decree, order, judgment or otherwise, the remainder shall be unaffected thereby.

**Section 14.06 Interpretation.** The provisions of this Master Deed shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

**IN WITNESS WHEREOF,** the Developer has hereunto set its signature and seal on the day and year first above written.

**PALMETTO 8, LLC,**  
an Alabama limited liability company

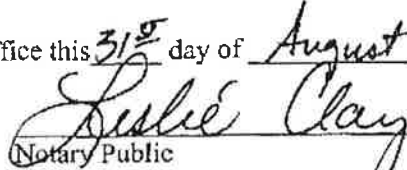
  
By: Adam S. Cohen  
Its: Manager

STATE OF ALABAMA            )  
JEFFERSON COUNTY         )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **ADAM S. COHEN**, whose name as Manager of **PALMETTO 8, LLC**, an Alabama limited liability company, is signed to the foregoing Master Deed, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Master Deed, he, as such officer, and with full authority, executed the same voluntarily on the date the same bears date.

Given under my hand and official seal of office this 31<sup>st</sup> day of August, 2006.



  
Notary Public

My Commission Expires: 2-12-07

The undersigned, as *Mortgagee* under the Mortgage encumbering the real property identified in the foregoing Master Deed of Palmetto 8 Condominium, joins in the execution of the foregoing Master Deed of Palmetto 8 Condominium, for the sole purpose of consenting to the filing of the Master Deed of Palmetto 8 Condominium.

The undersigned is not the Developer, and does not assume any obligation whatsoever under the terms, covenants and conditions of the foregoing Master Deed, and the execution hereof does not in any way subordinate or make the said Mortgage inferior to the said Master Deed.

**CITIZENS NATIONAL BANK**

By: Frank R. Parker  
Its Executive Vice President

STATE OF TENNESSEE     )  
MCMINN COUNTY         )

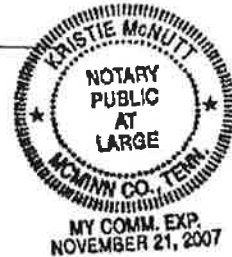
Before me, Kristie McNutt, of the State and County aforesaid, personally appeared Frank R. Parker, as authorized officer of Citizens National Bank, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the officer executing for **CITIZENS NATIONAL BANK**, the within Mortgagee, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of The Bank by himself as such officer.

Witness my hand, at office, this 5<sup>th</sup> day of September, 2006.

Kristie McNutt  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

Being a resurvey of Lot 40<sup>d</sup> as recorded in the Register of Deeds Office of Hamilton County, Tennessee, Instrument # 2006051700211, Book and Page P3 82 153.

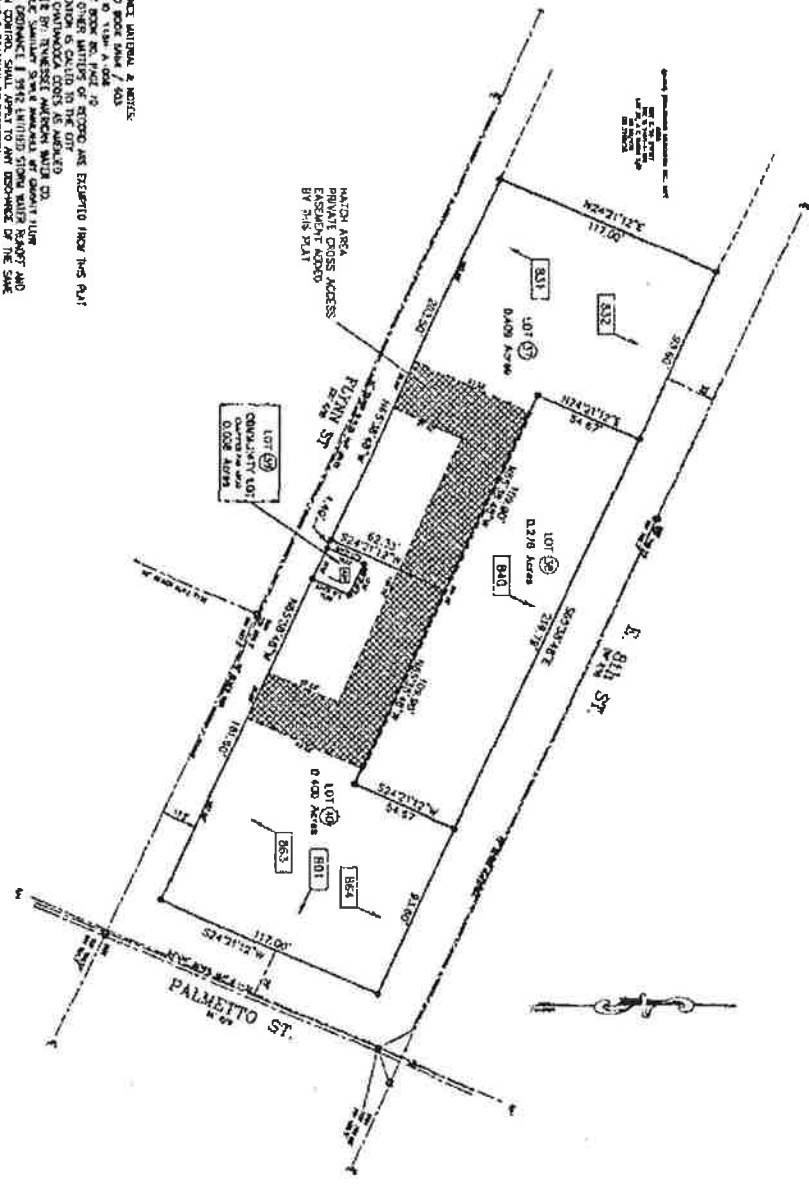


**EXHIBIT "D"**

**PLAN OF PALMETTO 8 CONDOMINIUM**

THIS DOCUMENT IS THE PROPERTY OF BEGINNING POINT SURVEYS, INC. AND IS TO BE KEPT IN CONFIDENCE AND NOT 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 BEGINNING POINT SURVEYS, INC.

- REFERENCE: UTILITIES & NOTES:
- 1) SLOTTED ROAD MARK / HOV
  - 2) TYPED "V" MARK
  - 3) ROAD MARKS TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 4) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 5) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 6) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 7) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 8) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 9) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 10) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 11) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 12) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN
  - 13) UTILITIES TO BE PLACED AS SHOWN AND DESCRIBED IN THIS PLAN



OWNER'S CERTIFICATE:  
I HEREBY CERTIFY THAT THE DATA AND INFORMATION CONTAINED IN THIS PLAN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

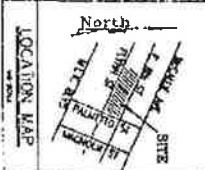
*[Signature]*  
DATE: 3/25/08



2) SURVEYOR'S CERTIFICATE:  
I HEREBY CERTIFY THAT THE DATA AND INFORMATION CONTAINED IN THIS PLAN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*[Signature]*  
DATE: 3/25/08

FLOOD HAZARD NOTE:  
THE PROPERTY SHOWN ON THIS PLAN IS NOT IN A FLOOD HAZARD AREA AS DETERMINED BY THE FLOOD INSURANCE RATE MAP OF HAMILTON COUNTY, TN, EFFECTIVE DATE NOVEMBER 7, 2002.



RECORD & FILE RECORDING:  
HAMILTON COUNTY, TN  
RECORDING OFFICE  
DATE: 3/25/08

RECORD & FILE RECORDING:  
HAMILTON COUNTY, TN  
RECORDING OFFICE  
DATE: 3/25/08

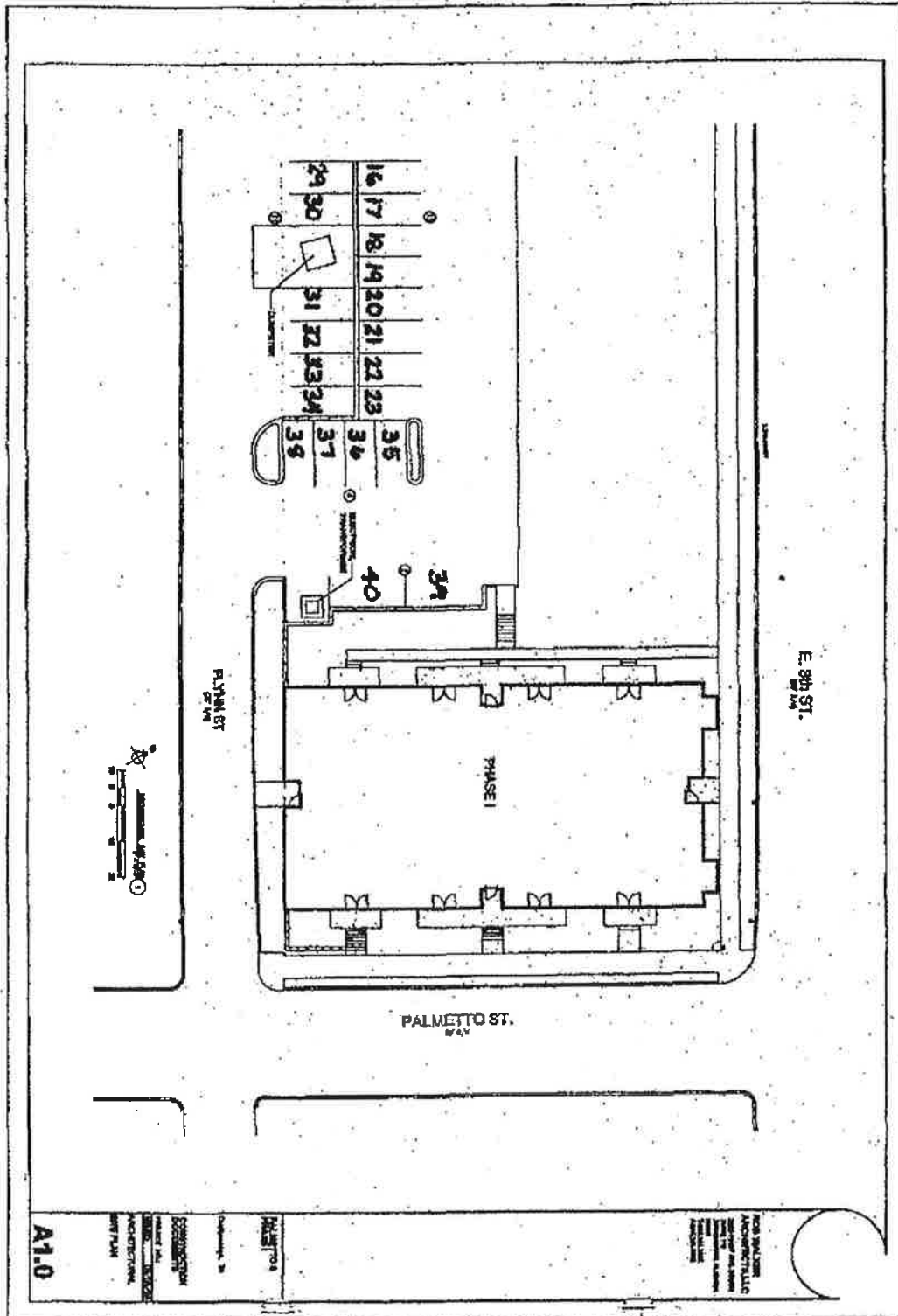
74-0538-B/C

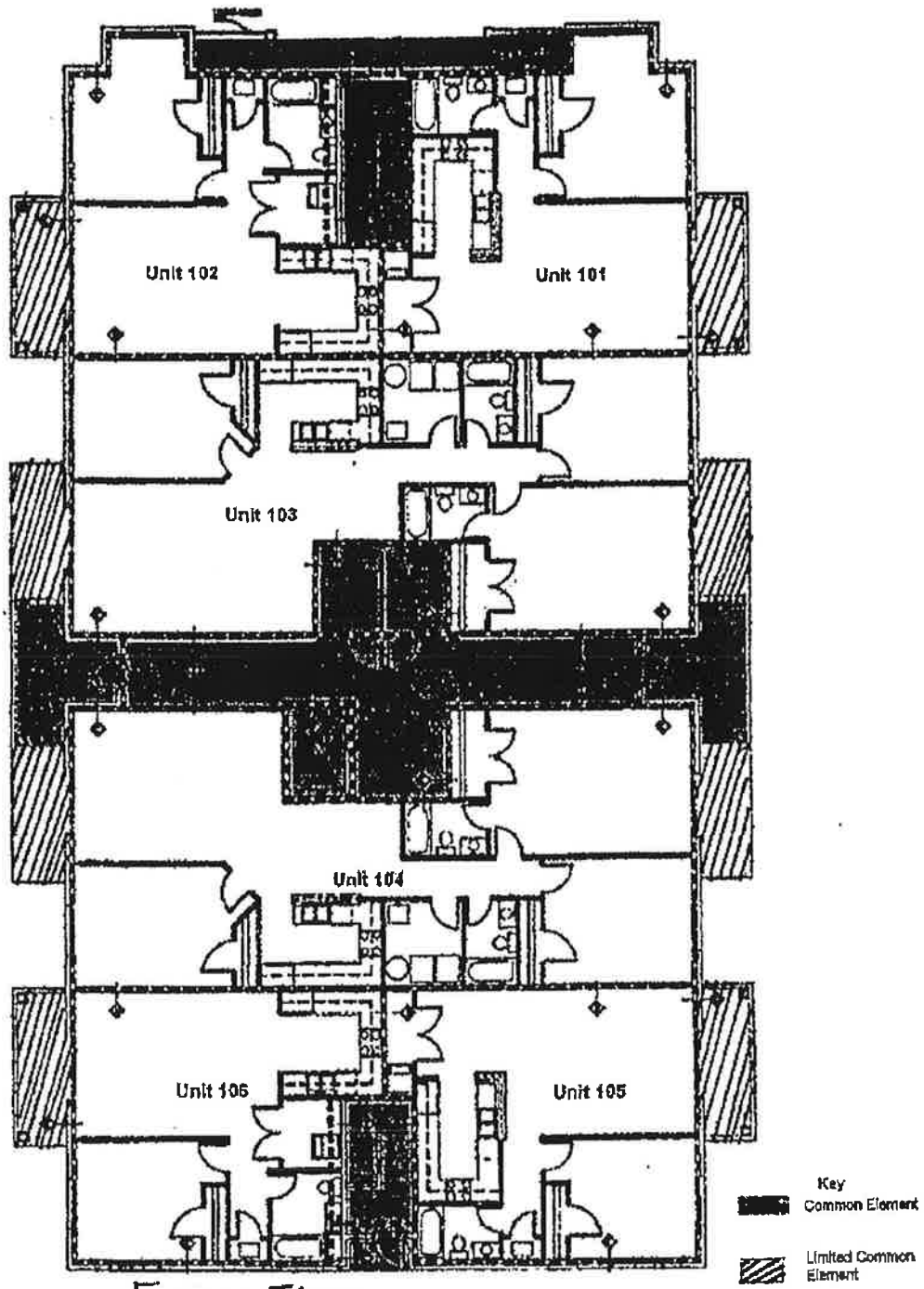
PLAT NO.	1
SHEET NO.	1

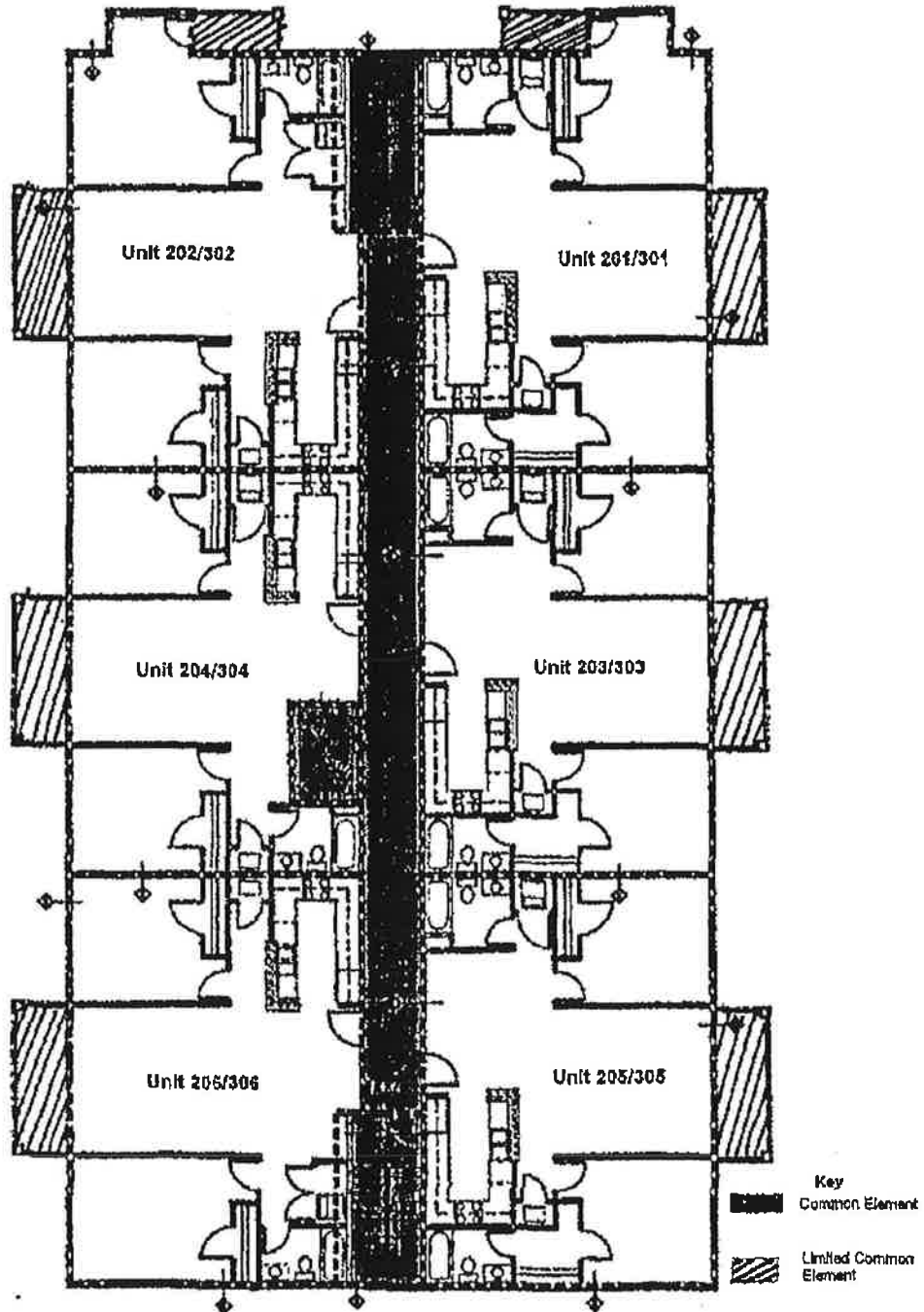
DATE	3/25/08
BY	[Signature]
FOR	[Signature]
SCALE	1"=30'
PROJECT	RE-SUBDIVISION OF LOTS 33-40, A.C. BURNES S/D
OWNER	CHATTANOOGA NEIGHBORHOOD ENTERPRISE, INC.

**FINAL PLAT**  
RE-SUBDIVISION OF LOTS 33 - 40, A.C. BURNES S/D  
CHATTANOOGA, Hamilton Co. Tennessee  
PREPARED FOR  
CHATTANOOGA NEIGHBORHOOD ENTERPRISE, INC.

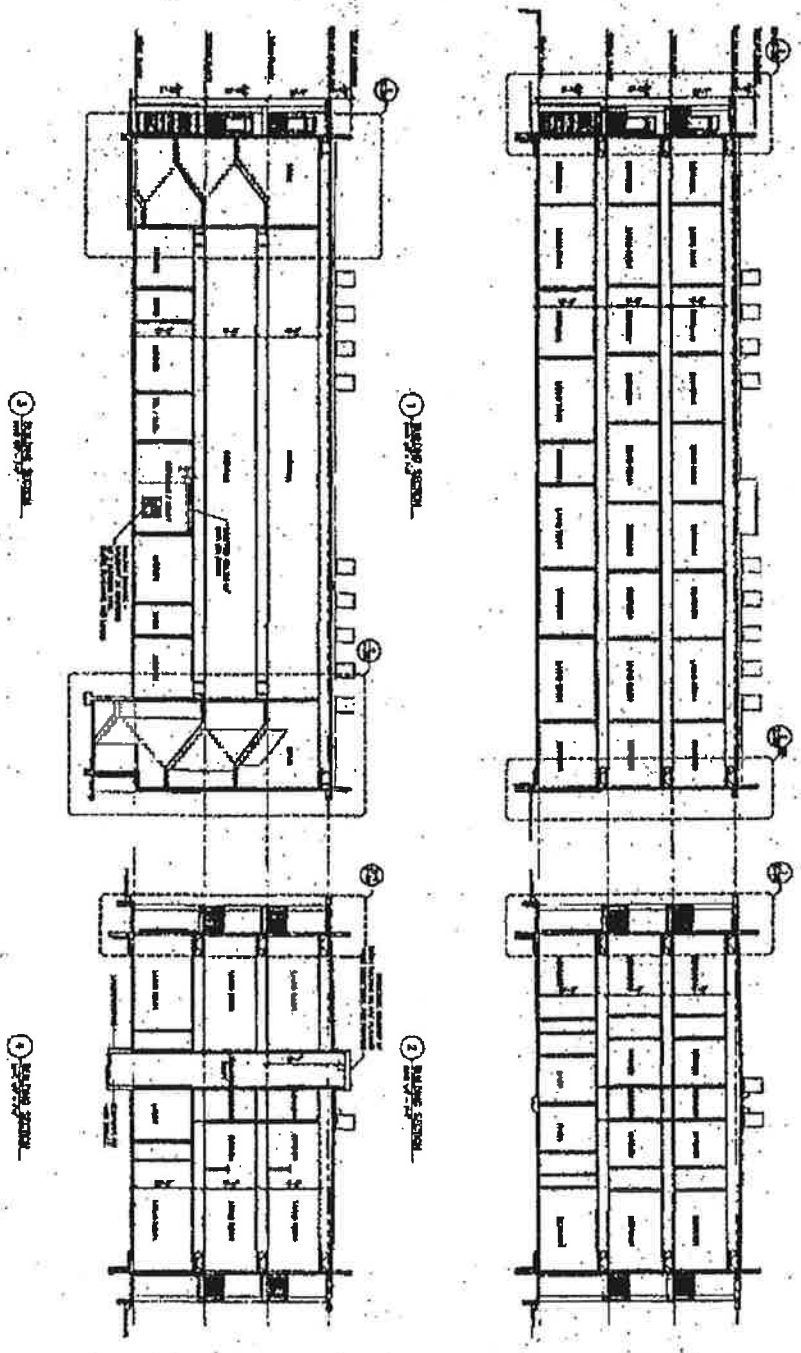
**BEGINNING POINT SURVEYS, INC.**  
Consulting Land Surveyors  
101 Yuredo Circle Chattanooga, TN 37411  
(423) 624-0022

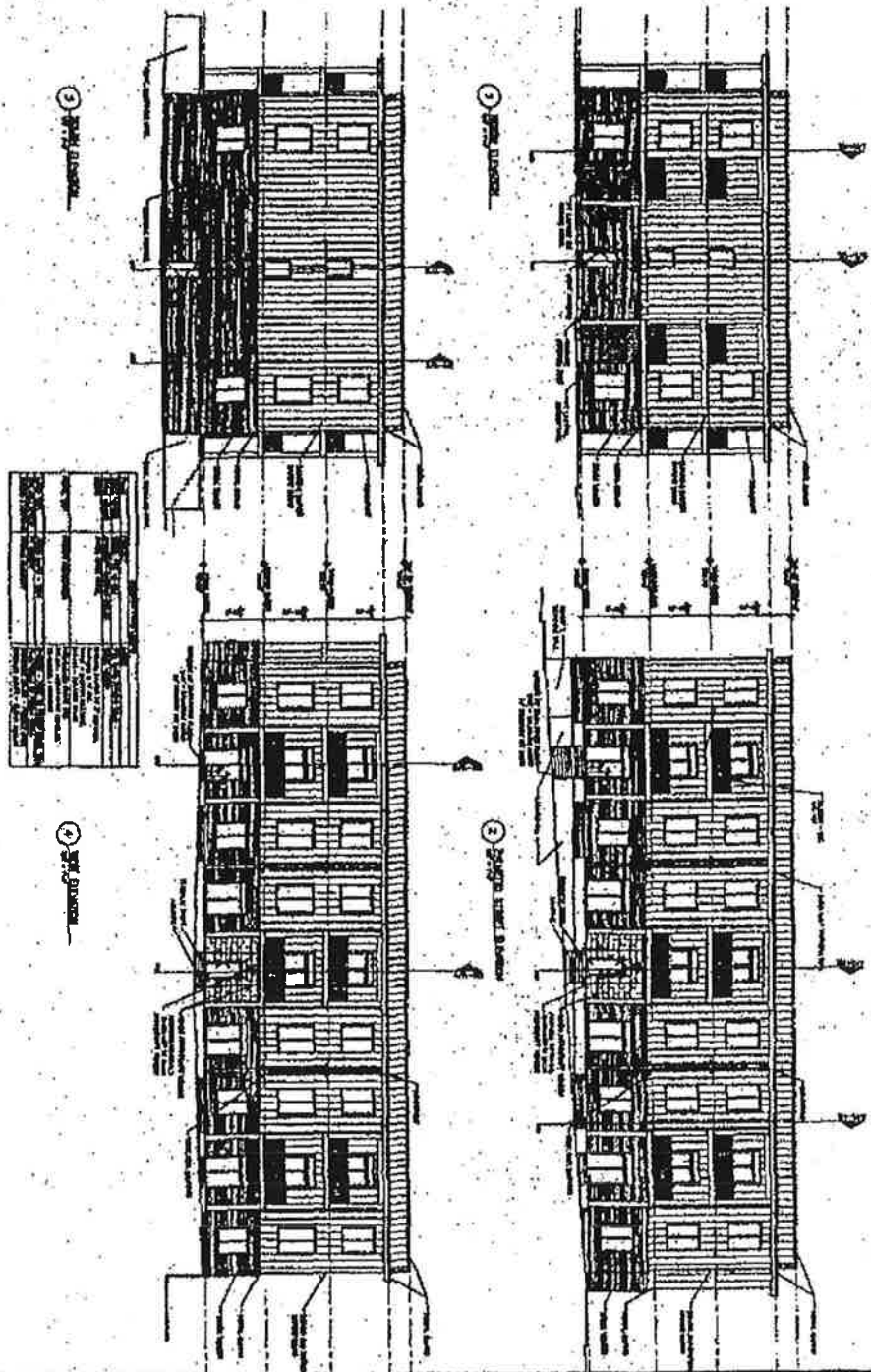


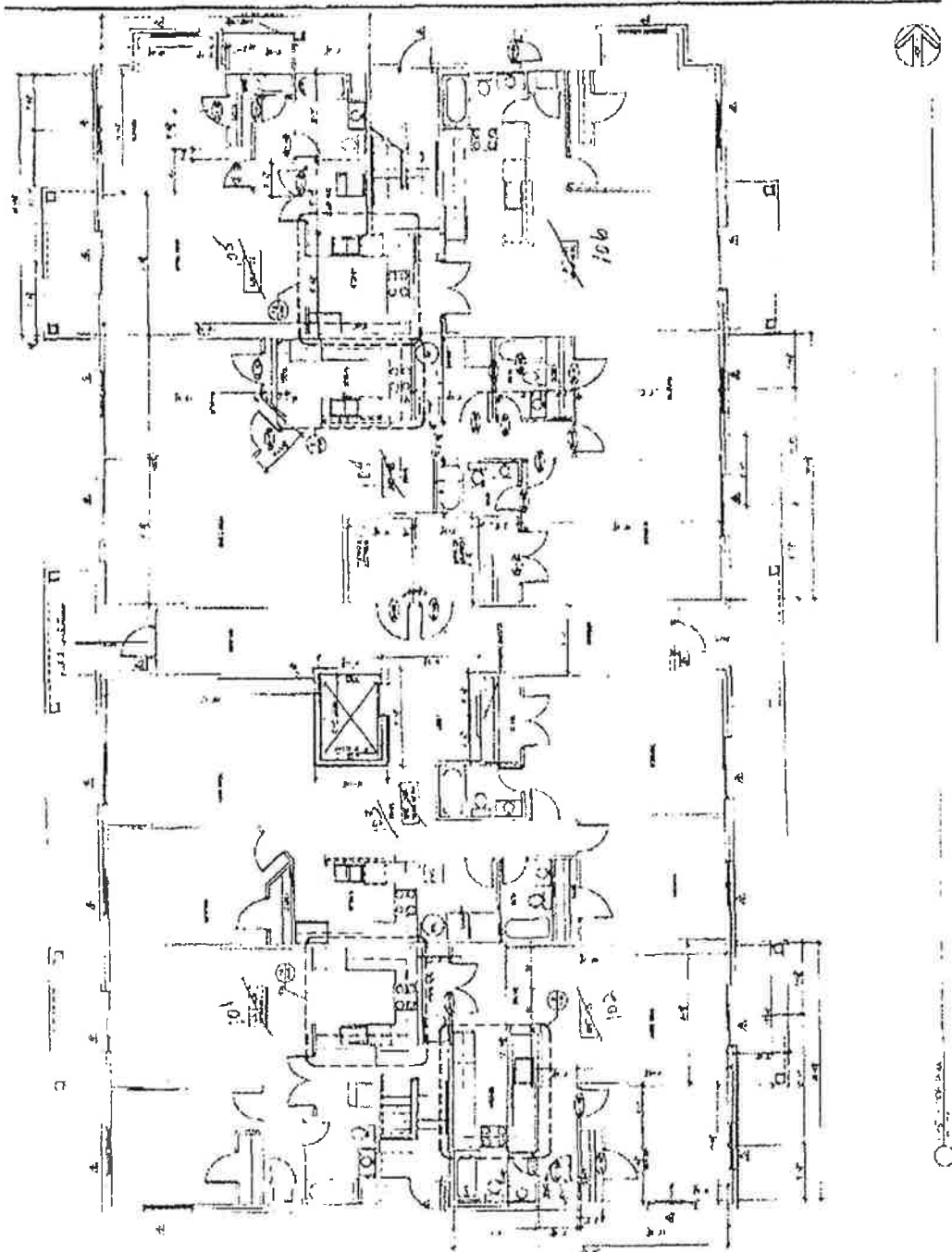




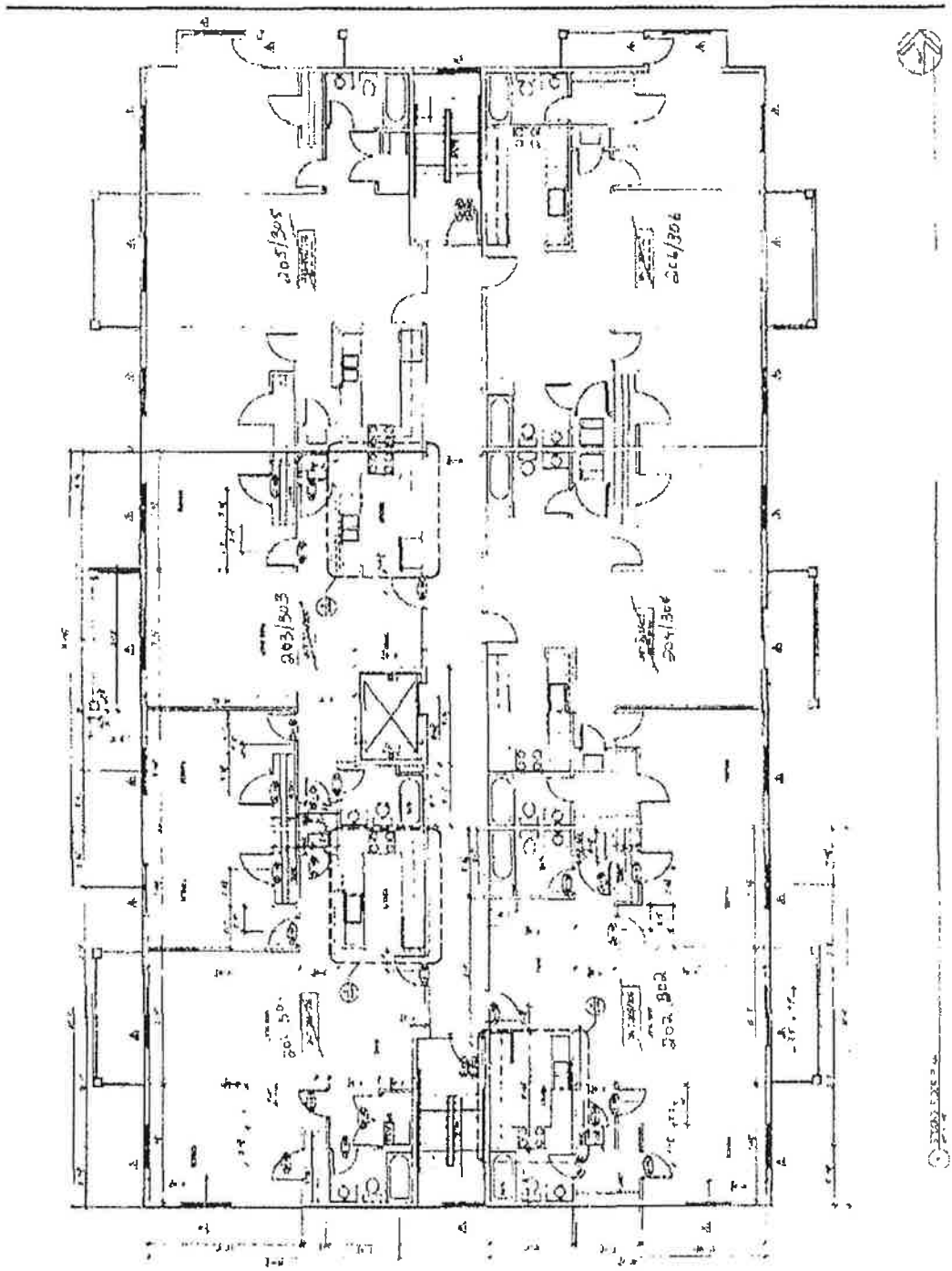
SECOND / THIRD FLOORS

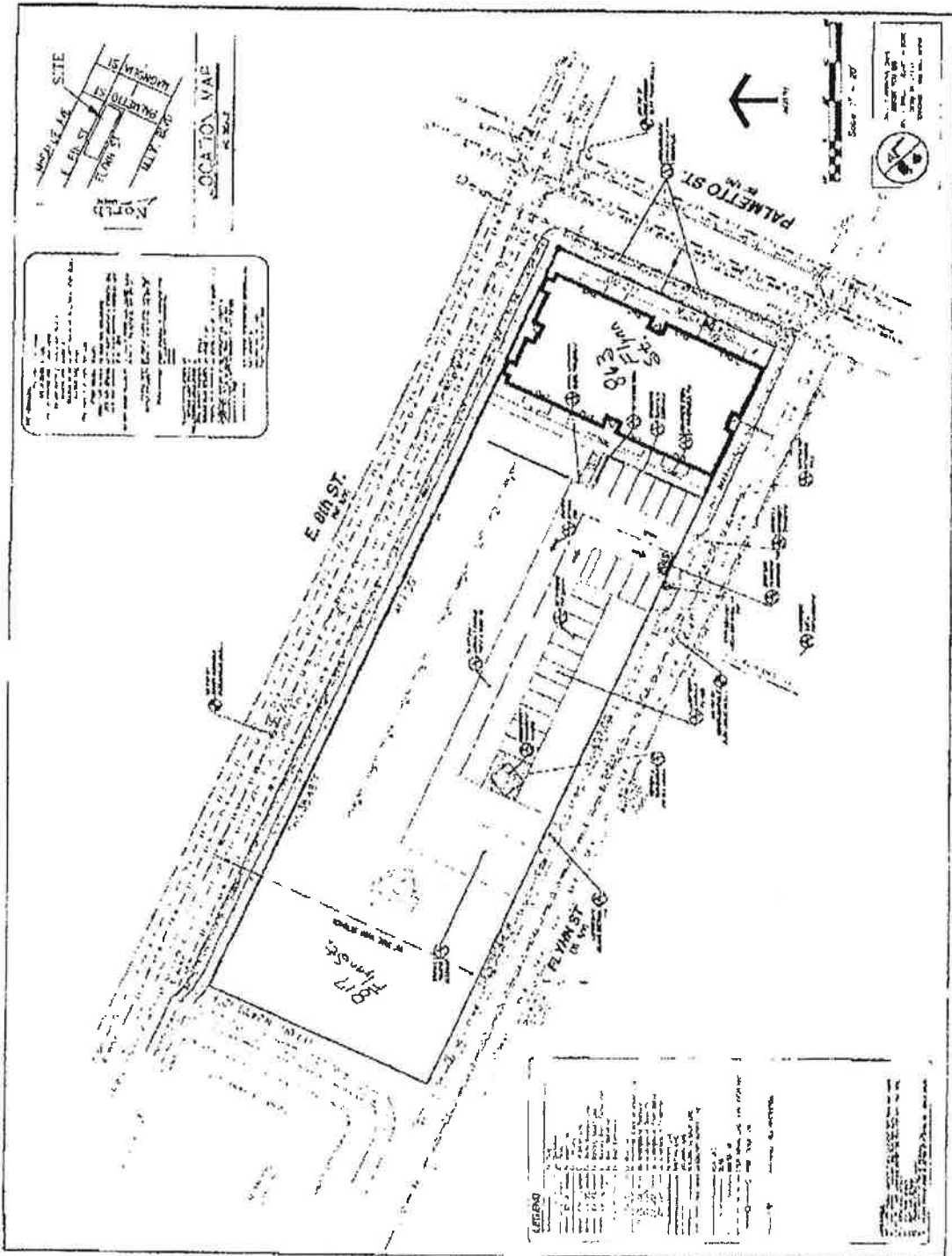












**EXHIBIT "E"****ALLOCATION OF INTERESTS**

<b>UNIT NO.</b>	<b>COMMON ELEMENT OWNERSHIP</b>	<b>VOTES</b>	<b>PARKING SPACE ASSIGNMENT</b>
101	4.17	1	40
102	4.17	1	34
103	4.17	1	35; 39
104	4.17	1	36; 37
105	8.34	1	38
106	8.34	1	23
201	5.56	1	30
202	5.56	1	31
203	5.56	1	29
204	5.56	1	32
205	5.56	1	16
206	5.56	1	33
301	5.56	1	17
302	5.56	1	20
303	5.56	1	18
304	5.56	1	21
305	5.56	1	19
306	5.56	1	22
<b>TOTALS</b>	<b><u>100.00%</u></b>	<b><u>18</u></b>	

**EXHIBIT "F"**

**ALLOCATION OF INTERESTS  
UPON THE ADDITION OF ALL,  
OR ANY PORTION OF,  
THE ADDITIONAL PROPERTY**

Should Parcel 1 be added to the Condominium, the Allocation of Interests would be as follows:

101	3	1
102	3	1
103	3	1
104	3	1
105	6	1
106	6	1
201	4	1
202	4	1
203	4	1
204	4	1
205	4	1
206	4	1
301	4	1
302	4	1
303	4	1
304	4	1
305	4	1
306	4	1

Allocation of Interests		
101-II	4	1
102-II	4	1
103-II	4	1
104-II	4	1
105-II	4	1
106-II	4	1
201-II	4	1
202-II	4	1
203-II	4	1
204-II	4	1
205-II	4	1
206-II	4	1
301-II	4	1
302-II	4	1
303-II	4	1
304-II	4	1
305-II	4	1
306-II	4	1
	100%	36

Should Parcel 2 be added to the Condominium, the Allocation of Interests would be as follows:

Allocation of Interests		
101	1.825	1
102	1.825	1

103	1.825	1
104	1.825	1
105	1.825	1
106	1.825	1
201	2.44	1
202	2.44	1
203	2.44	1
204	2.44	1
205	2.44	1
206	2.44	1
301	2.44	1
302	2.44	1
303	2.44	1
304	2.44	1
305	2.44	1
306	2.44	1
101-II	2.44	1
102-II	2.44	1
103-II	2.44	1
104-II	2.44	1
105-II	2.44	1
106-II	2.44	1
201-II	2.44	1
202-II	2.44	1

[REDACTED]		
203-II	2.44	1
204-II	2.44	1
205-II	2.44	1
206-II	2.44	1
TH-101	2.44	1
TH-102	2.44	1
TH-103	2.44	1
TH-104	2.44	1
TH-105	2.44	1
TH-106	2.44	1
TH-107	2.44	1
TH-108	2.44	1
TH-109	2.44	1
TH-110	2.44	1
1001	2.44	1
1002	2.44	1
1003	2.44	1
1004	2.44	1
1005	2.44	1
1006	2.44	1
1007	2.44	1
1008	2.44	1
1009	2.44	1
1010	2.44	1

1011	2.44	1
1012	2.44	1
1013	2.44	1
1014	2.44	1
1015	2.44	1
1016	<u>2.44</u>	<u>1</u>
	100%	56



**EXHIBIT "G"**

**ESTIMATED OPERATING BUDGET**

BUDGET	Palmetto 8		Budget	Budget		
<b>INCOME</b>						
Monthly Fee	1 BR		\$100.00	\$1,200.00	4	\$4,800.00
	4.17%					
	2 BR		\$130.00	\$1,560.00	12	\$18,720.00
	5.56%					
	3 BR		\$200.00	\$2,400.00	2	<u>\$ 4,800.00</u>
	8.34%					
<b>TOTAL INCOME</b>						<b>\$28,320.00</b>
<b>SECURITY SYSTEM MONITORING</b>						
			\$35.00	\$420.00		
<b>REPAIRS &amp; MAINTENANCE</b>						
	JANITORIAL/CLEANING		\$100.00	\$1,200.00		
	ELEVATORS		\$100.00	\$1,200.00		
	GEN REPAIRS/MATERIAL		\$40.00	\$480.00		
	GENERAL SUPPLIES/MATERIALS		\$100.00	\$1,200.00		
	GROUNDS MAINTENANCE		<u>\$100.00</u>	<u>\$1,200.00</u>		
<b>TOTAL REPAIRS/MAINTENANCE</b>			<b>\$440.00</b>	<b>\$5,280.00</b>		
<b>UTILITIES &amp; SERVICES</b>						
	TELEPHONE	(Elevator)	\$60.00	\$120.00		
	WATER/SEWER		\$475.00	\$5,700.00		
	ELECTRICITY	(Common)	<u>\$290.00</u>	<u>\$3,480.00</u>		
<b>TOTAL UTILITIES/SERVICES</b>			<b>\$825.00</b>	<b>\$9,300.00</b>		
<b>GENERAL &amp; ADMINISTRATIVE</b>						
	BANK/CHECK CHARGES		\$5.00	\$60.00		
	COPY EXPENSE		\$10.00	\$120.00		
	POSTAGE EXPENSE		<u>\$10.00</u>	<u>\$120.00</u>		
<b>TOTAL GEN &amp; ADMIN</b>			<b>\$25.00</b>	<b>\$300.00</b>		
<b>PROFESSIONAL FEES</b>						
	ACCOUNTING		\$31.25	\$375.00		
	MANAGEMENT FEES		<u>\$ 0.00</u>	<u>\$ 0.00</u>		
<b>TOTAL PROFESSIONAL FEES</b>			<b>\$325.00</b>	<b>\$375.00</b>		
<b>TAXES &amp; INSURANCE</b>						
	PRIVILEGE TAX		\$10.00	\$120.00		
	INSURANCE		<u>\$600.00</u>	<u>\$7,200.00</u>		
<b>TOTAL TAXES &amp; INSURANCE</b>			<b>\$610.00</b>	<b>\$7,320.00</b>		
<b>TOTAL OPERATING EXPENSES</b>				<b>\$22,995.00</b>		
<b>REPLACEMENT RESERVE</b>						

GENERAL RESERVE	\$288.00	\$3,216.00
ROOF RESERVE	\$150.00	\$1,800.00
TOTAL REPLACEMENT RESERVE		<u>\$5,016.00</u>
TOTAL REP RES & EXPENSES		\$28,011.00

**EXHIBIT "H"**

**Attorney Opinion Letter Regarding Compliance With the Act**

*[THE FOLLOWING ATTORNEY'S CERTIFICATION IS ISSUED IN CONNECTION WITH THE MAKING OF LOANS BY A LENDER (A MORTGAGEE IN A MORTGAGE OR A BENEFICIARY IN A DEED OF TRUST) TO BORROWERS (MORTGAGORS OR TRUSTORS) AND THE PROVISION OF MORTGAGE INSURANCE BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO THE NATIONAL HOUSING ACT.]*

**LEGAL CERTIFICATION FOR  
PALMETTO 8 CONDOMINIUM**

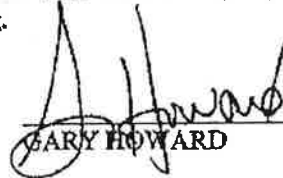
*[insert tract number]*

**TO WHOM IT MAY CONCERN:**

I am an attorney licensed to practice in the State of Tennessee. I am an attorney for the Developer for this Condominium.

I hereby certify that the legal documents for the above-identified Condominium are in compliance with all of the following requirements:

1. Applicable state and local condominium laws;
2. Department of Housing and Urban Development (HUD) condominium Regulations (see 24 CFR 234);
3. HUD Revised Legal Policy attached to Appendix 24 of HUD Handbook 4265.1, entitled Home Mortgage Insurance Condominium Units Section 234(c); and
4. That the documents are consistent with each other, or, if inconsistent, the documents indicate which document is controlling.

  
GARY HOWARD

Dated: 9/7/06