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This Instrument Prepared By:  
Larry A. Rocconi, Jr.  
308 South 2<sup>nd</sup> Street  
Clarksville, Tennessee 37040

## DECLARATION ESTABLISHING

### MADISON SUMMIT

#### A PLANNED UNIT DEVELOPMENT created under TENN. CODE ANN. §§ 66-27-101 *et seq.*

THIS DECLARATION is made as of the 12<sup>th</sup> day of JUNE, 2009, by Madison Partners, a Tennessee general partnership consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland (hereinafter, "Developer").

#### WITNESSETH:

WHEREAS, Developer is the owner of the fee simple title to those lands and premises described in Exhibit "A" attached hereto and made a part hereof, which lands and premises are hereinafter referred to as the "Parcel"; and

WHEREAS, the Developer desires to submit the Parcel, together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in any way pertaining thereto (collectively the "Property"), to the provisions of the Horizontal Property Act of the State of Tennessee for the express purpose of establishing thereon a planned unit development ("PUD") to be known as Madison Summit, and to that end to cause this Declaration to be executed and recorded, together with all necessary exhibits hereto; and

WHEREAS, the Developer further desires to establish said planned unit development for its own benefit and for the mutual benefit of all future owners and occupants of the Property or any part thereof, and intends that all future owners, occupants, deed of trust beneficiaries, and any other persons hereafter acquiring any interest in the Property, shall hold such interest subject to certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, as hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of the Property, and are established for the purpose of enhancing the value, desirability and attractiveness of the Property.

NOW, THEREFORE, the Developer declares as follows:

1. **Definitions.** As used herein, unless the context otherwise requires:

(a) "Act" means the Horizontal Property Act of the State of Tennessee, TENN. CODE ANN. §§ 66-27-101, et seq., as amended.

(b) "Association" means the Madison Summit Neighborhood Association, a mutual benefit corporation organized under the Tennessee Nonprofit Corporation Act.

(c) "Board" means the Board of Directors of the Association.

(d) "Building" or "Buildings" means the building(s) located on the Parcel and forming part of the Property and containing the Units. The "Building" or "Buildings" shall be delineated on the Plat, as the same may be amended from time to time.

(e) "Bylaws" means the bylaws of the Madison Summit Neighborhood Association, attached hereto as Exhibit "C" and made a part hereof, as amended from time to time.

(f) "Common Elements" means the General Common Elements and the Limited Common Elements.

(g) "Declaration" means this instrument, as amended from time to time.

(h) "Declarant" means Madison Partners, a Tennessee general partnership consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland their heirs, successors and assigns.

(i) "Deed of Trust" shall include a mortgage, and "deed of trust beneficiary" shall include a mortgagee and a holder of a deed of trust.

(j) "Developer" means Madison Partners, a Tennessee general partnership consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland their heirs, successors and assigns.

(k) "Directors" means the Board of Directors of the Association.

(l) "Eligible Mortgage Holders" or "Eligible Mortgagees" shall mean those holders of first Mortgages secured by one (1) or more Units in the Planned Unit Development who have requested notice of certain items as set forth in this Declaration in accordance with Paragraph 24 herein.

(m) "General Common Elements" shall mean those portions of the Property which are not included within the boundaries of a Unit or as Limited Common Elements or Private Elements, as more particularly described in this Declaration, as the same may be amended or supplemented, and/or the Plat, and shall include those items defined as "General Common Elements" in the Act.

(n) "Limited Common Elements" shall mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Declaration. Expenses related to the Limited Common Elements shall be specially assessed equitably among the Units benefited thereby according to the benefit received. It is the intent of the Developer that no Limited Common Areas will exist.

(o) "Madison Summit Neighborhood Association" means a townhouse corporation as defined in TENN. CODE ANN. §§ 66-27-102(15).

(p) "Majority" or "Majority of the Unit Owners" means the owners of more than fifty percent (50%) of the voting rights of the Unit Owners.

(q) "Mortgage" shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.

(r) "Mortgagee" or "Mortgage Holder" shall mean the holder of any mortgage.

(s) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

(t) "Period of Developer Control" means the period commencing upon the date hereof and ending on the latest of the following dates: (1) five (5) years after the recording of the Declaration creating the planned unit development; (2) four (4) months after the date as of which seventy five percent (75%) of the Units of the Planned Unit Development Project shall have been conveyed to Owners other than the Developer or an affiliate of the Developer; or (3) the surrender in writing by the Developer of the authority to appoint and remove directors and officers of the Association; provided, however, if necessary to comply with federal regulations applicable to mortgagees, such period shall end no later than the earliest of the dates prescribed in (1), (2), and (3) above.

(u) "Person" means a natural individual, corporation, partnership, Limited Liability Company, trustee or other legal entity capable of holding title to real property.

(v) "Planned Unit Development" or "Planned Unit Development Project" means Madison Summit, a horizontal property regime with private elements, and therefore a planned unit development established in accordance with the Act.

(w) "Plat" means the drawing and description of the Property and Improvements attached hereto as collective Exhibit "B's" and Plat of record in Plat Book F, Page 712, Register's Office for Montgomery County, Tennessee, all incorporated herein by this reference.

(x) "Private Elements" means and includes the lot area upon which a Unit is located and the improvements located thereon and for which fee simple ownership and exclusive use is reserved to that Unit only. The term shall also include any "Private Elements" denoted as such on the Plat. Limited Common Elements located upon Private Elements shall be deemed to be Private Elements.

(y) "Property" means the fee simple estate in and to the Parcel, and all improvements and structures thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

(z) "Record" or "recording" refers to the recording of a deed, amendment, plat or other applicable instrument in the Register's Office for Montgomery County, Tennessee.

(aa) "Unit(s)" shall mean those portions of the Planned Unit Development Project intended for separate ownership as a residential dwelling and use as more particularly described in this Declaration, and shall include the undivided ownership in the Common Elements and the interest in any Limited Common Element(s) assigned to the Unit by this Declaration or otherwise. It is intended that the term "Unit" as used in this Declaration shall have the same meaning as the term "Apartment" as used in the Act. The Units are all residential Neighborhood units, are reflected on the Plat, and include the fee simple interest in the land underlying each Neighborhood residential structure, as indicated by lot number on the Plat, and all improvements thereon, as well as any other Private Elements applicable to such Unit. Each Unit shall consist of (a) a separate free-standing building which constitutes a separate and single one-family dwelling, as shown on the Site Plan and (b) the lot area upon which each Unit is located. The Unit shall include the roof, exterior walls, interior walls, mechanical systems serving the Unit and the enclosed rear area.

(bb) "Unit Owner" or "Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto, and shall be deemed the same as a "co-owner" under the Act. Unless specifically provided otherwise herein, the Developer shall be deemed a Unit Owner so long as it is the legal title holder of any Unit.

2. **Submission of Property to the Act.** The Developer, by recording this Declaration, hereby submits and subjects the Parcel and the Property to the provisions of the Act and hereby establishes a planned unit development as authorized and described in the Act, to be known as Madison Summit.

3. **Improvements.** The improvements as described in the recitals of this Declaration consist of the dwellings reflected on the Plat showing numbers, areas, locations and other data as required by the Act.

4. **Units.**

4.1 **Identification of Units.** The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Every deed, lease, deed of trust or other instrument shall legally describe a Unit by such identifying number or symbol, and every such description shall be deemed good and sufficient for all purposes. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause such Owner's Unit to be separated into any parcels different from the whole Unit as shown on the Plat. The addition of Units may be amended by Developer pursuant to Developer Rights as set forth in TCA 66-27-310 and TCA 66-27-305(7).

**4.2 Unit Boundaries.** The boundaries of each Unit are located as shown on the Plat and Plans and are more particularly described as follows:

(a) All interior surfaces, exterior walls, exterior doors, exterior windows, foundations, porches, stoops, roof, balconies, shutters, window boxes, patios, decks, roofs and any other element attached to a Unit structure are designated as the boundaries of a Unit, including any enclosed areas located at the rear of any Unit, which enclosure has been approved by the Board of Directors and shall not exceed five hundred (500) square feet in total enclosed area and the same shall be enclosed by a masonry fence, or approved equal material,

(b) All mechanical systems, including but not limited to, electrical, plumbing, heating, hot water and HVAC, serving the Unit whether or not located within the boundaries of the Unit,

(c) The compartments or installations of central services such as electricity, gas, hot and cold water, sewage, refrigeration, central heating and air conditioning, water tanks and pumps, conduits for telephone lines, cable or satellite television, internet, plumbing and similar installations installed for the Units,

(d) The utility meter serving the Unit

**4.3 Alterations of Units.** Subject to the approval of the Board of Directors, a Unit may be improved or altered as provided in TENN. CODE ANN. §§ 66-27-311 of the Act if the Owner of the Unit shall submit to the Board of Directors such application as shall be reasonably required.

**4.4 Requirements for Approval.** The Board of Directors may condition its approval of any application submitted pursuant to Section 4.3 hereof upon additional requirements related to preservation of the structural integrity, aesthetics, operating efficiency, and protection of the Planned Unit Development and other Unit Owners including, without limitation, minimum Unit size requirements, acceptable architectural and engineering plans, maintenance of liability and workman's compensation insurance during construction, performance and payment bonds, or otherwise, the expense of which shall be borne by the affected Owner(s) of the affected Unit(s).

**4.5 Classification of Units.** Units shall be a Private Element as defined in TENN. CODE ANN. §§ 66-27-102(12).

## **5. The Association.**

(a) **Association of Unit Owners and Administration and Operation of the Property.** There has been or will be formed an Association having the name Madison Summit Neighborhood Association, a Tennessee nonprofit corporation, which Association shall be the governing body for all of the Unit Owners and shall be operated to provide for the maintenance,

repair, replacement, administration, operation and care of the Property and its Common Elements as provided in the Act, the Association's Charter of Incorporation, this Declaration and the Bylaws. The Unit Owners shall each be members of the Association, with each Unit holding an undivided membership interest in the Association which shall be appurtenant to such Unit, each such membership interest appurtenant to a Unit being in an equal share. The Bylaws for the Association shall be the Bylaws attached to this Declaration as Exhibit "C" and made a part hereof, as they may be amended from time to time. The Board of Directors of the Association shall be elected by the Unit Owners following the expiration or termination of the Period of Developer Control, during which time the Board of Directors shall be appointed by the Developer, and shall serve in accordance with the provisions of the Bylaws. The fiscal year of the Association shall be determined by the Board within the confines of applicable law, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the use and benefit of Unit Owners in accordance with the provisions of the Association's Charter of Incorporation, this Declaration and the Bylaws. Each Unit Owner shall be a member of the Association for so long as such Owner is a Unit Owner. A Unit Owner's membership shall automatically terminate when such Owner ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall automatically succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners, with one (1) vote granted to each Unit. If any Unit Owner consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by persons constituting such Unit Owner, and filed with the Secretary of the Association.

(b) **Management of Property.** The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (c) below. The Board shall require that such Managing Agent have fidelity bond coverage on any of its employees handling Association funds. The cost of such services shall be a common expense, as defined in Paragraph 8 below. Any contract entered into with a Managing Agent following the Period of Developer Control shall be terminable by the Board or the Association upon not more than ninety (90) days written notice.

(c) **Non-Liability of the Directors, Board, Officers and Developer.** To the maximum extent provided by law, including, without limitation, Tenn. Code Ann. Sections 48-58-501, et seq., which is incorporated herein by reference, neither the directors, Board, officers of the association, nor the Developer shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors, Board, officers, or Developer. The Unit Owners shall indemnify and hold harmless each of the directors, Board, officers, or Developer, and their respective heirs, personal and legal representatives, successors and assigns in accordance with, and as provided in, the Association's Charter of Incorporation and its Bylaws, and to the maximum extent allowed by law.

6. **Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration, the Association's Charter of Incorporation, or its Bylaws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

7. **Ownership of Interests in the Association and the Common Elements.** Each Unit shall be allocated an equal percentage interest, and an equal vote, in the Association. In addition, the owner or owners of each Unit shall acquire, as an appurtenance to such Unit, an undivided ownership interest in the Common Elements of the Planned Unit Development. The percentage interest in the ownership of the Common Elements appurtenant to each constructed Unit is a fraction, the numerator of which is one (1) and the denominator of which is the total number of the constructed Units comprising the Planned Unit Development. The undivided interests in the Common Elements shall be owned by the Unit Owners as tenants in common. Ownership of a Unit may not be conveyed separate from the percentage interest in the Association and the undivided interest in the Common Elements allocated to such Unit. The interest in the Association and in the Common Elements allocated to a Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the fee title to that Unit. The undivided ownership interest in the Common Elements shall be used to allocate and calculate the assessments for common expenses and the division of proceeds, if any, resulting from any casualty loss, any eminent domain proceedings, any common surplus, or from any other disposition of the Planned Unit Development property. Anything herein to the contrary notwithstanding, the proportionate liability for common expenses allocable to any Unit shall be equal to that Unit's percentage of undivided ownership interest in the Common Elements.

8. **Common Elements/Common Expense.**

8.1 **Use of the Common Elements.** Except as hereinafter set forth, each Unit Owner shall have the right to use the General Common Elements in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the General Common Elements shall extend to each Unit Owner, and such Owner's agents, servants, tenants, customers, invitees and licensees. Each Unit Owner shall have the right to the exclusive use of the Limited Common Elements contiguous to and serving such Unit alone and to the joint use, with other Owners benefitted thereby, of Limited Common Elements reserved for the use of more than one but less than all of the Units, but which include such Owner's Unit. Each Unit Owner shall have an unrestricted right of ingress and egress to his or her Unit. Such rights to use the General Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, this Declaration, the Association's Charter of Incorporation, its Bylaws and any rules and regulations established by the Board, which shall have the right to adopt rules and regulations governing the administration and use of the Planned Unit Development Project. Any such rules and regulations so adopted shall be binding on all Unit Owners and Occupants.

**8.2 Common Expenses.** Each Unit Owner, including the Developer for any Units owned by the Developer, but only following the expiration or termination of the Period of Developer Control, shall pay his or her proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Declaration, Charter and Bylaws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair thereof and any and all replacements and additions thereto. No Unit Owner shall be exempt from payment of such Owner's proportionate share of the common expenses by waiver or non-use of the Common Elements, or by abandonment of such Owner's Unit.

**8.3 Creation of the Lien and Personal Obligation for Assessments.** The Developer, for each Unit owned within the Planned Unit Development, hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the Unit Owner who was the Owner of such Unit at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such person's successors in title unless expressly assumed by them, but shall, nevertheless, continue to be a charge against the property until paid.

**8.4 Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the Unit Owners and in particular for the improvement and maintenance of the Common Elements, including, without limitation, maintenance, repair and reconstruction. Such maintenance shall include, but not be limited to the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Elements, the procurement and maintenance of insurance in accordance with this Declaration, the employment of attorneys to represent the Association when necessary, the provision of adequate reserves for the replacement of capital improvements and any other major expense for which the Association is responsible, and such other needs as may arise.

**8.5 Reserves.** The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Property which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expenses.

**8.6 Annual Assessment.** The Board shall from time to time, and at least annually, prepare a budget for the Planned Unit Development, determine the amount of the common charges required to meet the common expenses of the Planned Unit Development, and allocate and assess such common charges against the Unit Owners according to their respective percentage of ownership interests in the Common Elements. The common expenses shall



include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Association pursuant to the provisions of Paragraph 19 of this Declaration. The common expenses may also include such amounts as the Board may deem proper for the operation and maintenance of the Planned Unit Development property, including, without limitation, an amount for working capital of the Planned Unit Development, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the Association or its designee, corporate or otherwise, on behalf of all Unit Owners, of any Unit whose Owner has elected to sell or lease such Unit or of any Unit which is to be sold at a foreclosure or other judicial sale. The Board shall advise each Unit Owner in writing of the amount of common charges payable by him, and shall furnish copies of each budget on which such common charges are based to all Unit Owners, and to their mortgagees upon request.

**8.7 Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Board may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Parcel or Common Elements.

**8.8 Uniform Rate of Assessment.** Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at a uniform rate for all Units, based on their respective percentages of ownership interest in the Common Elements. Annual assessments shall be collected on a monthly basis. Special assessments shall be collected as determined by the Board.

**8.9 Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of the Unit. Such annual assessments shall be paid ratably on a monthly or quarterly basis, as determined by the Board of Directors. The Board shall fix the amount of annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Unit Owner subject thereto. The due dates shall be established by the Board. The Board shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid.

**8.10 Effect of Nonpayment of Assessments: Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate permitted by law on the date the assessment became due. The Association, or the Board or any Unit Owner on behalf of the Association, may bring an action at law or in equity against the Unit Owner personally obligated to pay the same and/or may foreclose the lien against the property and in either event interest, costs and reasonable attorney's fees of any such action shall be added to the assessment. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or its Unit.

For the purpose of rendering unnecessary court proceedings for the enforcement of said lien in the event of the nonpayment of assessments, and for the consideration of one dollar (\$1.00) paid in cash, receipt of which is acknowledged, the Unit Owners, their heirs, successors, administrators, and assigns, hereinafter referred to as Trustors, hereby transfer and convey unto Larry A. Rocconi, Jr., Trustee, his successors and assigns, their respective Units with the appurtenances, estate, title and interest thereto belonging upon the uses and trusts set forth in this Paragraph.

If the Trustor shall pay the assessments when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Unit. If the assessments with respect to any Unit are not paid promptly when due, this trust conveyance shall remain in full force and effect and the said Trustee, or his successor in trust, is hereby authorized and empowered upon giving twenty (20) days notice by three publications in any newspaper, daily or weekly, of general circulation published in Montgomery County, Tennessee, to sell said Unit at the front door of the Courthouse in said County to the highest bidder for cash, at public outcry, free from the equity of redemption or statutory redemption, and all exemptions of every kind, which are hereby expressly waived and the said Trustee or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid and become the purchaser at any such sale. The Association may, at any time after default in the payment of any assessment, enter and take possession of said property and shall only account for the net rents actually received by it. It is further agreed that, in the event the Association fails, before instructing Trustee to sell said Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said property. In the case of sale hereunder, the proceeds will be applied by the Trustee as follows:

- (1) First, to the payment of all costs, charges, and expenses of executing this conveyance and enforcing said lien as herein provided, including reasonable attorney's fees and expenses incurred for instituting or defending any litigation which may arise on account of the execution of this conveyance, or the enforcement of said lien;
- (2) Second, to the payment of all taxes which may be unpaid with respect to such Unit;
- (3) Third, to the payment of all unpaid assessments with respect to such Unit;
- (4) Fourth, the residue, if any will be paid to the Unit Owner, his order, representative or assigns.

In the case of death, absence, inability, or refusal to act of said Trustee at any time when action under the foregoing power and trust may be required or for any other reason, the Association is hereby authorized and empowered to name and appoint a successor to the Trustee by an instrument of writing to be recorded in the Register's Office for Montgomery County, Tennessee, and the title herein conveyed to the above named Trustee shall be vested in said successor.

**8.11 Subordination of the Lien to Mortgages and Ad Valorem Taxes.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of (but not the obligation of the prior Unit Owner to pay) such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

**8.12 Working Capital Fund.** At the time of closing of the sale of each Unit a sum equal to at least two monthly assessments for such Unit shall be collected and transferred to the Association to be held as a working capital fund. The purpose of said fund is to insure that the Association will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payments of regular assessments.

## **9. Easements.**

**9.1 Unit Owners.** Developer, for itself, its successors and assigns, hereby declares that every Unit owner shall have a perpetual easement in, upon, through, and over the Parcel, to keep, maintain, use, operate, repair, and replace his Unit in its original position and in every subsequent position to which it changes by reason of the gradual forces of nature and the elements.

**9.2 Development Easements.** Developer reserves unto itself, its successors and assigns an easement in, upon, through, and over the Common Elements and Private Elements for as long as the Developer, its successors and assigns, shall be engaged in the construction, development, and/or sales of Units, which easement shall be for the purpose of construction, installation, maintenance, and repair of the Buildings and appurtenances thereto, for ingress and egress to all Units and all common elements, and other community facilities and for use of all roadways and parking lots, for sales promotion and exhibition. In addition, Developer hereby reserves the irrevocable right to enter into, upon, over, or under any Unit for a period of one year after the date of delivery of the Unit deed for such purposes as may be reasonably necessary for the Developer or its agents to complete the Planned Unit Development or service any Unit thereof.

**9.3 Limited Common Areas.** Developer, for itself, its successors and assigns, hereby declares that every Unit owner shall have a perpetual and exclusive easement for possession and use of that portion of the area contiguous to his or her or its Unit which is designated "Limited Common Areas" or "Limited Common Elements" in this Declaration, on the Plat, or otherwise. It is the intention of the Developer not to have Limited Common Areas.

**9.4 Unit Surfaces.** Developer, for itself, its successors and assigns, further declares that every Unit owner shall have perpetual and exclusive easement to use and enjoy the surfaces of the interior walls, exterior walls (including windows, doors, and chimneys therein), ceilings and floors, roof, and all other surfaces of the Unit as defined herein.

9.5 **Utilities.** Developer reserves unto itself, its successors, assigns, and agents, an easement in, upon, through, and over the lands comprising the Common Elements and Private Elements for the purpose of installation, maintenance, repair, and replacement of all sewer, water, power and telephone, pipes, lines, mains, conduits, waters, poles, transformers, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility systems serving the Planned Unit Development.

9.6 **Encroachments.** Developer, for itself, its successors and assigns, hereby declares that every Unit Owner may be granted a perpetual easement for the continuance of any encroachment by his Unit on any adjoining common element, now existing as a result of construction of the Unit or which may come into existence hereafter as a result of the reconstruction of the Unit after damage by fire or other casualty, or as a result of condemnation or eminent domain proceedings, so that any such encroachment may remain undisturbed so long as the Building stands. The authority to grant said easement shall be vested solely in Developer during the Period of Developer Control and the grant of said easement shall be in Developer's sole discretion, which may be unreasonably withheld. After the Period of Developer Control, the authority to grant said easement shall be vested in the Association.

9.7 **Municipal Services.** Developer, for itself, its successors and assigns, hereby declares that the City of Clarksville, Montgomery County, Tennessee (but not the public in general), shall have a perpetual nonexclusive easement to enter upon all roadways, parking areas, driveways, walkways, and sidewalks, for purposes of maintaining the safety, health, welfare, police, and fire protection of the citizens of said city, including the Occupants of the Planned Unit Development.

10. **No Partition.** Subject to the provisions of the Declaration, Charter of Incorporation and Bylaws, and the Act, the Common Elements shall remain undivided and no Unit Owner(s) shall bring any action for partition or division thereof. In addition, the undivided percentage interest in the common elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

11. **Compliance by Owners.** Each Unit Owner or occupant shall comply with the provisions of this Declaration, the Charter of Incorporation and Bylaws, and the rules and regulations of the Association, and with any other documents, amendments, or supplements to the foregoing which subsequently may be adopted by the Association or its Board, or required by any governmental authority, all as the same may be lawfully amended from time to time. Failure to comply with any such provisions, rules, or regulations shall be grounds for injunctive relief by the Developer, the Association, the Board, and/or any other Unit Owner.

12. **Parking Areas.** The parking areas on the Plat show the location of certain parking spaces which are designated as General Common Elements available for parking equally to each Unit Owner. The Board of Directors may adopt Rules and Regulations from time to time relating to the use of all parking areas and access ways by Unit Owners. Such Rules and Regulations may include the designation and reservation of certain individual parking spaces for the use of handicapped persons or exclusively for the use of the owners or occupants of specific

Units (in which event the Plat will be appropriately amended by the Association and such parking spaces will become Limited Common Elements).

13. **Covenants of Unit Owners.** Each Unit Owner, by accepting ownership of a Unit, agrees on behalf of himself, his successors, heirs, personal representatives and assigns, to the following:

13.1 **Permanent Easements.** There shall be such permanent easements through and over each of the Units as may be reasonably necessary for the installation, maintenance, replacements and repair of the General Common Elements, Limited Common Elements or Private Elements and the other Units.

13.2 **Residential Use.** No part of the Units or the Limited Common Elements or Private Elements may be used for purposes other than residential housing and the related common purposes for which the Property was designed and as allowed by municipal zoning laws. Each Unit, or any two or more adjoining Units used together, shall be used as a residence or such other use as is permitted by this Declaration, and for no other purpose, except that the Developer may use any Unit owned by the Developer as a sales office for the conduct of its business while Developer retains such ownership. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (i) maintaining his personal professional library; (ii) keeping his personal business or professional records or accounts; (iii) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.

13.3 **Use Restrictions.** In addition to the restrictions set forth in subparagraphs 13.1 and 13.2, the use of all Units and the General Common Elements, Limited Common Elements or Private Elements shall also be subject to the Bylaws, such Rules and Regulations as may be adopted by the Association, and applicable law.

13.4 **Encroachments.** In the event any portion of a Unit or a General Common Element or Private Element changes boundaries and thereby encroaches upon another Unit or a General Common Element or Private Element due to the shifting, settling or moving of the Improvements, such changed boundaries shall be deemed to constitute the boundaries of the Unit and the General Common Element or Private Element so affected.

13.5 **Assessments.** All assessments against a Unit by the Association for its pro rata share of the expenses of the Planned Unit Development Project, a late charge equal to ten percent (10%) of any amount not paid within ten (10) days of the due date, interest thereon from the date when the same shall be thirty (30) days past due at the maximum rate allowable by law, and any expense incurred by the Association in the collection or enforcement thereof, including reasonable attorney's fees, shall constitute a lien upon the Unit, and any sale or conveyance of the Unit shall be subject to such lien as provided in the Act. Such lien shall be subordinate to the lien of any mortgage or deed of trust duly recorded before the date of such assessment, and it will be extinguished in respect to any assessments that were due and payable prior to the foreclosure of such mortgage or deed of trust. Upon written request by any

prospective mortgagee or purchaser of a Unit, the Association shall certify to such person whether any assessments have been made as to such Unit that remain unpaid and the amount thereof. If such information is relied upon by a prospective mortgagee or purchaser to its detriment, it shall become binding upon the Association even though such information may later be discovered to have been inaccurate.

**13.7 Suspension of Rights and Services.** In the event that any assessment applicable to a Unit shall remain unpaid or any infraction of the Association's published Rules and Regulations remain unremedied for a period of thirty (30) days after notice to the affected Unit Owner and the mortgagee of such Unit, the Association may suspend the enjoyment right of any Unit Owner with respect to amenities that are a part of the General Common Elements, and, to the extent permitted by law, the Association shall have the right to suspend water, cable or satellite television, internet access or other utility services provided to the Unit by the Association until such assessments are paid, or until the Association receives adequate security for payment, or until such infraction shall be rectified. Any cost incurred by the Association in disconnecting or reconnecting any utility service, including reasonable attorney's fees, shall be a further assessment applicable to the Unit.

**13.8 Time-Sharing.** No time-sharing estates will be created with respect to any Units in any Phase of the Planned Unit Development Project.

**13.9 Developer's Right to Grant Easements.** The Developer, during the Period of Developer Control, and thereafter, the Association, shall have the right to grant easements in, over, and under the Common Elements to utility companies, governmental authorities, or adjoining property owners for the purpose of securing the provision of utilities and rights of parking or ingress and egress to the Planned Unit Development or to dedicate a portion of the General Common Elements or any interest therein to an appropriate governmental authority in furtherance of the foregoing purposes.

**13.10 Actions against Developer.** No legal action may be brought by the Association or any Unit Owner against the Developer on account of any alleged defect in material, workmanship, or installation of the General Common Elements, Limited Common Elements or Private Elements except in compliance with the following requirements:

(i) The Association or such Unit Owner shall give the Developer sixty (60) days prior notice and opportunity to cure such defect or condition except in case of emergency endangering persons or property;

(ii) The parties shall endeavor to mediate the dispute for a period of sixty (60) days after the expiration of the Developer's cure period;

(iii) The initiation of legal proceedings against the Developer by the Association or such Unit Owner shall have been approved by the affirmative vote or written consent of Unit Owners possessing sixty-seven percent (67%) of the total percentage of ownership in the Planned Unit Development;

(iv) Developer's liability in any such action shall be limited to the repair or replacement of any defective item or condition, and Developer shall have no liability for loss of use, injuries to person or property, mold, mildew, or other consequential damages resulting from or in any manner arising out of any defect or condition in the General Common Elements, Limited Common Elements or Private Elements; and

(v) The prevailing party in such proceeding shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party.

The covenants contained herein shall be deemed covenants running with the land. The Association or any Unit Owner shall have the right to prosecute any proceedings at law or in equity against any person or persons violating any of the covenants contained herein and to obtain relief by way of injunction, money damages, or both. No delay or omission on the part of the Association or a Unit Owner in exercising any right, power or remedy herein provided in the event of any breach of the foregoing covenants shall be construed as a waiver thereof or acquiescence therein. In the event any provision of the foregoing covenants shall be held invalid by judgment or court order, it shall not be deemed to affect any of the other covenants contained herein, which shall continue and remain in full force and effect. In the event that any of the foregoing covenants shall be declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then the term of such covenant shall be reduced to the maximum period of time allowed by the laws of the State of Tennessee. Should the Association or an aggrieved Unit Owner employ counsel to enforce any of the foregoing covenants, the Association or such Unit Owner, as the case may be, shall be entitled to recover from the breaching Unit Owner the attorney's fees and expenses incurred in such action, provided the Association or such Unit Owner ultimately prevails in such action.

#### 14. Expansion of Project.

The Developer and the Unit Owners of the undeveloped Units comprising the Planned Unit Development Project and their designated assignee(s), acting as Developer, reserve the right, but shall have no obligation, to construct the Units and the necessary parking as part of the Planned Unit Development Project. No additional land will become part of the Planned Unit Development Project unless approved by the Declarant. Construction of such Units must commence within twenty (20) years from the date of recordation of this Declaration in the Register's Office for Montgomery County, Tennessee. Upon substantial completion of such Units, parking, and adjacent amenities, this Declaration shall be amended to confirm the construction of such Units and show any additional improvements constructed in connection therewith by an Amendment that is executed by such Developer alone, and such Amendment will be recorded. All such future improvements and newly constructed Units will be compatible with the initial improvements and Units in terms of quality of construction, be of compatible architectural style, not reduce the values of any existing or planned Units, and be served by sufficient parking areas. Such Units and additional improvements shall also comply with all requirements of the applicable building and zoning codes and be consistent with prior approvals from such codes agency. A Unit Owner exercising such development rights, as Developer, agrees and covenants to use all reasonable efforts to minimize any disruption or disturbance caused by the construction of Units and improvements and agrees to indemnify and save the

Association and the Unit Owners harmless against any actual damage or cost attributable to such construction. The Amendments confirming the construction of such Units shall automatically effect an equitable adjustment of the percentage of ownership in the Common Elements of each Unit as provided in Paragraph 7 hereof from and after the filing of such Amendments, the owners of such newly constructed Units shall have and may exercise all of the rights, privileges and obligations incident to ownership of a Unit in the Project, including, but not limited to, voting rights and liability for assessments by the Association for its pro rata share of Common Expenses of the Planned Unit Development Project and any special assessment with respect to such Unit. Subject to compliance with the foregoing requirements and subparagraph (e) below, no Assessment shall be due and payable with respect to, or levied against, the unimproved Units until such Amendment is filed.

14.1 **Development Requirements.** The purchaser of any unimproved Units shall be subject to the following additional development requirements:

(a) The Unit purchaser shall be required to submit to Developer for its sole, reasonable approval based upon objective criteria and development requirements set forth in this Section:

(i) Complete architectural plans and specifications in conformity with the following criteria:

- (1) a minimum of 1600 square feet for a one-level Unit;
- (2) a minimum of 1500 square feet on the main floor for a two-story Unit and specifically excluding the square footage of a bonus room in the calculation of the required square footage. Additionally, a bonus room located above the garage of a one-level Unit is not considered a two-story Unit);
- (3) 100% of the front of a Unit shall be composed of a mixture of brick, stone, Hardiboard, dryvit or approved equivalent; the remaining sides (sides and rear) to be composed of brick;
- (4) ornate brick accent or stone accents must be provided on the front face of the Unit;
- (5) all eaves and trim must be maintenance free material, copper and tin accents are acceptable;
- (6) front porches are encouraged;
- (7) must build a minimum of a two-car garage and if garage faces the street, the garage door must be carriage style door, or approved equivalent;
- (8) 100% of the yard must be sodded to include a minimum of 25 feet behind the structure and to include the entire area disturbed by the construction of the



house;

(9) shrubs to be planted must be three (3) gallon or larger;

(10) one (1) street tree is required per Unit to be installed 2.5 feet back from the curb and sidewalk is to meander around the tree to provide a minimum of 2.5 feet of clearance to the tree; tree shall be a two (2) inch caliper or larger Northern Red Oak or Chinese Elm;

(11) all driveways are to be stamped concrete and sidewalks are to be broom finish with smooth edging;

(12) a four (4) foot wide sidewalk to be installed across the frontage of all lots with a two foot wide grass strip between the curb and the sidewalk;

(13) all mailboxes to be standard with specification to be provided;

(14) all roofs shall be asphalt dimensional shingles unless otherwise specifically approved;

(15) street address number to be on a stone face set in the brick of the front wall of the garage at a height of six (6) feet from the driveway grade.

(16) in the event that construction of a Unit does not commence within six (6) months of closing, the Developer shall have the right to install the sidewalk and tree required in subsections 10 and 12 at the sole cost and expense of the Unit Owner.

(ii) Construction timeline showing project start within six (6) months of closing and completion within eighteen (18) months of closing,

(iii) Evidence of satisfactory builder's risk and liability insurance;

(iv) Such other documentation as may be reasonably required by the Developer, including but not limited to, a construction budget and evidence of sufficient dedicated funds or financing to cover the budgeted project costs; and

(v) Non-compliance with the requirements herein shall subject the Unit purchaser to a penalty of one and one-half (1 ½ %) percent of the purchase price per month for each month of non-compliance, which shall be a lien upon the Unit; together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Unit Owner who was the Owner of such Unit at the time.

(b) All contractors to be hired by the Unit purchaser must sign waivers expressly acknowledging that such Unit is a separate and distinct project from the remaining Units and unconditionally waiving any lien rights against such remaining Units.

(c) If Unit purchaser fails to contract with approved contractors and lenders, or to comply with the submittals described in this Section together with any further reasonable conditions imposed by Developer in connection with its approval, or to comply with the requirements of subsection (b) above, Developer shall have the right to purchase such Unit for the Unit purchaser's actual costs expended or incurred in accordance its approved project budget, but such right of repurchase shall be subordinate to the lien rights of any lender providing project financing or any general contractor approved by the Developer.

(d) Developer shall have a thirty (30) day right of first refusal to acquire any non-completed Units on the same terms and conditions as set forth in a bona fide written offer from a third party that is acquiring such Units for completion of development and resale to Unit occupants or for investment purposes.

**14.2 Ownership of Common Elements.** If any of the unimproved Units are not constructed within the time specified in this Paragraph 14, the Developer shall retake the lot or area on which the improvement was to be constructed and the then existing Units subject to Planned Unit Development ownership shall constitute one hundred percent (100%) of the membership.

**14.3 Temporary Construction Easements.** The Unit Owner exercising such development rights as Developer, shall have such temporary construction easements through and over the General Common Elements as may be reasonably necessary for the construction of the unimproved Units.

**14.4 Contribution for Costs Incurred by Association.** The Unit Owners of unimproved Units shall make contributions to the Association to defray a portion of the costs incurred by the Association that are directly attributable to such unimproved Units.

**14.5 Combining Units.** In the event that a Unit Owner exercising such development rights, as Developer, desires to combine two (2) or more Units into one (1) Unit, such combination of Units must be done in accordance with this subparagraph 14.1 and shall be the responsibility of such Unit Owner.

**15. Lease of Units.** An Owner of a Unit may lease his Unit for the same purposes as are set forth in this Declaration provided that such lease transaction is in accordance with the following requirements.

**15.1 Occupancy and Lease Agreement.** Occupancy or use of a Unit for more than thirty (30) days in any one (1) year by a person, other than an owner, a member of the owner's family, or a temporary caretaker, shall require the execution of a lease agreement between the owner and the occupant, upon a form specified or approved by the Association. Unless approved in advance by the Board of Directors, no owner shall lease a Unit to a corporation, partnership, trust, or entity other than a natural person. Each lease of a Unit shall stipulate that if the lessee, after notice from the Association, shall fail to conform to the

provisions of the Declaration, the Bylaws, or the Rules and Regulations of the Association, the Association shall be authorized to evict or require the lessee to vacate the premises upon thirty (30) days written notice, and lessee shall do so without prejudice to the Association's other legal remedies. During the term of the lease, either the lessee, or the owner of the Unit, but not both shall be entitled to the privileges of use of the General Common Elements, Limited Common Elements and Private Elements appurtenant to such Unit.

**15.2 Subletting and Leasing to Unit Owners.** No portion of a Unit, other than the entire Unit, may be rented. Except as provided herein, no Unit may be let or sublet for a period of less than six (6) months, whether or not rents or other fees are received by the owner. Unit Owners may rent their Units to other Unit Owners or members of their immediate family for periods of less than six (6) months.

**15.3 Standard Lease Form.** All Unit Owners leasing their Units shall bind all lessees to the provisions of the Bylaws, the Declaration and duly adopted rules and regulations by utilizing the Association's Standard Lease Form or Addendum which shall be maintained by the Association's managing agent or the Directors. All leases shall be filed with the Association's managing agent or the Directors.

**15.4 No Transient Purpose.** No Unit shall be rented for transient or hotel purposes.

**15.5 Number of Tenants.** No Unit shall be leased to more than two persons not related by blood or marriage.

**15.6 Identity of Tenants.** All Unit Owners shall provide the Association or management agent with the identity of the occupants of their Units.

**15.7 Negligence and Damage by Tenants.** All Unit Owners shall be jointly and severally liable to the Association for all damage to the General Common Elements or Limited Common Elements, if any, caused by the negligent or intentional acts, omissions, use or misuse of the General Common Elements or Limited Common Elements, if any, by their tenants, or their guests, invitees, employees or agents to the extent that any such damage is not covered by the Association's insurance. In addition, the Unit Owner and the Unit Owner's tenant shall be jointly and severally liable for the insurance deductible for any such damage to the Common Elements.

**15.8 Violation of Declaration, Bylaws or Rules and Regulations.** In the event a tenant of a Unit is found to have violated the Bylaws, the Declaration or the rules and regulations of the Association (after being given notice of the violation and an opportunity for a hearing thereon), the Directors shall be authorized to require the owner of that Unit to evict or require the lessee to vacate the premises on thirty (30) days written notice. In the event that the Unit Owner fails to evict his or her tenant, the Association may evict the tenant and the cost thereof shall be assessed to the Unit and constitute an assessment against the Unit and the Unit Owner for which the Association shall have a lien against that Unit, enforceable as in the case of all other assessments. The Association may exercise its rights under this provision without

prejudice to the Association's other legal remedies.

16. **Sale of Units.** A Unit Owner, who sells a Unit or any interest therein, shall give written notice to the Association of the name and address of the purchaser, and such other information as the Association may reasonably require in connection with such transaction.

17. **No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his Unit without including therein the appurtenant interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any Unit may be sold, transferred, or otherwise disposed of, except as part of a sale, transfer, or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer, or other disposition of such part of the appurtenant interests of all Units.

18. **Separate Real Estate Taxes.** Real estate taxes shall be separately assessed to each Unit Owner for such Owner's Unit and his corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately assessed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay such Owner's proportionate share thereof in accordance with such Owner's respective percentage of ownership interest in the Common Elements, and, in said event, such taxes shall be a common expense.

19. **Insurance.** The Association shall be required to obtain and maintain, to the extent obtainable at a reasonable cost and applicable to the Planned Unit Development Project, the following insurance:

- (a) Fire insurance with extended coverage, vandalism, and malicious mischief endorsements, insuring all Common Elements. Such insurance shall cover the Planned Unit Development and the Association, as their interests may appear, in an amount at least equal to the full replacement value of such;
- (b) Worker's compensation insurance;
- (c) Boiler and machinery insurance, if applicable;
- (d) Plate glass insurance, if applicable;
- (e) Water damage insurance; and
- (f) Such other insurance as the Board may determine.

All such policies shall provide that adjustment of loss shall be made by the Board, and that the net proceeds thereof shall be payable to the Association.

The Unit Owners shall provide Homeowners insurance, physical damage insurance and liability insurance on their Unit, to include coverage for the entire Unit, including but not limited to, exterior walls, roof, windows, chimneys, interior walls, mechanical systems and personal property.

The Association shall obtain and maintain, to the extent obtainable at a reasonable cost, public liability insurance in such limits as the Association may from time to time determine, covering the Association and each Unit owner in respect to any injury occurring upon or within the Common Elements. The Association shall review such limits, and/or the advisability of obtaining such insurance, at least once each year.

Unit owners shall not be prohibited from carrying other insurance for their own benefit provided that all policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Unit owner.

## 20. Repair or Reconstruction after Damage.

20.1 **Vote of Members.** If not more than two-thirds (2/3) of a Building shall be damaged by fire or any other disaster, then the Building shall be rebuilt or repaired. If such damage shall affect more than two-thirds (2/3) of the Building, then reconstruction shall not be compulsory.

20.2 **Plan for Reconstruction.** Any reconstruction or repair of the Building or any Unit located therein shall be substantially in accordance with the Declaration and the original plans and specifications for the Planned Unit Development Project.

20.3 **Repair of Units.** Each Unit Owner shall be responsible for the reconstruction, repair or replacement of their entire Unit, including but not limited to the exterior walls, roof, windows, chimneys, mechanical systems floor coverings, wall coverings, window shades, draperies, interior walls, furniture, furnishings, decorative light fixtures, and all appliances located therein. Unit Owner shall begin reconstruction or repair of such Unit within sixty (60) days after the date of such damage, subject to the right of the Association to supervise, approve or disapprove such reconstruction or repair during the course thereof.

20.4 **Costs of Repair.** As soon as possible after the occurrence of a casualty which causes damage to any General Common Elements of the Planned Unit Development Project for which the Association has insurance coverage (hereinafter referred to as the "Casualty"), the Association shall obtain cost estimates of the following:

- (i) The cost of restoring all damage caused by the Casualty to the General Common Elements (hereinafter referred to as the "Common Element Costs"); and
- (ii) The cost of restoring that part of the damage caused by the

Casualty to the General Common Elements that is covered by insurance held by the Association.

**20.5 Application of Insurance Proceeds.** All insurance proceeds available to the Association with respect to the Casualty shall first be applied to the payment of the actual Common Element Costs. However, if such insurance proceeds are not sufficient to cover such estimated costs, then an assessment shall be made against the all Unit Owners by the Association.

**21. Condemnation.** In the event of any taking of any Unit in the Planned Unit Development by eminent domain, the Unit Owner and any mortgages of such Unit shall be entitled to receive the award for such taking attributable to the Unit Owner's proportionate share of the loss or reduction in the fee simple estate and the Building and other improvements to the land and after acceptance thereof he and his mortgagee shall be divested of all interest in the Planned Unit Development Project if such Unit Owner shall vacate his Unit by virtue of such taking. If any repair or rebuilding of the remaining portions of the Planned Unit Development Project is required as a result of such taking, a majority in percentage of ownership of the remaining Unit Owners shall determine by vote or written consent whether to rebuild or repair the Planned Unit Development Project or to take such other action as such remaining Unit Owners deem appropriate. If no repair or rebuilding shall be required or shall be undertaken, the remaining portion of the Planned Unit Development Project shall be resurveyed and the Declaration shall be amended to reflect such taking and to proportionately readjust the percentages of ownership of the remaining Unit Owners based upon a continuing total ownership of the Planned Unit Development Project of one hundred percent (100%).

**22. Maintenance, Repairs and Replacements.** Each Unit Owner, at such Owner's expense, shall furnish and be responsible for all maintenance of, repairs to, and replacements upon and within such Owner's Unit; provided, however, the Association, by vote of its Board of Directors, may choose to provide such maintenance and repairs, or any part thereof. Maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of, and shall be furnished by, the Association. The cost of maintenance of, repairs to and replacements within the Common Elements shall be part of the common expenses. The expenses for the maintenance, repair, or replacement of Limited Common Elements and Private Elements shall be borne by the Owner of the Unit or Units to which such Limited Common Elements and Private Elements are appurtenant. In addition, at the discretion of the Board, the Association, through its Board of Directors, may direct Unit Owners who stand to be benefitted by such maintenance of, repairs to and replacement within the Limited Common Elements and Private Elements to arrange for such maintenance, repairs and replacement in the name and for the account of such benefitted Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Association such lien waivers and contractors' and subcontractors' sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

If, due to the act or neglect of a Unit Owner, or the agent, servant, invitee, or licensee of a Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair or replacement are required which would otherwise be a common

expense, then such Unit Owner shall pay for such damage or such maintenance, repair and replacements, as may be determined by the Board, to the extent not covered by insurance or sufficient proceeds therefor are not collected from the insurance carrier.

The Board or its authorized representative or representatives shall be entitled to reasonable access to the individual Units, Limited Common Elements and Private Elements as may be required in connection with the preservation of any individual Unit, Limited Common Elements or Private Elements in the event of an emergency, or in connection with maintenance of, repairs or replacements within the Common Elements, Limited Common Elements, Private Elements or any equipment, facilities or fixtures affecting or serving the other Units, Common Elements, Limited Common Elements or Private Elements, or to make any alteration required by any governmental authority.

**23. Use Restrictions.** To further implement this plan of ownership, to make feasible the ownership and sale of Units in the Planned Unit Development, to preserve the character of the development and to make possible the fulfillment of the purposes of the Planned Unit Development as intended, the Developer, its successors and assigns, by reason of this Declaration, and all future owners of Units in the Planned Unit Development by their acquisition of title thereto, covenant and agree as follows:

**23.1. Rules and Regulations.** The Board shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Elements. Such rules and regulations may provide for the imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

**23.2. Residence Use Restriction.** Each Unit shall be occupied, within the limitations set forth herein and in the Bylaws of the Association, and shall be used by the respective Unit Owners only as a single family residence. No professional, business or commercial activity to which the general public is invited shall be conducted in any Unit. Except as otherwise provided in Paragraph 15, no rental or leasing of Units shall be permitted.

**23.3. Common Elements Use Limitations.** Only Owners and guests and invitees of such Owners may use the Common Elements, provided that the use of the Common Elements shall be in accordance with and subject to limitations set forth herein, in the Bylaws, in restrictions, covenants and agreements of record, and in any rules and regulations duly adopted by the Board.

**23.4. Parking Spaces.** There shall be no obstruction of any Common Element. Nothing shall be stored in any Common Element without the approval of the Board. The use of parking spaces in the Common Elements shall be regulated by the Board. No truck (other than standard sized pickup trucks belonging to an Owner), bus, camper trailer, boat, or trailer shall be left parked in the parking areas or in any part of the Common Elements, except for repair and/or construction vehicles actually engaged in work on the Property.

23.5. **Insurance.** Nothing shall be done or kept in any Unit, or in any Common Element, which will increase the rate of insurance on any Common Element without the approval of the Board. No Owner shall permit anything to be done or kept in his Unit or in any Common Element which will result in the cancellation of or increase the premium for the insurance on any Common Element, or which would be in violation of any law. No waste will be permitted in any Common Element.

23.6. **Nuisance.** No noxious or offensive activity shall be carried on in any Unit or in any Common Element, nor shall anything be done therein or thereon which will constitute a nuisance to the other Unit Owners.

23.7. **Animals.** No animals, livestock or poultry of any kind shall be kept or maintained in any Unit or in any part of the Common Elements except that no more than two dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes, and provided that they do not constitute a nuisance to the other Unit Owners. At such time as all Units have been sold by the Developer to original end purchasers, the Association may vote to limit the physical size of the pets permitted pursuant to this subparagraph 23.7.

23.8. **Structural Integrity.** Nothing shall be done in any Unit or in, on, or to any Building or any Common Element which would structurally change any such Building, except as is otherwise provided herein.

23.9. **Interference.** Nothing shall be done either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner shall make or permit any disturbing noises in a Building or Buildings by himself, his employees, agents, visitors, and licensees, nor do or permit anything by such persons that will interfere with the rights, comforts, or conveniences of other Unit Owners.

23.10. **Electrical Equipment.** All radio, television or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the public authorities having jurisdiction and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment in such Unit. Satellite dishes shall be mounted on the rear of the Unit, not to include the masonry enclosure, shall be located so as not to be visible from the street, and shall not exceed four (4) feet in diameter.

23.11. **Exterior.** Nothing shall be placed upon the windowsills and nothing shall be hung from the windows, balconies, or porches without the prior approval of the Board, which may be withheld for any reason.

23.12. **Flammable Substances.** No Unit Owner or occupant or any of his agents, servants, employees, licensees, or visitors shall at any time, bring into or keep in his Unit any flammable, combustible, or explosive fluid, material, chemical or substance.

23.13. **Modifications.** No Unit Owner shall make structural alterations or



modifications to his Unit or to any of the General Common Elements, Limited Common Elements or Private Elements, including, but not limited to, the erection of antennas, aerials, awnings, the placement of any reflective or other material in the windows of the Unit or other exterior attachments without the prior written approval of the Association. The Association shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Planned Unit Development Project.

**23.14. Number of Occupants.** Units containing one bedroom may be regularly occupied by no more than 2 adults and their adopted or natural children. Units containing two or more bedrooms may be regularly occupied by no more than 3 adults and their adopted or natural children. As used in this subparagraph, the term "regularly occupied" shall mean occupancy for a period in excess of 14 days consecutively, or 30 days in any one calendar year. Any and all adopted and/or natural children regularly occupying a Unit must be minors or full-time students.

**23.15. Unit Locations.** In interpreting the provisions of this instrument, the Exhibits attached hereto, the Plat, subsequent deeds, and mortgages to individual Units, etc., the actual location of the Unit shall be deemed conclusively to be the property intended to be conveyed, reserved, or encumbered, notwithstanding any minor deviations, either horizontally or vertically, from the locations as indicated on said Exhibits. To the extent that such minor variations in location exist, a valid easement therefor and for the maintenance thereof shall exist.

**23.16. Public Record.** All Unit Owners and any of their respective agents, employees, licensees or invitees shall be bound by any and all restrictions, covenants or agreements applicable to the Property and of record in Montgomery County, Tennessee.

**23.17. Limitation during Sale Period.** None of the restrictions contained in this Paragraph 23 shall apply to the commercial activities, signs or billboards, if any, of the Developer during the sales period of the Planned Unit Development Project or to the activities of the Association in furtherance of its powers and purposes set forth herein and in its Charter and Corporate Bylaws, as the same may be amended from time to time.

**23.18. Mold/Mildew.** Mold and/or mildew can grow in any portion of the Planned Unit Development Project that is exposed to elevated levels of moisture. Each Unit Owner agrees to: (i) regularly inspect the parts of the Planned Unit Development that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion and/or damage; (ii) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Planned Unit Development Project that they respectively maintain; (iii) remediate or replace any building material located in the parts of the Planned Unit Development Project that they respectively maintain that has absorbed water or moisture as a result of water intrusion; and (iv) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Planned Unit Development Project that they respectively maintain in accordance with current industry-accepted methods. In addition, the Association agrees to notify the Unit Owners, and each Unit Owner agrees to notify the Association of the discovery of mold, mildew, and/or water intrusion and/or damage in the parts of the Planned Unit Development Project that they respectively maintain.

**23.19 Grills.** Grills must be located within the Private Element boundary.

**23.20 Unit Locations.** In interpreting the provisions of this instrument, the Exhibits attached hereto, the Site Plan, subsequent deeds, and mortgages to individual Units, etc., the actual location of the Unit shall be deemed conclusively to be the property intended to be conveyed, reserved, or encumbered, notwithstanding any minor deviations, either horizontally or vertically, from the locations as indicated on said Exhibits. To the extent that such minor variations in location exist, a valid easement therefor and for the maintenance thereof shall exist.

**23.21 Signs.** No signs or other advertising devices shall be displayed which are visible from the exterior of any Unit or on the Common Elements, excluding real estate "For Sale" signs which do not exceed twelve (12) square feet in area, except in conformity with Rules and Regulations promulgated by the Board of Directors.

**24. Additional Rights of Eligible Mortgage Holders and Other Parties.** The following provisions are intended for the benefit of each Eligible Mortgage Holder, and to the extent that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

**24.1 Information to Eligible Mortgage Holders.** Upon request in writing, the Association shall furnish each Eligible Mortgage Holder, and any holder, insurer or guarantor of the mortgage held by such Eligible Mortgage Holder, with a written notice of any default by the Unit Owner of such Unit in the performance of such Unit Owner's obligations under this Declaration that is not cured within thirty (30) days.

**24.2 Additional Rights of Eligible Mortgage Holders.** Upon request in writing, each Eligible Mortgage Holder of a Unit and any holder, insurer or guarantor of a first mortgage on a Unit shall have the right:

- (a) to examine current copies of this Declaration, the By-Laws, rules and regulations and the books, records and financial statements of the Association during normal business hours;
- (b) to receive, without any charge and within a reasonable time after such request, the annual financial statement which is prepared and distributed by the Association to the Unit Owners at the end of its fiscal year;
- (c) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;
- (d) to receive written notice of any decision by the Unit Owners to make a material amendment to the Declaration, By-Laws or Articles of Incorporation of the Association;
- (e) to receive written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(f) to receive written notice of any action which would require the consent of a specified number of Eligible Mortgage Holders pursuant to the terms of this Declaration.

**24.3 Rights of Eligible Mortgage Holders in Respect of Insurance Proceeds.** No provision of this Declaration, the Articles of Incorporation or By-Laws or any similar instrument pertaining to the Submitted Property or the Units therein shall be deemed to give a Unit Owner or any other party priority over any rights of the Eligible Mortgage Holders of Units pursuant to their mortgages in the case of distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units, and/or the Common Elements, Limited Common Elements or Private Elements, or any portion thereof or interest therein. In such event, the Eligible Mortgage Holder of a Unit shall be entitled, upon specific written request, to timely written notice of any such loss.

**24.4 Consent of Eligible Mortgagees Required for Certain Material Changes.** In addition to any other provisions of this Declaration that set forth particular requirements for amendment of this Declaration, the consent of Eligible Mortgage Holders that represent at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders shall be required (i) for any Amendment to this Declaration which is of a material adverse nature to the rights of Eligible Mortgage Holders or (ii) to otherwise add or amend any provisions of this Declaration which establish, provide for, govern or regulate any of the following changes:

(a) Reallocation of interests in the Common Elements, Limited Common Elements or Private Elements, or rights to their use, except as set forth herein;

(b) Redefinition of any Unit boundaries;

(c) Convertibility of Units into Common Elements or vice versa;

(d) Restoration or repair of the Planned Unit Development (after damage or partial condemnation) in a manner other than that specified in the Planned Unit Development Documents;

(e) Any provisions that expressly benefit mortgage holders, insurers or guarantors; and

(f) Termination of the legal status of the Planned Unit Development after substantial destruction or condemnation; and

**24.5 Notices to First Mortgagees upon Damage, Etc.** Each Eligible Mortgage Holder holding a first mortgage on a Unit, or holder, insurer or guarantor of a first mortgage on a Unit, shall be furnished written notice by the Association in the event of the occurrence of:

(a) any material damage to or destruction of the Units or Common Elements. For such purposes, any damage or destruction affecting any portion of the Common Element to the extent of Ten Thousand Dollars (\$10,000.00) or more of their value, or, if

damage, destruction or taking shall occur to a Unit, to the extent of One Thousand Dollars (\$1,000.00) of its value or more, shall be deemed material;

(b) any delinquency of sixty (60) days or more in the payment of Assessments or other charges owed by the Owner of any Unit on which such Eligible Mortgage Holder holds a first mortgage;

(c) a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

(d) a proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

**24.6 First Mortgagee's Rights Confirmed.** If any Unit or portion thereof or the Common Elements or any 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, or if any Unit or any portion thereof or the Common Elements or any portion thereof shall be destroyed or damaged by a casualty, then the Eligible Mortgage Holder will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and, notwithstanding any provision of this Declaration or the Bylaws to the contrary, the distribution to such Unit Owner of the proceeds of any award, settlement, or insurance proceeds under this Declaration, the Bylaws or otherwise, shall at all times be subject to the terms of the Eligible Mortgage Holders mortgage. Notwithstanding anything in this Declaration to the contrary, any Eligible Mortgage Holder who obtains title to a Unit through foreclosure or pursuant to the remedies under its mortgage with such Unit's Owner shall not be liable for any Assessments other than six (6) months (or less) of the Unit's unpaid General Assessments, together with the costs of collecting such unpaid General Assessments as is permitted hereunder.

**24.7 Deemed Approval by First Mortgagee.** Any Eligible Mortgage Holder that holds a first mortgage on a Unit who receives a written proposal to approve additions or amendments and fails to deliver or mail to the requesting party a negative response within sixty (60) days following receipt of notice of such proposal shall be deemed to have approved such request, provided that the notice was delivered by certified or registered mail, "return receipt requested."

**24.8 Mortgagee Consent Not Unreasonably Withheld, Etc.** Any mortgagee consent required under this Paragraph 24 shall not be unreasonably withheld, conditioned or delayed.

**24.9 No Impairment of Mortgagees' Rights.** Notwithstanding anything to the contrary herein contained, the provisions of this Declaration governing leases of Units shall not apply to impair the right of any first Mortgagee to:

(a) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or

(b) take a deed or assignment in lieu of foreclosure in the event of

default by a mortgagor; or

(c) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

**24.10 Notices to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of any Mortgagee encumbering such Owner's Unit.

**24.11 Construction of this Paragraph.** Nothing contained in this Paragraph 24 shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws of the Association or Tennessee law for any of the actions set forth in this Paragraph 24.

**25. Development Rights and Other Special Declarant Rights.**

**25.1 Development Rights.** The Declarant reserves the following Development Rights:

(a) The right to amend this Declaration and the Site Plan for the purpose of altering the boundaries, adding Units and changing the allocated percentage of ownership allocated to such Units owned by the Declarant.

(b) The right, but not the obligation, to construct and submit to Unit ownership additional Units to be contained within the Property in one or more modifications, amendments, or phases as part of the Planned Unit Development.

(c) The right to create Units and Common Elements

**25.2 Special Declarant Rights.** The Declarant reserves the following Special Declarant Rights:

(a) The right to complete or make improvements indicated on the Site Plan;

(b) The right to exercise any Development Right;

(c) The right to maintain sales offices, management offices, signs advertising the development;

(d) The right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Act and this Declaration;

(e) The right to appoint or remove any officer of the Association or any Director during the Declarant Control Period consistent with the Act;

(f) To complete improvements indicated on plats or plans filed with this Declaration; and

(g) The right to exercise any other rights reserved to the Declarant in this Declaration.

**25.3 Limitations on Special Declarant Rights.** Unless sooner terminated by a recorded instrument signed by the Declarant, any Special Declarant Right may be exercised by the Declarant for the lesser of the period of time specified in the Act or this Declaration, as the case may be. If neither the Act nor the Declaration specifies a time within which such right may be exercised, it may be exercised at any time.

**25. Amendments.** Any amendments to this Declaration shall be adopted upon the affirmative vote or written consent of Unit Owners possessing at least sixty-seven percent (67%) of the total percentage of ownership in the Planned Unit Development Project and Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgagees, except for the amendments set forth below:

(a) During the Period of Developer Control, the Developer may amend this Declaration in order to correct errors made therein.

(b) The Developer and any affected mortgagee may amend this Declaration for the purpose of changing the percentage of ownership allocated to and the dimensions and configuration of any Units owned by the Developer prior to the first conveyance of any such Units to a person other than the Developer.

(c) The Developer, during the Period of Developer Control, and thereafter the Association, may execute any amendments necessary to reflect the taking of all or any portion of a Unit by eminent domain.

(d) Amendments to this Declaration to change the percentage of ownership or the dimensions of any Units owned by adjacent Unit Owners may be adopted upon being duly executed by such Unit Owners and any mortgagee having an interest in such Units, provided such amendment does not change either the aggregate ownership percentages or the aggregate dimensions of such Units and is approved by the Developer, during the Period of Developer Control, and thereafter by the Association, subject to such requirements as they may impose as a condition of such approval, including, but not limited to, minimum Unit or storage space size requirements, architectural and engineering plans, maintenance of liability insurance during construction, performance and payment bonds, or otherwise, the expense of which shall be borne by the affected Unit Owners.

(e) Amendments executed by the Developer in accordance with Paragraph 14.

(f) No amendment shall be permitted that would unfairly discriminate against any non-consenting Unit Owner or mortgagee or modify the interest of such non-consenting Unit Owner or mortgagee with respect to percentage of ownership allocated to a Unit, the boundaries of such Unit, or lessen the requirements for amendment to this Declaration.

(g) No amendment shall reduce the rights of mortgagees hereunder without the prior written approval of Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgagees.

(h) The following amendments may be made by the Developer alone during the Period of Developer Control and thereafter by the Association without the necessity of a vote of the Unit Owners: amendments to correct any scrivener's errors or to make other nonmaterial changes; to comply with applicable federal, state or local laws; or to bring the Planned Unit Development Project into compliance with the applicable rules and regulations of the Federal National Mortgage Association ("FNMA"), Department of Housing and Urban Development ("HUD") and/or Veterans Administration ("VA").

(i) No amendment shall reduce or affect the right of a Unit Owner of unimproved Units, as Developer, to construct such Units.

(j) During the period of Developer Control, no amendment shall reduce or affect the rights of the Developer hereunder without consent of the Developer.

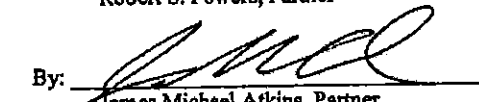
The foregoing amendments shall be deemed effective when duly executed by the Developer or certified by the Association, as the case may be, and recorded by appropriate instrument in the Register's Office of Montgomery County, Tennessee. Any legal proceeding to contest the validity of an amendment must be filed within one (1) year of the date the amendment is recorded in the Register's Office for the County.

IN WITNESS WHEREOF, the Developer has executed this Declaration as of the 12<sup>th</sup> day of JUNE, 2009.


**DEVELOPER:**

Madison Partners, a Tennessee General Partnership

By:   
Robert S. Powers, Partner

By:   
James Michael Atkins, Partner

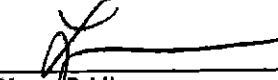
By:   
Bryce A. Powers, Partner

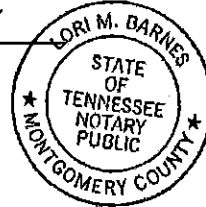
By:   
Kendall W. Spiceland, Partner

STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Personally appeared before me, a Notary Public of the said county and state, Robert S. Powers, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be a Partner (or other officer authorized to execute the instrument) of Madison Partners, the within named bargainer, a general partnership, and that he as such General Partner, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the general partnership himself as General Partner.

Witness my hand and seal this 12<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Notary Public

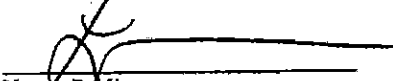


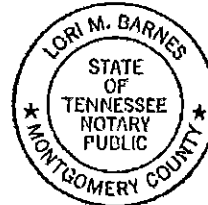
My Commission Expires: 6-15-2010

STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Personally appeared before me, a Notary Public of the said county and state, James Michael Atkins, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be a Partner (or other officer authorized to execute the instrument) of Madison Partners, the within named bargainer, a general partnership, and that he as such General Partner, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the general partnership himself as General Partner.

Witness my hand and seal this 12<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Notary Public



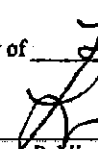
My Commission Expires: 6-15-2010

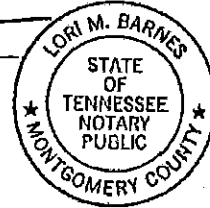


STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Personally appeared before me, a Notary Public of the said county and state, Bryce A. Powers, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be a Partner (or other officer authorized to execute the instrument) of Madison Partners, the within named bargainer, a general partnership, and that he as such General Partner, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the general partnership himself as General Partner.

Witness my hand and seal this 12<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Notary Public



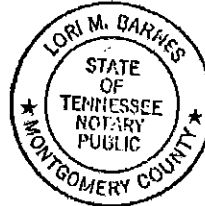
My Commission Expires: 6-15-2010

STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Personally appeared before me, a Notary Public of the said county and state, Kendall W. Spiceland, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be the General Partner (or other officer authorized to execute the instrument) of Madison Partners, the within named bargainer, a general partnership, and that he as such General Partner, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the general partnership himself as General Partner.

Witness my hand and seal this 12<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Notary Public



My Commission Expires: 6-15-2010

EXHIBIT A

DESCRIPTION OF PARCEL

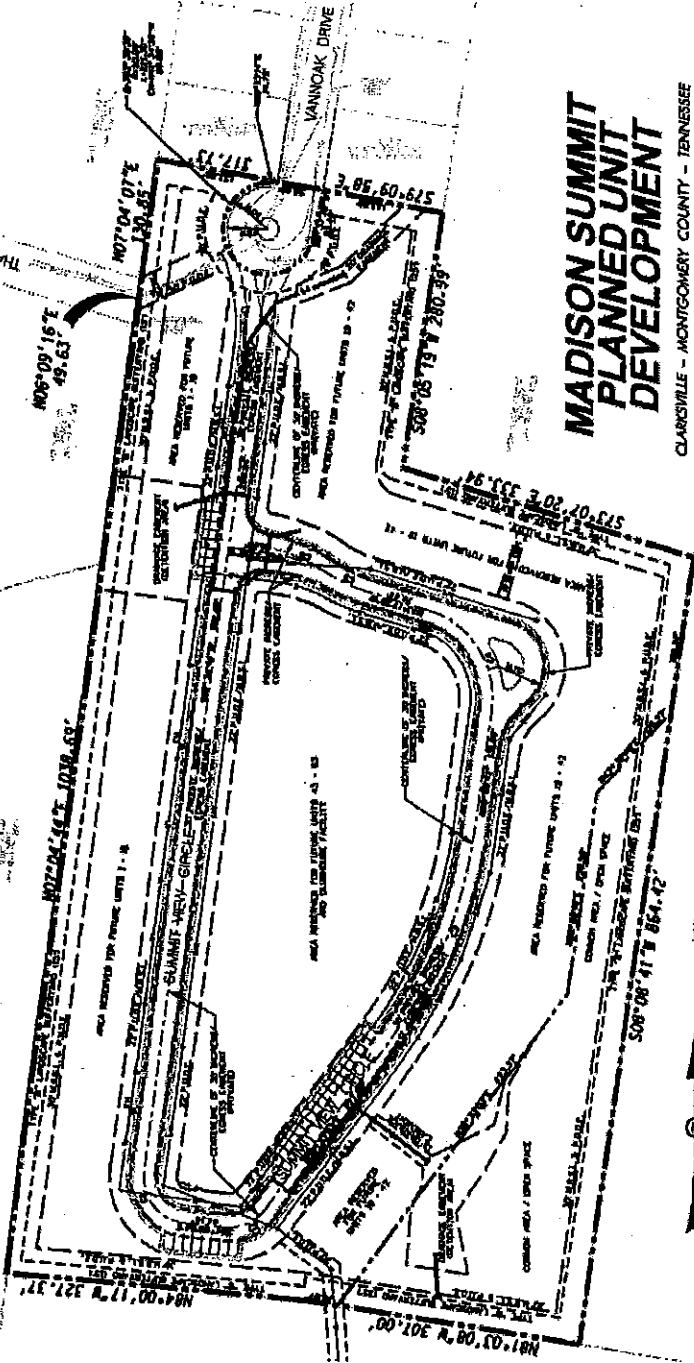
Beginning at an iron pin (old), said iron pin being the southeast corner of Lot 6, Vannoak Subdivision, as recorded in Plat Book 12, Page 192, in the Register's Office of Montgomery County Tennessee (R.O.M.C.T.), said iron pin being in the West line of the Susan P. Lind, Trustee property, as recorded in Official Record Volume (O.R.V.) 1000, page 2308, R.O.M.C.T.; Thence with the West line of the Susan P. Lind, Trustee property, South 08 degrees 25 minutes 19 seconds West 280.99 feet to an iron pin (old), said iron pin being the southwest corner of the said Susan P. Lind, Trustee property; Thence with the South line of the Susan P. Lind, Trustee property, South 73 degrees 17 minutes 20 seconds East 333.94 feet to an iron pipe found, said iron pipe being in the West line of the Garnett W. Ladd, III property, as recorded in O.R.V. 937, page 1917, R.O.M.C.T.; Thence with the West line of the Garnett W. Ladd, III property, South 08 degrees 08 minutes 41 seconds West 864.42 feet to an iron pipe found at a kingpost, said iron pipe being in the North line of the Barry K. Rollins property, as recorded in O.R.V. 323, page 1021, R.O.M.C.T.; Thence with the North line of the Barry K. Rollins property, North 81 degrees 03 minutes 08 seconds West 307.00 feet to an iron pipe found; Thence continuing with the North line of the Barry K. Rollins property, North 84 degrees 50 minutes 17 seconds West 327.37 feet to an iron pipe found, said iron pipe being in the East line of the Charles S. Beach, ETUX property, as recorded in O.R.V. 1049, page 2648, R.O.M.C.T.; Thence with the East line of the Charles S. Beach, ETUX property, and the East line of the Don W. Der, ETUX property, as recorded in O.R.V. 116, page 989, R.O.M.C.T., North 07 degrees 34 minutes 44 seconds East 1038.69 feet to an iron pin (old), said iron pin being the southeast right-of-way of Thayer Lane; Thence with the East right-of-way of Thayer Lane, North 06 degrees 39 minutes 16 seconds East 49.63 feet to an iron pin (old), said iron pin being the southeast corner of the Cuyler A. Dunbar, ETUX property, as recorded in O.R.V. 338, page 964, R.O.M.C.T.; Thence with the East line of the Cuyler A. Dunbar, ETUX property, North 07 degrees 44 minutes 07 seconds East 130.85 feet to an iron pin (old), said iron pin being the southwest corner of Lot 5, Vannoak Subdivision; Thence with the South line of the Vannoak Subdivision, South 79 degrees 49 minutes 58 seconds East 317.73 feet to the point of beginning. Said Tract contains 15.303 acres (666,598.64 sq. ft.) more or less, according to survey by Billy Ray Suiter, PLS 1837, on June 11, 2007.

This being the same property conveyed unto Madison Partners by deed of record in ORV 1177, Page 2159, in the Register's Office for Montgomery County, Tennessee.

This property is identified as Map & Parcel # 81H-A-4 in the Montgomery County Tax Assessor's Office.

# EXHIBIT B-1

CURVE	A	BEARINGS	LENGTH	BEARINGS	CURVE
C1	317.00	30.00	130.00	317.00	11.24
C2	317.00	30.00	130.00	317.00	11.24
C3	317.00	30.00	130.00	317.00	11.24
C4	317.00	30.00	130.00	317.00	11.24
C5	317.00	30.00	130.00	317.00	11.24
C6	317.00	30.00	130.00	317.00	11.24
C7	317.00	30.00	130.00	317.00	11.24
C8	317.00	30.00	130.00	317.00	11.24
C9	317.00	30.00	130.00	317.00	11.24
C10	317.00	30.00	130.00	317.00	11.24
C11	317.00	30.00	130.00	317.00	11.24
C12	317.00	30.00	130.00	317.00	11.24
C13	317.00	30.00	130.00	317.00	11.24
C14	317.00	30.00	130.00	317.00	11.24
C15	317.00	30.00	130.00	317.00	11.24
C16	317.00	30.00	130.00	317.00	11.24
C17	317.00	30.00	130.00	317.00	11.24
C18	317.00	30.00	130.00	317.00	11.24
C19	317.00	30.00	130.00	317.00	11.24
C20	317.00	30.00	130.00	317.00	11.24
C21	317.00	30.00	130.00	317.00	11.24
C22	317.00	30.00	130.00	317.00	11.24
C23	317.00	30.00	130.00	317.00	11.24
C24	317.00	30.00	130.00	317.00	11.24
C25	317.00	30.00	130.00	317.00	11.24
C26	317.00	30.00	130.00	317.00	11.24
C27	317.00	30.00	130.00	317.00	11.24
C28	317.00	30.00	130.00	317.00	11.24
C29	317.00	30.00	130.00	317.00	11.24
C30	317.00	30.00	130.00	317.00	11.24



## MADISON SUMMIT PLANNED UNIT DEVELOPMENT

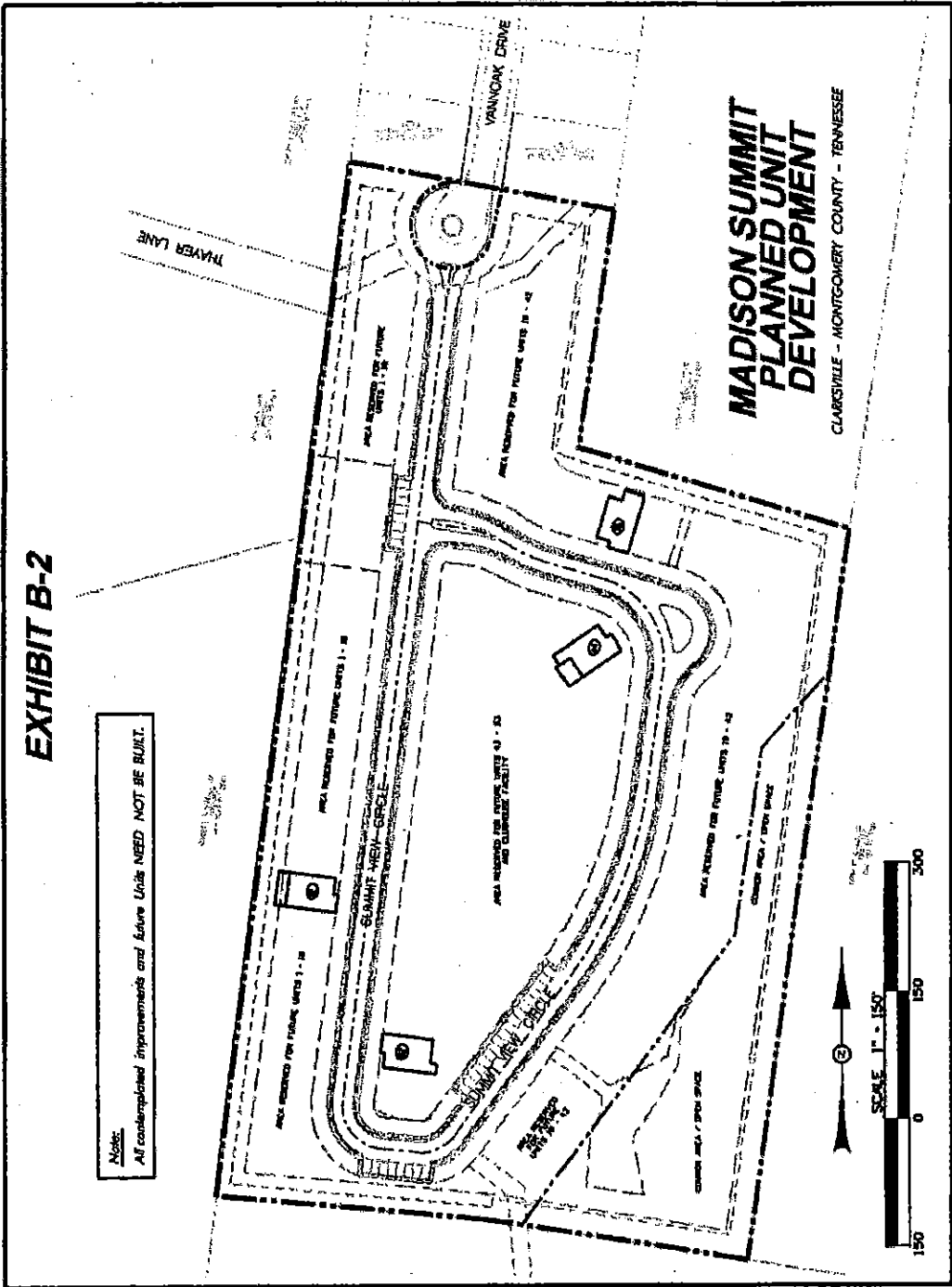
CLARKSVILLE - MONTGOMERY COUNTY - TENNESSEE

TOTAL AREA=668,596 SqFt or 15.30 Ac. +/-



**EXHIBIT B-2**

**Note:**  
All contemplated improvements and future units need NOT BE BUILT.



**MADISON SUMMIT  
PLANNED UNIT  
DEVELOPMENT**  
CLARKSVILLE - MONTGOMERY COUNTY - TENNESSEE

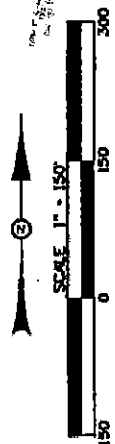


EXHIBIT B-3A  
UNIT 12 MADISON SUMMIT

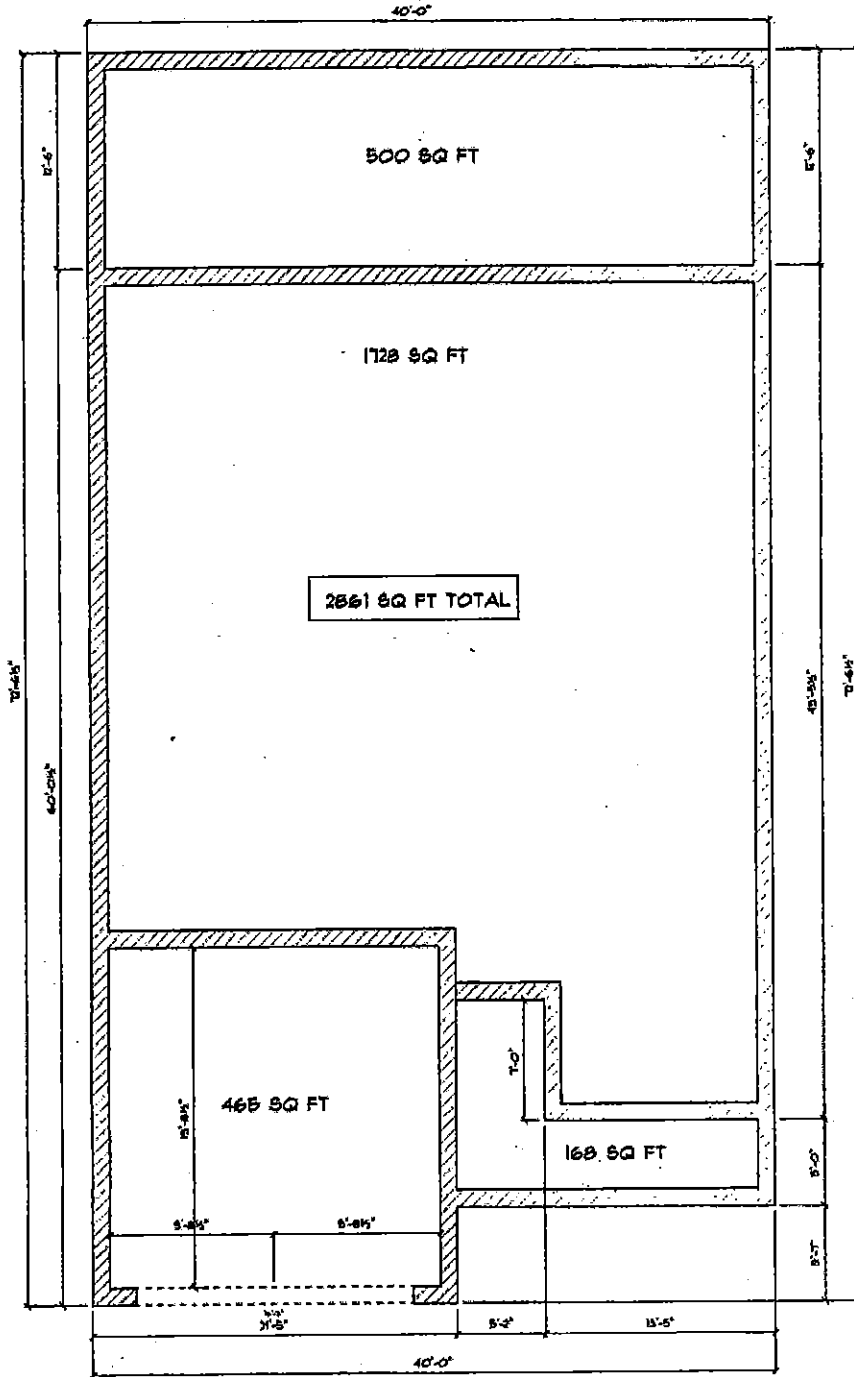


EXHIBIT B-3B  
UNIT 36 MADISON SUMMIT

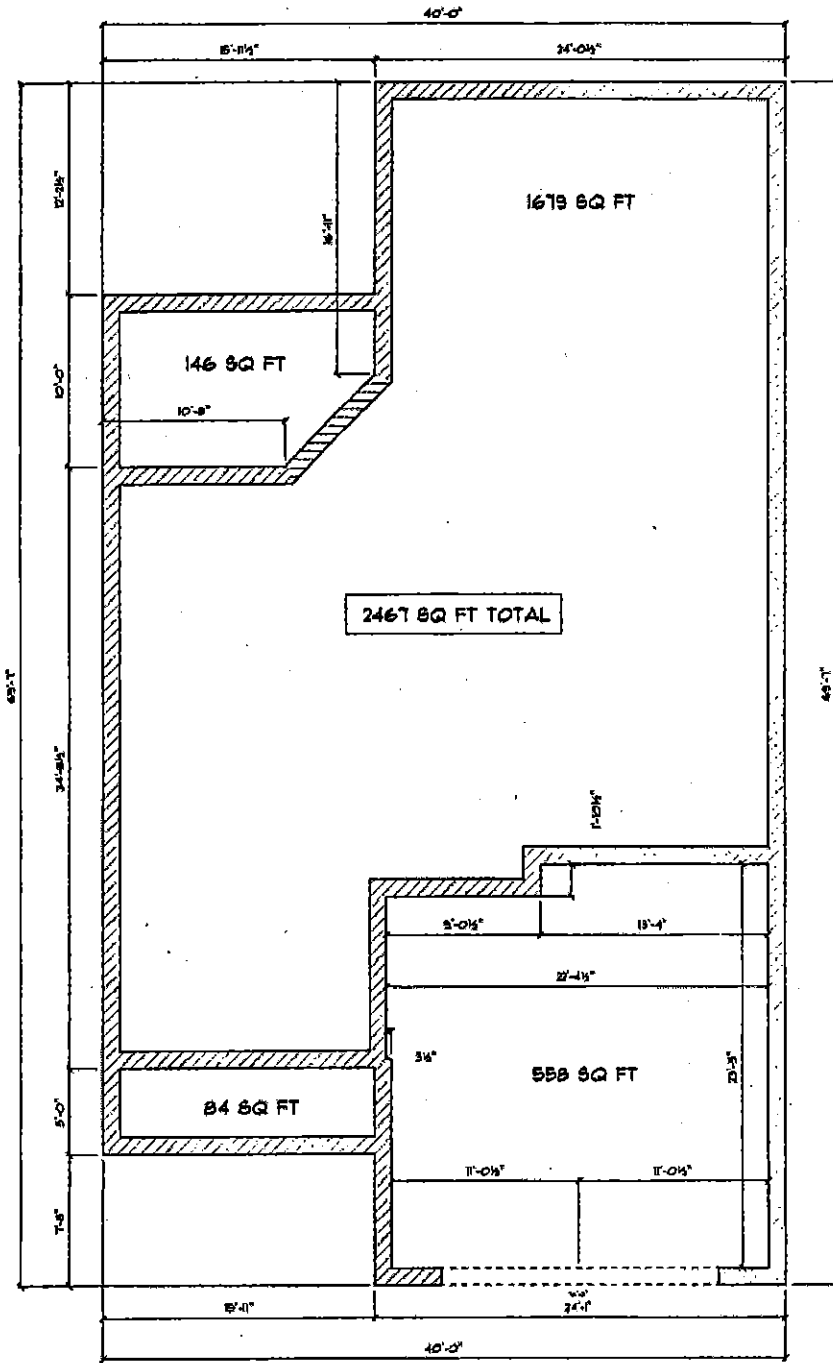


EXHIBIT B-3C  
UNIT 44 MADISON SUMMIT

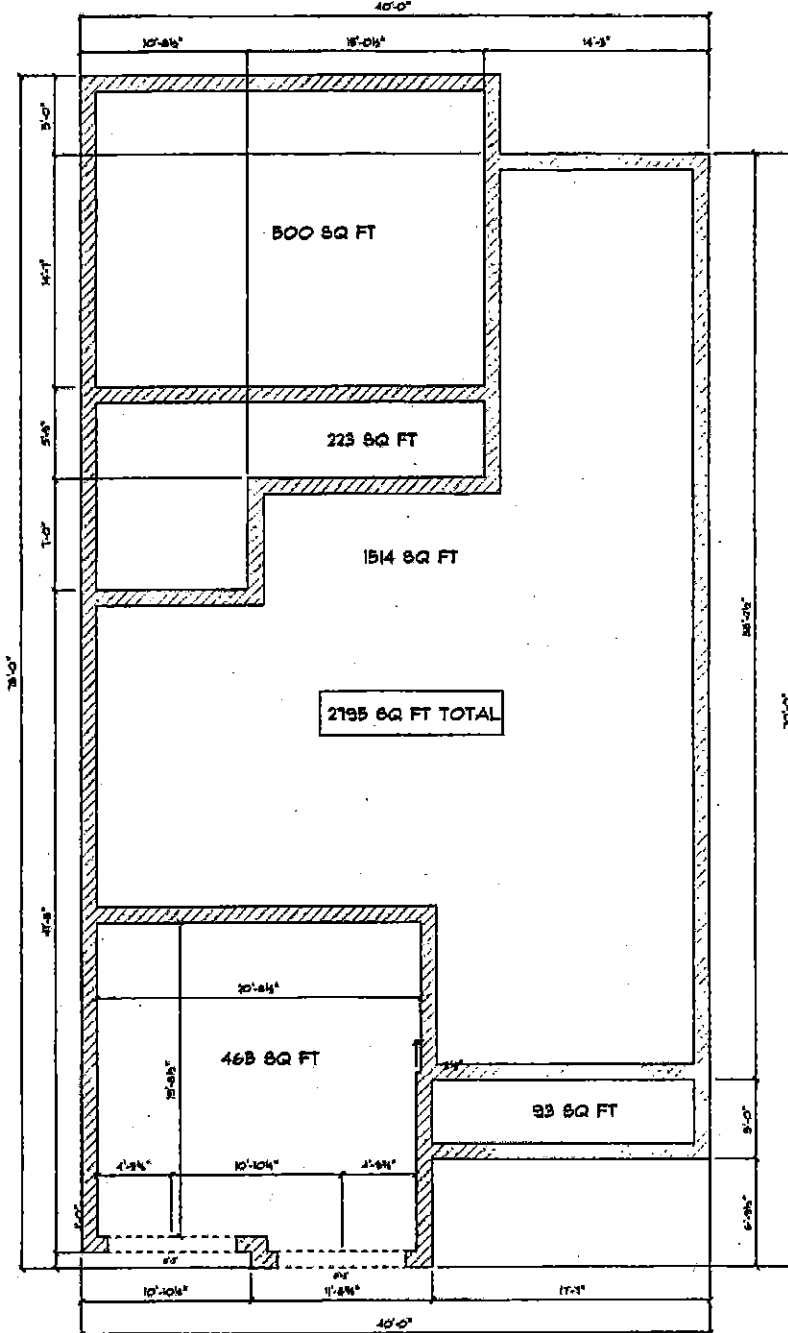
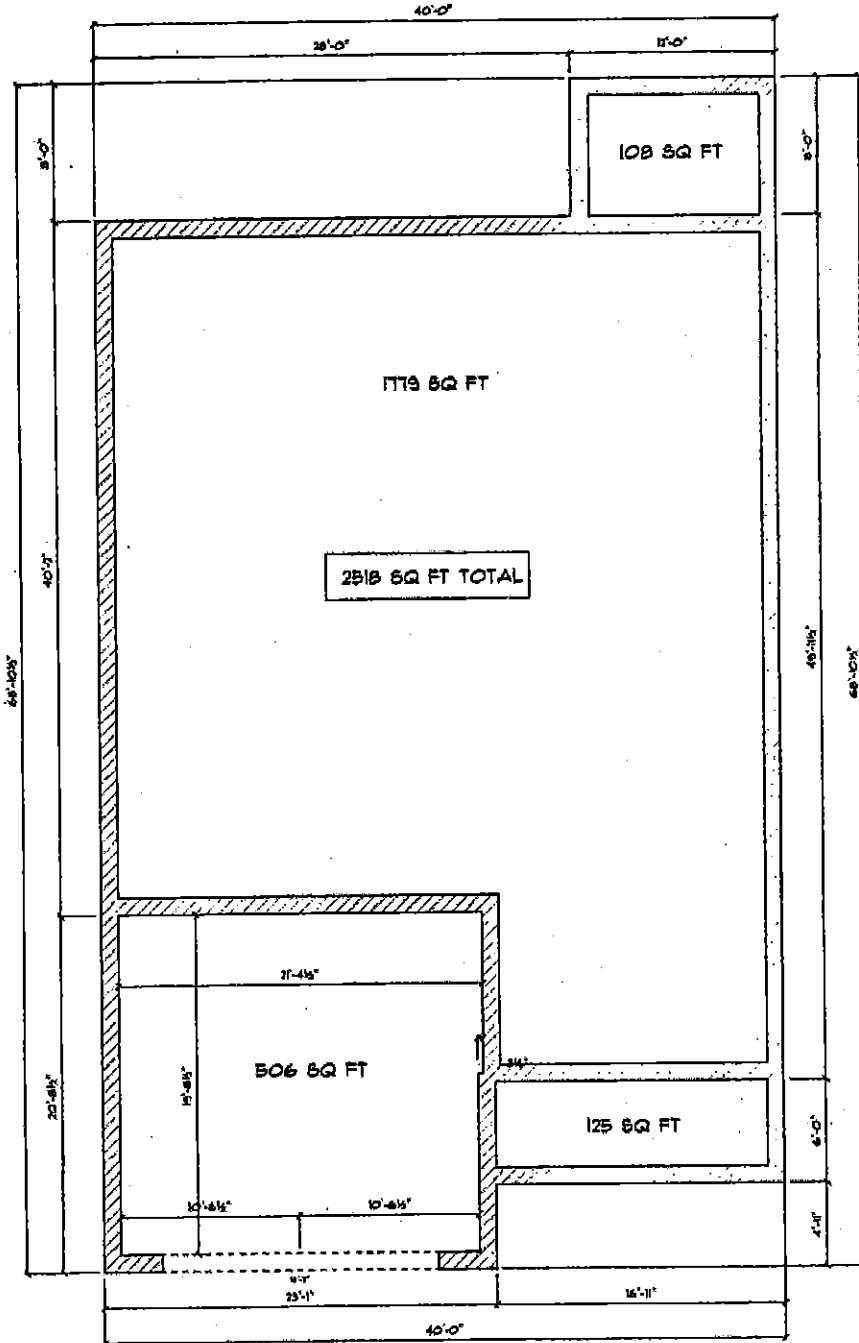


EXHIBIT B-3D  
UNIT 52 MADISON SUMMIT





**EXHIBIT C**

**BYLAWS OF**

**MADISON SUMMIT NEIGHBORHOOD ASSOCIATION**

These are the Bylaws of Madison Summit Neighborhood Association, a Tennessee nonprofit corporation (the "Association") whose members are comprised of those persons who hold ownership interests in the Units of Madison Summit, a planned unit development, located in Clarksville, Montgomery County, Tennessee, and whose membership is required by that certain Declaration (the "Declaration") of record in Official Record Book Volume 1284, Page 2261, Register's Office for Montgomery County, Tennessee. Capitalized terms used herein but not otherwise defined shall have the meanings ascribed thereto in the Declaration. The words "member" or "members" as used in these Bylaws mean and shall refer to "Unit Owner" or "Unit Owners," as the case may be, as defined in the Declaration.

**ARTICLE I  
PLAN OF UNIT OWNERSHIP**

**Section 1. Unit Ownership.** The property located in Clarksville, Montgomery County, Tennessee, described in the Declaration, hereinafter called the "Regime", has been submitted to the provisions of the Horizontal Property Act of the State of Tennessee by the Declaration.

**Section 2. Applicability of Bylaws.** The provisions of these Bylaws are applicable to the Regime and to the use and occupancy thereof. The term "Regime Property" as used herein shall include the land, the building, and all other improvements thereon, all easements, rights, and appurtenances belonging thereto, and all other property, personal, or mixed, intended for use in connection therewith, all of which have been submitted to the provisions of the Horizontal Property Act of the State of Tennessee. The Association has been formed to administer the affairs of the Regime.

**Section 3. Application.** All present and future Owners, mortgagees, and occupants of Units and their lessees, tenants, and employees, and any other persons who may use the facilities of the Regime in any manner are subject to these Bylaws and the Declaration. The acceptance of a deed or conveyance, or the act of occupancy of a Unit, shall constitute an acceptance of the provisions of these instruments and an agreement to comply therewith.

**Section 4. Office.** The office of the Association shall be located at Clarksville, Montgomery County, Tennessee. The Board of Directors shall have full power and authority to change the principal office from one location to another by appropriate resolution. The Association may also have offices at such other places, within or without the State of Tennessee, as the Board may from time to time designate, or as the business of the Association may require.

## ARTICLE II MEETINGS OF MEMBERS

**Section 1. Place of Meetings.** Meetings of members shall be held at any place within the State of Tennessee, designated by the Board of Directors or by the written consent of all persons entitled to vote thereat. In the absence of any such designation, members' meetings shall be held at the principal office of the Association. Any meeting is valid wherever held if held by the written consent of all persons entitled to vote thereat, given either before or after the meeting and filed with the Secretary of the Association.

**Section 2. Annual Meeting.** Commencing in the first year following the year in which the administration of the affairs of the Association are transferred from the Developer to the members of the Association, an annual meeting of the members of the Association shall be held on the first Sunday in March of each year (or if that be a legal holiday, then on the next succeeding Sunday) between the hours of 1:00 p.m. and 9:00 p.m., for the election of Directors and for the transaction of such other business as may be brought before the meeting.

**Section 3. Special Meetings.** Special meetings of the members may be called on the order of the President or of a majority of the Board of Directors, or upon the written request of members holding twenty-six percent (26%) or more of the total votes of the Association. Business transacted at a special meeting shall be confined to the purposes stated in the notice for that meeting.

**Section 4. Fixing Record Date.** For the purpose of determining the members entitled to notice of any meeting, or any adjournment thereof, or for the purpose of any other action, the Board shall fix in advance a date as the record date for such determination. Such date shall not be more than thirty (30) nor less than ten (10) days before the date of the meeting. If no record date is fixed, then the date shall be determined in accordance with the provisions of law relating thereto. Any Unit Owner who is in default with respect to any provision of the Declaration and/or these Bylaws shall not be entitled to vote at any meeting of the members for so long as such default continues.

**Section 5. Notice.** Written or printed notice stating the place, date and hour of the meeting, and in the case of a special meeting, a statement in general terms of the purpose or purposes for which the meeting is called and the person or persons calling the meeting, shall be delivered either personally or by mail, by or at the direction of the President, Secretary, or other person calling the meeting to each member entitled to vote at the meeting. If mailed, such notice shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, and shall be deemed delivered when deposited in the United States mail addressed to the member at his address as it appears on the books of the Association, with postage thereon prepaid. If delivered personally, such notice shall be delivered not less than five (5) nor more than sixty (60) days before the date of the meeting, and shall be deemed delivered when actually received by the member. The person giving such notice shall certify that the notice required by this paragraph as been given, unless such notice is waived. Notice may be waived prior to, at, or subsequent to any meeting. Attendance of any member at a meeting, in person or by proxy, shall constitute a waiver of notice of the meeting by such member.

**Section 6. Voting Rights.** The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners, with one (1) vote granted to each Unit; *provided that*, notwithstanding the foregoing, or anything else contained in the Declaration, the Charter of Incorporation, or these Bylaws, until the expiration of the Period of Developer Control, the Developer shall have three (3) votes for each Unit owned by it and held for sale to an end purchaser.

**Section 7. Quorum.** Members representing twenty-six percent (26%) or more of the votes entitled to be cast at any meeting, present in person or by proxy, shall constitute a quorum for the transaction of business, except as may otherwise be provided by law, by the Association's Charter of Incorporation, the Declaration, or these Bylaws. If a quorum shall not be present or represented by proxy at any such meeting, then those entitled to vote thereat, present in person or represented by proxy, may adjourn the meeting from time to time and notice of an adjourned meeting need not be given if the time and place to which it is adjourned are announced at the meeting at which adjournment is taken. At any such adjourned meeting the quorum required shall be one-half (1/2) the quorum required at the preceding meeting, *provided that*, a quorum shall never consist of less than one-tenth (1/10th) of the total number of votes entitled to be cast by all members. No such adjourned meeting shall be held more than sixty (60) days following the preceding meeting or, if it is so held, the quorum required shall again be twenty-six percent (26%) of the votes entitled to be cast. When a quorum is present to organize the meeting, it cannot be broken by the subsequent withdrawal of a member or members.

**Section 8. Proxies.** Every member entitled to vote at a meeting may do so either in person or by written proxy, which proxy shall be signed and dated and filed with the Secretary of the meeting before being voted. Such proxy shall entitle the holders thereof to vote at any adjournment of such meeting, but shall not be valid after the final adjournment thereof, unless otherwise provided therein. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy.

**Section 9. Chairman of Meeting.** The Chairman of the Board or the President, or in their absence, a Vice President, shall preside at all meetings of the members. In the absence of the Chairman, the President, and the Vice President, the Board may appoint any member to act as Chairman of the meeting.

**Section 10. Secretary of Meeting.** The Secretary of the Association shall act as secretary at all meetings of the members and, in his or her absence, the Chairman may appoint any person to act as secretary for the meeting.

**Section 11. Order of Business.** The order of business at the annual meeting of the members shall be as follows:

- (a) Calling the roll and certifying the proxies.
- (b) Proof of notice of the meeting or certificates as to waivers.

- (c) Reading and disposal of unapproved minutes.
- (d) Reports of the officers of the Association.
- (e) Reports of the Board of Directors of the Association.
- (f) Reports of Committees.
- (g) Selection and appointment of inspectors of election (if deemed necessary).
- (h) Election of Board of Directors of the Association.
- (i) Unfinished business.
- (j) New business.
- (k) Adjournment.

**Section 12. Order of Business at Other Meetings.** The order of business at all other meetings of the members shall as far as practical conform to the order of business at the annual meeting insofar as the special purpose of the meeting will permit.

### **ARTICLE III BOARD OF DIRECTORS**

**Section 1. Management of Association.** The property, business and affairs of the Association shall be managed and controlled by its Board of Directors. The Board shall, without limitation, have the following powers and duties:

- (a) To elect and remove the officers of the Association, as hereinafter provided;
- (b) To administer the affairs and property of the Association;
- (c) To formulate policies for the administration, management and operation of the Common Elements and the Property;
- (d) To adopt rules and regulations governing the administration, management, operation and use of the Common Elements and the Property, and to amend such rules and regulations from time to time;
- (e) To provide for the maintenance, repair and replacement of the Common Elements, and payment therefor, and to approve payment vouchers or to delegate such approval to the officers;

(f) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Elements. The Board is affirmatively given the power to contract for such services with the Developer, so long as the amount to be paid the Developer under such contract is fair, reasonable, and in the best interests of the Association;

(g) To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board, as set out in Section 12 of this Article III;

(h) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(i) To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Unit Owners and members their respective shares of such estimated expenses, as provided in the Declaration and in these Bylaws;

(j) To borrow money if necessary to avoid an operating or other deficit in the Association's finances, or to provide funds in an emergency, or for any purpose deemed necessary by them, to pledge the Association's assets to secure such borrowing, and to provide for a special assessment, if necessary, to repay such borrowing; and

(k) To impose fines for violations of the Act, the Charter of Incorporation, the Declaration, these Bylaws, or any rules and regulations or published policies adopted by the Board which govern the administration, management, operation and use of the Common Elements and/or the Property.

**Section 2. Period of Developer Control.** Notwithstanding anything to the contrary contained herein, the Developer will have the exclusive authority to appoint and remove directors and officers until the earlier to occur of: (1) five (5) years after the recording of the Declaration creating the Regime; (2) four (4) months after the date as of which seventy five percent (75%) of the Units of the Regime Project shall have been conveyed to Owners other than the Developer or an affiliate of the Developer; or (3) the surrender in writing by the Developer of the authority to appoint and remove directors and officers of the Association (the "Period of Developer Control"); provided, however, if necessary to comply with federal regulations applicable to mortgagees, such period shall end no later than the earliest of the dates prescribed in (1), (2), and (3) above.

**Section 3. Qualification.** Until the expiration of the Period of Developer Control, Directors need not be members of the Association. After such expiration, the Directors shall be members of the Association or spouses of members of the Association. All Directors must be of legal age. They shall be elected by a plurality of the votes cast at the annual meeting of the Association. Each Director shall hold office until the expiration of the term for which he is elected, and thereafter until his successor has been duly elected and qualified.

**Section 4. Number and Term of Office.** Until the expiration of the Period of Developer Control, the Board shall consist of three (3) persons. Thereafter, the Board shall consist of five (5) persons. If the expiration of the Period of Developer Control occurs prior to an annual meeting, the Developer may appoint five persons to serve as directors until the next annual meeting. At the first annual meeting at which Directors are elected, two (2) members shall be elected to serve for a term of one (1) year, two (2) to serve for two (2) years, and one (1) to serve for three (3) years. At all subsequent elections, members of the Board shall be elected to serve for a term of three (3) years. The Board may be enlarged in multiples of two (2), by vote of a majority of the members, but in no event shall the Board consist of more than thirteen (13) members.

**Section 5. Nomination and Election.**

(a) Prior to each annual meeting of the Association, there shall be appointed by the President a nominating committee of three (3) members of the Association or the Board of Directors. The nominating committee shall meet promptly and after considering the qualifications of persons shall nominate a person or persons to be elected members of the Board at the forthcoming annual meeting of the Association.

(b) Nominations may also be made from the floor at any annual meeting or special meeting called for the purpose of electing directors.

(c) The candidate receiving a plurality of the votes cast for the office shall be declared elected. In the case of members of the Board, those receiving the greater number of votes out of the number to be cast shall be declared elected, and in case of a tied vote as to the last place to be filled, a new ballot shall be cast in order to determine the last successful candidate.

(d) No member who has failed to pay any dues or assessments to the Association, nor any member against whom a lien therefor is being prosecuted or foreclosed, shall be eligible for election as an officer or a member of the Board.

(e) A vacancy created by the death, resignation, withdrawal or removal of a director may be filled by the remaining directors then in office. Directors elected to fill any vacancy due to death, resignation, withdrawal or removal shall serve for the remaining unexpired term of the Director they replace. Otherwise, Directors shall be elected to serve for three years.

(f) If the number of Directors shall have been increased, the additional Directors shall be elected at the annual or a special meeting called for that purpose in the manner prescribed herein.

**Section 6. Removal and Resignation.** After the expiration of the Period of Developer Control:

(a) A Director may be removed for cause by vote or action taken by the Board or by the Association membership at a special meeting called for that purpose.

(b) Directors may be removed without cause only by vote of the members at a meeting duly called for that purpose or at the annual meeting.

(c) A Director may resign at any time by giving written notice to the Board, the President, or the Secretary. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board or by the officers designated to receive the same, and acceptance of the resignation shall not be necessary to make it effective.

**Section 7. Annual and Regular Meetings.** The annual meeting of the Board of Directors, of which no notice shall be necessary, shall be held immediately following the annual meeting of the membership, or immediately following any adjournment thereof, for the purpose of organizing the Board, for the election or appointment of officers for the ensuing year, and for the transaction of such other business as may be conveniently and properly brought before such meeting. The Board may also designate more frequent intervals for regular meetings.

**Section 7. Special Meetings.** Special meetings of the Board may be called by order of the Chairman of the Board, the President or by any two (2) Directors, and shall be held in Clarksville, Tennessee. The place of said meeting shall be noted in the call for the meeting.

**Section 8. Notice of Directors Meetings.** The annual and all regular Board meetings may be held without notice. The Secretary shall give notice of the time, place and purpose or purposes of any special meeting by mailing the same at least five (5) days before the meeting or by telephoning or telegraphing the same at least three (3) days before the meeting to each Director at his address as it appears on the books of the Association. Such notice may be waived prior to, at, or subsequent to any such meeting.

**Section 9. Conduct of Meetings.** At meetings of the Board of Directors, the Chairman of the Board, the President, or a designated Vice President shall preside. The Secretary or Assistant Secretary shall keep minutes of the meeting or, in their absence, the presiding officer shall appoint any person to keep such minutes.

**Section 10. Quorum and Vote.** The presence of a majority of the Directors shall constitute a quorum for the transaction of business, but less than a quorum may adjourn any meeting from time to time until a quorum shall be present. No notice of an adjourned meeting need be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, if the period of adjournment does not exceed thirty (30) days in any one adjournment. The vote of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the vote of a greater number is required by the Declaration, the Association's Charter, these Bylaws, or the laws of the State of Tennessee.

At any meeting at which every Director shall be present, even though without notice, any business may be transacted.

**Section 11. Voting by Consent.** Whenever the Directors of this Corporation are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, and signed by all the Directors entitled to vote thereon.

**Section 12. Executive and Other Committees.** The Board of Directors, by resolution adopted by a majority of its members, may designate an Executive Committee, consisting of two (2) or more Directors, and other committees, consisting of two (2) or more persons, who may or may not be Directors, and may delegate to such committees any and all such authority as it deems desirable, including the right to delegate to an Executive Committee the power to exercise all the authority of the Board in the management of the affairs and property of the Corporation, except the following:

- (a) The power to recommend to members any action requiring their approval;
- (b) The power to change the membership of any committee at any time;
- (c) The power to fill vacancies in the Board or any committee; and
- (d) The power to discharge any committee either with or without cause at any time.

During the intervals between meetings of the Board, the Executive Committee, if any, shall advise and aid the officers of the Association in all matters concerning its interest and the management of its business. The Executive Committee may fix its own rules of procedure and shall elect a Chairman and Secretary. A majority shall constitute a quorum, but the affirmative vote of a majority of the whole committee shall be necessary in the taking of any action. The Executive Committee shall keep regular minutes of its meetings and report the same to the Board at its next regular or special meeting.

**Section 13. Managing Agent and Manager.** The Board may employ for the Regime a managing agent or a manager at a compensation established by the Board, to perform such duties and services as the Board shall authorize.

**Section 14. Compensation.** The Directors shall receive such compensation for their services as Directors and as members of any committee appointed by the Board as may be authorized by vote of the Unit Owners. In the absence of any appropriate action by the Unit Owners, the Directors shall receive no compensation but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

**Section 15. Liability of the Board/Indemnity.** The Association shall indemnify every officer, Director, employee or other agent of the Association (each, an "Indemnified Party") against any and all expenses, including but not limited to reasonable attorney's fees and



litigation costs, incurred or imposed upon them in connection with any action, suit or other proceeding (including the settlement of any such action, suit or proceeding if approved by the Board) to which an Indemnified Party may be a party by reason of being or having been an officer, Director, employee or agent of the Association, whether or not such Indemnified Party is an officer, Director employee or agent at the time such expenses are incurred or imposed. Except to the extent required by the Act, the Indemnified Parties shall not be liable to the Members for any mistake in judgment, negligence, or otherwise, except for their own gross negligence, willful misconduct or bad faith. The Indemnified Parties shall have no personal liability with respect to any contract or other agreement or obligation of the Association made by them, in good faith, on behalf of the Association or the Members (except to the extent that such Indemnified Parties may be liable in their capacity as Owners), and the Association shall indemnify, defend and hold harmless such Indemnified Parties from and against any and all liability on account of any such contract, agreement or obligation. The foregoing indemnification shall be in addition to, and not exclusive of, any other rights to which any current or former Indemnified Party may be entitled. The Board is authorized to purchase insurance to fund the foregoing indemnification.

#### ARTICLE IV OFFICERS

**Section 1. Number and Qualifications.** The Association shall have a President and a Secretary, and such other officers as the Board shall from time to time deem necessary or advisable. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. An officer may be removed at any time by a majority vote of the entire Board.

**Section 2. Election and Term.** The officers shall be elected by the Board of Directors at its annual meeting. Each officer shall serve until the expiration of the term for which he is elected, and thereafter until his successor has been duly elected and qualified or until removed as herein provided.

**Section 3. Duties of Officers.** Officers shall have such authority and perform such duties in the management of the Association as are hereinafter set out, and such additional duties as are normally incident to their offices and as the Board may from time to time prescribe.

**Section 4. Duties of President.** The President shall be the Chief Executive Officer of the Association and, when present, shall preside at all meetings of the membership and, unless a Chairman of the Board has been elected and is present, shall preside at the meetings of the Board of Directors. The President or Vice President, unless some other person is specifically authorized by vote of the Board of Directors, shall sign all documents on behalf of the Association, including, but not limited to, deeds, mortgages, leases and contracts of the Association.

**Section 5. Duties of Vice President.** The Vice President shall perform the duties and have the powers of the President during the absence or disability of the President.

**Section 6. Duties of Secretary.** The Secretary shall keep accurate minutes of all meetings of the membership and the Board of Directors and, to the extent ordered by the Board of Directors or the President, the minutes of meetings of all committees. He shall cause notice to be given of meetings of members, of the Board of Directors and, when requested to do so, of any committee appointed by the Board. He shall have general charge of the records, documents and papers of the Association which shall, at all reasonable times, be open to examination by any Director or member. He may sign or execute contracts with the President or a Vice President thereunder authorized in the name of the Association.

**Section 7. Duties of Treasurer.** The Treasurer, subject to the order of the Board of Directors, shall be responsible for the money and funds of the Association and shall deposit such monies and funds in the name of the Association in such banks as the Board of Directors may designate. The Treasurer shall make, sign, and endorse the name of the Association on all checks, drafts, notes and other orders for the payment of money, and pay out and dispose of its funds under the direction of the President or the Board of Directors. No payment for any purpose in excess of the amount budgeted for that purpose shall be made without approval of the Board of Directors. If required by the Board, the Treasurer shall give such bond as shall be determined appropriate for the faithful performance of his duties.

**Section 8. Compensation of Officers.** The officers shall receive such salary or compensation as may be fixed by the Board of Directors and approved by the Unit Owners. If no action is taken to set such salary, then they shall serve without compensation.

**Section 9. Resignations.** Any officer may resign at any time by giving written notice to the Chairman of the Board, the President or the Secretary. Any such resignation shall take effect at the time specified therein, or if no time is specified, upon its acceptance by the Board of Directors.

**Section 10. Removal of Officers.** Any officer or agent may be removed by the Board, with or without cause, whenever in its judgment the best interests of the Association will be served thereby.

#### **ARTICLE V OPERATION OF THE PROPERTY**

**Section 1. Determination of Common Expenses and Common Charges.** The Board shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of the common charges required to meet the common expenses of the Association, and allocate and assess such common charges against the Unit Owners, other than the Developer with respect to unoccupied Units held by it for sale (with respect to which the Developer shall pay the actual expenses), according to their respective percentages of ownership in the Common Elements. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of Section 9 of this Article V. The common expenses may also include such amounts as the Board may deem proper for the operation and maintenance of the Regime property, including, without limitation, an amount for working capital of the

Association, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The Board shall advise each Unit Owner in writing of the amount of common charges payable by him or her, and shall furnish copies of each budget on which such common charges are based to all Unit Owners and to their mortgagees.

**Section 2. Purpose of Assessments.** The assessments levied by the Board shall be used exclusively to promote the health, safety, and welfare of the Unit Owners and in particular for the improvement and maintenance of the Units and Common Elements, including, without limitation, maintenance, repair and reconstruction. Such maintenance shall include, but not be limited to the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Elements, the procurement and maintenance of insurance in accordance with the Declaration, the employment of attorneys to represent the Board when necessary, the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, roofs, paving, and any other major expense for which the Board is responsible, and such other needs as may arise.

**Section 3. Reserves.** The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Regime property which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expenses. This Section shall not be construed to limit or restrict in any way the Board's authority to impose special assessments in accordance with Section 4 below.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments, the Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Parcel or Common Elements, or for any other purpose deemed appropriate by the Board in the exercise of its reasonable judgment. The Board may permit any special assessment to be paid in installments over any period deemed reasonable by the Board even though such period may extend beyond the year in which the special assessment is levied.

**Section 5. Rate of Assessment.** Both annual and special assessments shall, except as herein otherwise specifically provided, be based on the percentage interest in the ownership of the Common Elements appurtenant to each constructed Unit. The amount of the assessment owed by each Unit Owner (other than unoccupied Units held by the Developer for sale) shall be calculated by multiplying the total assessment by a fraction, the numerator of which is one (1) and the denominator of which the total number of the constructed Units comprising the Regime Project. Annual assessments shall be collected on a monthly basis. Special assessments shall be collected as determined by the Board. Notwithstanding the foregoing, an increase in the annual assessment that is more than twenty-five percent (25%) of the assessment for the previous year must be approved by Owners of Units possessing at least sixty-seven percent (67%) of the total voting power of the Association and Eligible Mortgagees of Units who represent at least fifty-

one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgagees.

**Section 6. Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence as to each Unit on the first day of the month following the conveyance of the Unit, or at such other time as may be determined by the Board. Such annual assessments shall be paid ratably on a monthly basis. Thereafter, the Board shall fix the amount of annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Unit Owner subject thereto. The due dates shall be established by the Board. The Board shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Board setting forth whether the assessments on a specified Unit have been paid.

**Section 7. Effect of Nonpayment of Assessments: Remedies of the Board.** Any assessment not paid within fifteen (15) days after the due date shall be considered late and subject to a late fee, the amount of which shall be determined from time to time by the Board. The Board may bring an action at law against the Unit Owner personally obligated to pay the same and/or may foreclose the lien against the property and in either event late fees, interest, costs and reasonable attorney's fees of any such action shall be added to the assessment. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or its Unit.

For the purpose of rendering unnecessary court proceedings for the enforcement of said lien in the event of the nonpayment of assessments, and for the consideration of one dollar (\$1.00) paid in cash, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Unit Owners and each of them, and their respective heirs, successors, administrators, and assigns, hereinafter referred to as Trustors, hereby transfer and convey unto Larry A. Rocconi, Trustee, his successors and assigns, their respective Units with the appurtenances, estate, title and interest thereto belonging upon the use and trusts set forth in this paragraph.

If the Trustor shall pay the assessments when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Unit. If the assessments with respect to any Unit are not paid promptly when due, this trust conveyance shall remain in full force and effect and the said Trustee, or his successor in trust, is hereby authorized and empowered upon giving twenty (20) days notice by three publications in any newspaper, daily or weekly, of general circulation published in Montgomery County, Tennessee, to sell said Unit at the front door of the Courthouse in said County to the highest bidder for cash, at public outcry, free from the equity of redemption or statutory redemption, and all exemptions of every kind, which are hereby expressly waived and the said Trustee or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Board may bid and become the purchaser at any such sale. The Board may, at any time after default in the payment of any assessment, enter and take possession of said property and shall only account for the net rents actually received by it. It is further agreed that, in the event the Board fails, before instructing Trustee to sell said Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a

deed for said property. In the case of sale hereunder, the proceeds will be applied by the Trustee as follows:

(1) First, to the payment of all costs, charges, and expenses of executing this conveyance and enforcing said lien as herein provided, including reasonable attorney's fees and expenses incurred for instituting or defending any litigation which may arise on account of the execution of this conveyance, or the enforcement of said lien;

(2) Second, to the payment of all taxes which may be unpaid with respect to such Unit;

(3) Third, to the payment of all unpaid assessments with respect to such Unit;

(4) Fourth, the residue, if any will be paid to the Unit Owner, his order, representative or assigns.

In the case of death, absence, inability, or refusal to act of said Trustee at any time when action under the foregoing power and trust may be required or for any other reason, the Board is hereby authorized and empowered to name and appoint a successor to the Trustee by an instrument of writing to be recorded in the Register's Office for Montgomery County, Tennessee, and the title herein conveyed to the above named Trustee shall be vested in said successor.

**Section 8. Statement of Common Charges.** The Board shall promptly provide any Unit Owner, who makes a request in writing, with a written statement of his unpaid common charges.

**Section 9. Insurance.** The Board shall obtain and maintain insurance as required by the Declaration.

**Section 10. Repair or Reconstruction After Damage.** In the event of damage to or destruction of the Building as a result of fire or other casualty, the Board shall proceed as required by the applicable provisions of the Declaration.

**Section 11. Abatement and Enjoining of Violations.** The violation of any rule or regulation adopted by the Board, or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

**Section 12. Maintenance and Repair.**

(a) All maintenance of and repairs to any Unit, structural or nonstructural, ordinary or extraordinary, shall be made by the Owner of such Unit other than maintenance of and repairs to any Common Elements contained therein not necessitated by the negligence, misuse, or neglect of the Owner of such Unit. Each Unit Owner shall be responsible for all damages to any other Unit and to the Common Elements resulting from his failure to effect such maintenance and repairs.

(b) All maintenance, repairs, and replacements to the Common Elements, whether located inside or outside of the Units shall be made by the Association and be charged to all the Unit Owners as a common expense, unless necessitated by the negligence, misuse, or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner.

(c) All maintenance, repairs, and replacements to the Limited Common Elements shall be made as provided for in the Declaration.

**Section 13. Use of Units.** In order to provide for congenial occupancy of the Regime property and for the protection of the values of the Units, the use of the Regime property shall be subject to the following limitations:

(a) The common elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incidental to the use and occupancy of Units.

(b) No nuisances shall be allowed on the Regime property nor shall any use or practice be allowed which is a source of annoyance or which interferes with the peaceful possession or proper use of the Regime property by its Unit Owners.

(c) No immoral, improper, offensive, or unlawful use shall be made of the Regime property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be complied with. Such compliance shall be accomplished at the sole expense of the Unit Owners or the Board, whichever shall have the obligation to maintain or repair such portion of the Regime property.

**Section 14. Additions, Alterations, or Improvements by Board.** Whenever in the judgment of the Board the common elements shall require additions, alterations, or improvements, the Board shall proceed with such additions, alterations, or improvements and shall assess all Unit Owners for the cost thereof as a common charge.

**Section 15. Additions, Alterations, or Improvements by Unit Owners.** No Unit Owner shall make any structural addition, alteration, or improvement in or to his or its Unit, without the prior written consent thereto of the Board. The Board shall answer any written request by a Unit Owner for approval of a proposed structural addition, alteration, or improvement in such Unit owner's Unit, within 30 days after such request. Failure to do so within the stipulated time shall constitute the consent of the Board to the proposed addition,

alteration, or improvement. Any application to any governmental authority for a permit to make an addition, alteration, or improvement in or to any Unit shall be executed by the Board. The Board shall not be liable to any contractor, subcontractor, or materialman or to any person sustaining personal injury or property damage, for any claim arising in connection with such addition, alteration, or improvement.

**Section 16. Use of Common Elements and Facilities.** A Unit Owner shall not place any furniture, or objects in the public halls, stairways, elevators, or other common areas or common facilities, except in an area designated as a storage area. The public halls, stairways, and elevators shall be used for no purpose other than for normal transit.

**Section 17. Right of Access.** A Unit Owner shall grant a right of access to his Unit to the manager (if any), the managing agent (if any), and any other person authorized by the Board, the manager, or the managing agent, to make inspections; to correct any condition originating in his Unit and threatening another Unit or a Common Element; to install, alter, or repair mechanical or electrical services or other common elements in his Unit or elsewhere in the building; and to correct any condition which violates the provisions of any mortgage covering another Unit. Requests for such entry shall be made in advance and such entry shall be scheduled for a time reasonably convenient to the Unit Owner. However, in case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

**Section 18. Rules of Conduct.** The Board may promulgate and amend rules and regulations governing the use of the Units and the Common Elements. The Board shall furnish copies of such rules and regulations to each Unit Owner prior to their effective date.

**Section 19. Utilities.** Contracts and/or arrangements for utilities shall be made by the Board for all Units, except in instances where the Units are separately metered, and for the Common Elements, with the cost of such utilities being a common expense.

#### **ARTICLE VI MORTGAGES**

**Section 1. Mortgage of Units.** No Unit Owner shall mortgage his Unit except by a first mortgage made to a bank, trust company, insurance company, federal savings and loan association, pension fund, or other institutional lender, or by a home equity loan or a purchase money mortgage to the Developer.

**Section 2. Notices to Board.** A Unit Owner who mortgages his Unit shall notify the Board of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board.

**Section 3. Notice of Unpaid Common Charges.** The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges or other default by the Owner of the mortgaged Unit.

**Section 4. Notice of Default.** The Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board.

**Section 5. Examination of Books.** Each Unit Owner and each mortgagee of a Unit shall be permitted to examine the books of account of the Regime at reasonable times, on business days, but not more often than once a month.

#### **ARTICLE VII CONDEMNATION**

**Section 1. Condemnation.** In the event of a taking in condemnation or by eminent domain of part or all of the common elements, the award made for such taking shall be payable to the Association, and shall be distributed as provided in the Declaration.

#### **ARTICLE VIII RECORDS**

**Section 1. Records and Audits.** The Board or the managing agent (if any) shall keep detailed records of the actions of the Board, minutes of the meetings of the Board, and financial records and books of account of the Association, including a chronological listing of receipts and expenditures, as well as a separate account for each Unit which, among other things, shall contain the amount of each assessment of common charges against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board to all Unit Owners at least annually.

#### **ARTICLE IX SECURITY**

The Association or Developer may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve security on the Regime property; however, each Unit Owner, and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that neither the Association nor Developer is a provider of security and neither party shall have a duty to provide security on the Regime property. Furthermore, the Association does not guarantee that non-owners and non-occupants will not gain access to the Regime property and commit criminal acts on the Regime property nor does the Association guarantee that criminal acts on the Regime property will not be committed by other Unit Owners or occupants. It shall be the responsibility of each Unit Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Unit Owner. Neither Developer nor the Association shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.



**ARTICLE X  
LOSS OR DAMAGE TO PERSONAL PROPERTY**

Neither Developer nor the Association shall be held liable for any loss or damage to any personal property placed or kept in any Unit, parking space, or storage space, on the Regime property. Each Unit Owner or occupant with use of a Unit, parking space, or storage space, who places or keeps a vehicle and/or any personal property in the vehicle, parking space, or storage space does so at his or her own risk.

**ARTICLE XI  
MISCELLANEOUS**

**Section 1. Notices.** All notices to the Board shall be hand-delivered or sent by registered or certified mail, in care of the managing agent, or if there is no managing agent, to the office of the Board or to such other address as the Board may hereafter designate from time to time. All notices to any Unit Owner shall be hand-delivered or sent by registered or certified mail to the Unit owned by such Unit Owner or to such other address as may have been designated by him or it from time to time, in writing, to the Board. All notices to mortgagees of Units, shall be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Board. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

**Section 2. Invalidity.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws.

**Section 3. Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws, or the intent of any provision thereof.

**Section 4. Gender.** The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

**Section 5. Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

**Section 6. Incorporation by Reference.** The provisions of the Declaration are incorporated herein by reference, and shall control any inconsistency with these Bylaws.

**ARTICLE XII  
AMENDMENTS TO BYLAWS**

**Section 1. Amendments to Bylaws.** Except as otherwise herein provided, these Bylaws may not be modified or amended without the acquiescence and affirmative vote of Unit Owners holding sixty-seven percent (67%) or more of the total voting rights in the Association and Eligible Mortgagees who represent at least fifty-one percent (51%) of the Units that are subject to mortgages held by Eligible

Mortgagees. All amendments or modifications shall be evidenced by an Amendment to Bylaws which Amendment shall be recorded in the Montgomery County Register's Office.

**ARTICLE XIII  
CONFLICTS**

**Section 1. Conflicts.** These Bylaws are set forth to comply with the requirements of the Horizontal Property Act of the State of Tennessee. In case any of these Bylaws conflict with the provisions of such statute or of the Declaration, the provisions of such statute or of the Declaration, as the case may be, shall control.

Connie W. Bell, Register  
Montgomery County Tennessee  
Rec #: 220717 Instrument #: 871142  
Rec'd: 45.00 Recorded  
State: 0.00 10/12/2010 at 12:01 PM  
Clerk: 0.00 in Volume  
EDP: 2.00 1355  
Total: 47.00 Pgs 730-738

This Instrument Prepared By:  
Larry A. Rocconi, Jr., Attorney  
308 South Second Street  
Clarksville, TN 37040

**MADISON PARTNERS, a  
Tennessee General Partnership**

**TO: AMENDMENT TO DECLARATION ESTABLISHING  
MADISON SUMMIT, A PLANNED UNIT DEVELOPMENT,  
created under TENN. CODE ANN. § 66-27-101 *et seq.***

**MADISON SUMMIT**

THIS AMENDMENT TO DECLARATION ESTABLISHING MADISON SUMMIT, A PLANNED UNIT DEVELOPMENT, created under TENN. CODE ANN. § 66-27-101 *et seq.*, executed as of the 5<sup>th</sup> day of October, 2010, at Clarksville, in the County of Montgomery, State of Tennessee, by MADISON PARTNERS, a TENNESSEE GENERAL PARTNERSHIP, consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland,

WITNESSETH:

THAT the Grantor and Declarant herein, Madison Partners, a Tennessee General Partnership, consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, are the owners of certain realty situated in Montgomery County, Tennessee by deed of record in Official Record Book Volume 1177, Page 2159, in the Register's Office for Montgomery County, Tennessee, and having recorded a Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. § 66-27-101. *et seq.*, by Declaration of record in Official Record Book Volume 1284, Page 2261, as amended in Official Record Book Volume 1297, Page 1180, Official Record Book Volume 1316, Page 940, Official Record Book Volume 1324, Page 2476, and Official Record Book Volume 1333, Page 2005, in the Register's Office for Montgomery County, Tennessee and by plat of record in Plat Book F, Page 712, in the Register's Office for Montgomery County, Tennessee, and any modifications, revisions, or amendments to said Declaration or Plat, to which reference is hereby expressly made;

WHEREAS, Paragraph 25. Amendment and Paragraph 14. Expansion of Projects of said Declaration, provide for the establishment, addition and inclusion of Units to Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. § 66-27-101. *et seq.*;

WHEREAS, Madison Partners, a Tennessee General Partnership consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, desire to amend the Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. § 66-27-101 *et seq.* as follows:

- A. Exhibit B-2 is amended to Exhibit B-2 Revision #5 and B-2a, attached hereto; said Exhibit B-2 Revision #5 establishes, adds and includes a new Unit under the Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. § 66-27-101. *et seq.*, and said Exhibit B-2a further identifies the existing Units and the location of each by setting forth the State Plane Coordinates for the same.
- B. Exhibit B-30, attached hereto, is incorporated and added to the Declaration to identify the new Unit.
- C. **4.2 Unit Boundaries.** (a) "All interior surfaces, exterior walls, exterior doors, exterior windows, foundations, porches, stoops, roof, balconies, shutters, window boxes, patios, decks, roofs, and any other element attached to a Unit structure are designated as the boundaries of a Unit, including any enclosed areas located at the rear of any Unit, which enclosure has been approved by the Board of Directors and shall not exceed five hundred (500) square feet in total enclosed area and the same shall be enclosed by a masonry fence, or approved equal material,"

**TO BE AMENDED AS FOLLOWS:**

**4.2 Unit Boundaries.** (a) "All interior surfaces, exterior walls, exterior doors, exterior windows, foundations, porches, stoops, roof, balconies, shutters, window boxes, patios, decks, roofs, and any other element attached to a Unit structure are designated as the boundaries of a Unit, including any enclosed areas located at the rear of any Unit, which enclosure has been approved by the Board of Directors and shall not exceed seven hundred (700) square feet in total enclosed area and the same shall be enclosed by a masonry fence, or approved equal material,"

- D. **14.1 Development Requirements.** (a) (10) "one (1) street tree is required per Unit to be installed 2.5 feet back from the curb and sidewalk is to meander around the tree to provide a minimum of 2.5 feet of clearance to the tree; tree shall be a two (2) inch caliper or larger Northern Red Oak or Chinese Elm;"

**TO BE DELETED IN ITS ENTIRETY, AS WELL AS ANY REFERENCES THERETO, AND REPLACED WITH:**

**14.1 Development Requirements.** (a) (10) "[*This section intentionally left blank.*]"

- E. **14.1 Development Requirements.** (a) (11) "all driveways are to be stamped concrete and sidewalks are to be broom finish with smooth edging;"

**TO BE AMENDED AS FOLLOWS:**

**14.1 Development Requirements.** (a) (11) "all driveways shall be concrete, with stamped concrete encouraged, but not required and sidewalks are to be broom finish with smooth edging;"

NOW, THEREFORE, Madison Partners, a Tennessee General Partnership, consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, amend the aforementioned Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. § 66-27-101. et seq. as follows:

- A. Exhibit B-2 is amended to Exhibit B-2 Revision #5 and B-2a, attached hereto; said Exhibit B-2 Revision #5 establishes, adds and includes a new Unit under the Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. § 66-27-101. *et seq.*, and said Exhibit B-2a further identifies the existing Units and the location of each by setting forth the State Plane Coordinates for the same.
- B. Exhibit B-3O, attached hereto, is incorporated and added to the Declaration to identify the new Unit.
- C. **4.2 Unit Boundaries. (a)** "All interior surfaces, exterior walls, exterior doors, exterior windows, foundations, porches, stoops, roof, balconies, shutters, window boxes, patios, decks, roofs, and any other element attached to a Unit structure are designated as the boundaries of a Unit, including any enclosed areas located at the rear of any Unit, which enclosure has been approved by the Board of Directors and shall not exceed five hundred (500) square feet in total enclosed area and the same shall be enclosed by a masonry fence, or approved equal material,"

**SHALL BE AMENDED AS FOLLOWS:**

**4.2 Unit Boundaries. (a)** "All interior surfaces, exterior walls, exterior doors, exterior windows, foundations, porches, stoops, roof, balconies, shutters, window boxes, patios, decks, roofs, and any other element attached to a Unit structure are designated as the boundaries of a Unit, including any enclosed areas located at the rear of any Unit, which enclosure has been approved by the Board of Directors and shall not exceed seven hundred (700) square feet in total enclosed area and the same

shall be enclosed by a masonry fence, or approved equal material,”

- C. 14.1 Development Requirements. (a) (10) “one (1) street tree is required per Unit to be installed 2.5 feet back from the curb and sidewalk is to meander around the tree to provide a minimum of 2.5 feet of clearance to the tree; tree shall be a two (2) inch caliper or larger Northern Red Oak or Chinese Elm;”

**IS DELETED IN ITS ENTIRETY, AS WELL AS ANY REFERENCES THERETO, AND REPLACED WITH:**


14.1 Development Requirements. (a) (10) “[This section intentionally left blank.]”


- D. 14.1 Development Requirements. (a) (11) “all driveways are to be stamped concrete and sidewalks are to be broom finish with smooth edging;”

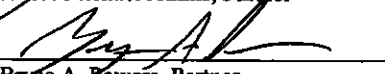
**SHALL BE AMENDED AS FOLLOWS:**

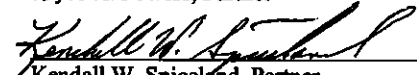
14.1 Development Requirements. (a) (11) “all driveways shall be concrete, with stamped concrete encouraged, but not required and sidewalks are to be broom finish with smooth edging;”

IN WITNESS WHEREOF, Grantors have executed this instrument the day and date first above written.

  
Robert S. Powers, Partner

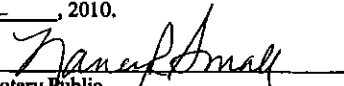
  
James Michael Atkins, Partner

  
Bryce A. Powers, Partner

  
Kendall W. Spiceland, Partner

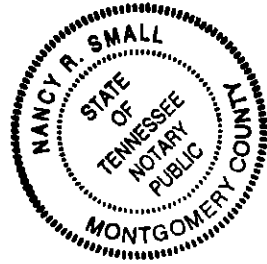
STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Personally appeared before me, the undersigned Notary Public in and for the State and County aforesaid, **Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland**, with whom I am personally acquainted, and who acknowledged the execution of the within instrument for the purpose therein contained and who further acknowledged that they are partners of **Madison Partners, a Tennessee General Partnership** (herein called the "Maker"), or a constituent of the Maker and is authorized by the Maker or by its constituent, the constituent being authorized by the Maker, to execute this instrument on behalf of the Maker on this 5 day of October, 2010.

  
Notary Public

My Commission Expires: 4/15/2014

J:\CMR\Restrictions\Madison Summit\Madison Summit Amendment (3) 9-29-2010.doc





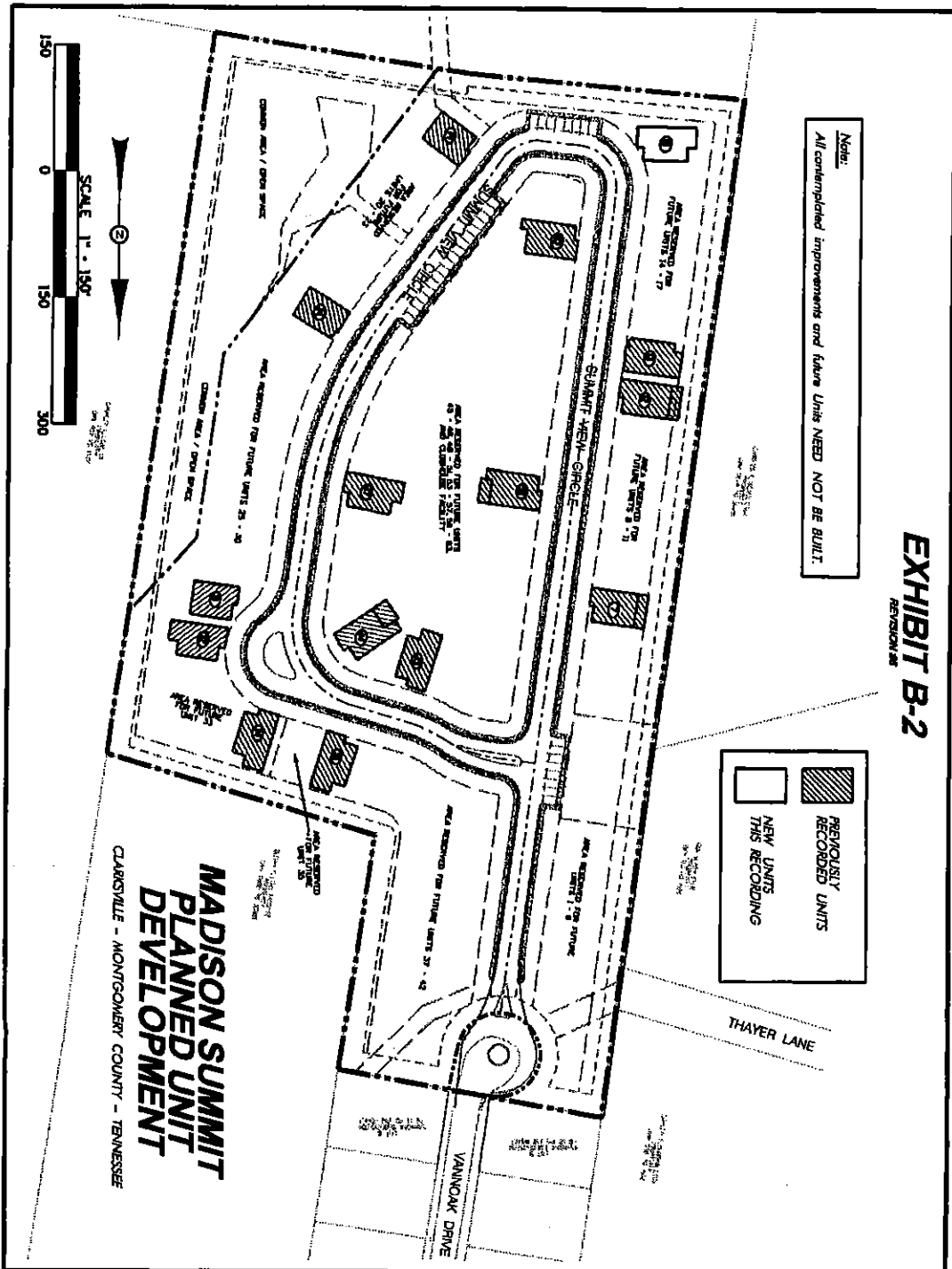


# EXHIBIT B-2

REVISION 02

Note:  
All contemplated improvements and future Units NEED NOT BE BUILT.

	PREVIOUSLY RECORDED UNITS
	NEW UNITS THIS RECORDING



**EXHIBIT B-2a**

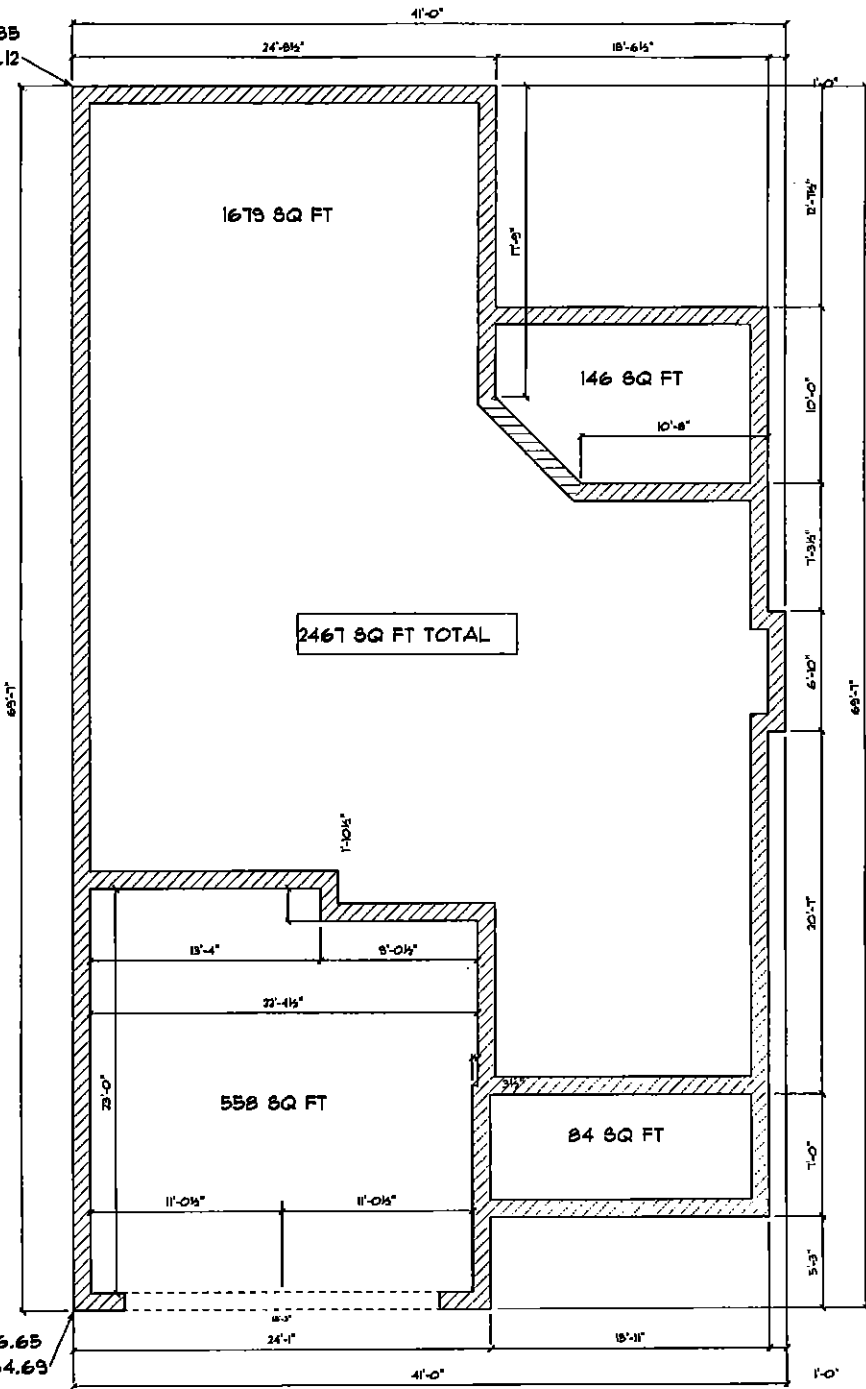
MADISON SUMMIT PUD

Unit Coordinates

Unit #	Northing	Easting	Description
7	794410.77	1589829.41	Southwest Corner
	794403.50	1589884.01	Southeast Corner
12	794163.61	1589791.52	Southwest Corner
	794155.69	1589851.04	Southeast Corner
13	794154.61	1589783.30	Northwest Corner
	794145.91	1589848.73	Northeast Corner
18	793857.85	1589765.12	Southwest Corner
	793856.65	1589834.69	Southeast Corner
19	793905.39	1590046.87	Northwest Corner
	793872.57	1590091.10	Northeast Corner
24	794078.99	1590174.88	Southwest Corner
	794049.37	1590222.85	Southeast Corner
31	794405.59	1590303.45	Southwest Corner
	794397.75	1590357.97	Southeast Corner
32	794454.17	1590316.91	Southwest Corner
	794444.26	1590385.78	Southeast Corner
34	794557.45	1590255.97	Southwest Corner
	794624.09	1590275.97	Northwest Corner
36	794574.71	1590198.50	Southeast Corner
	794641.35	1590218.51	Northeast Corner
43	794528.26	1590081.95	Northwest Corner
	794461.62	1590061.94	Southwest Corner
44	794491.12	1590163.69	Northwest Corner
	794455.41	1590111.54	Southwest Corner
47	794280.90	1590108.58	Southwest Corner
	794267.61	1590176.88	Southeast Corner
52	794015.12	1589906.99	Northwest Corner
	794007.09	1589967.33	Northeast Corner
58	794312.50	1589946.55	Northwest Corner
	794304.47	1590006.90	Northeast Corner

EXHIBIT B-3 O  
UNIT 18 MADISON SUMMIT

N-793857.85  
E-1589765.12



N-793856.65  
E-1589834.69

Connie W. Bell, Register  
Montgomery County Tennessee  
Rec #: 196921 Instrument #: 831707  
Rec'd: 40.00 Recorded  
State: 0.00 8/24/2009 at 10:30 AM  
Clerk: 0.00 in Volume  
EDP: 2.00 1297  
Total: 42.00 Pgs 1180-1187

This Instrument Prepared By:  
Larry A. Rocconi, Jr., Attorney  
308 South Second Street  
Clarksville, TN 37040

**MADISON PARTNERS, a  
Tennessee General Partnership**

**TO: AMENDMENT TO DECLARATION ESTABLISHING  
MADISON SUMMIT, A PLANNED UNIT DEVELOPMENT,  
created under TENN. CODE ANN. §§ 66-27-101 et seq.**

**MADISON SUMMIT**

THIS AMENDMENT TO DECLARATION ESTABLISHING MADISON SUMMIT, A PLANNED UNIT DEVELOPMENT, created under TENN. CODE ANN. §§ 66-27-101 et seq., executed as of the 04th day of August, 2009, at Clarksville, in the County of Montgomery, State of Tennessee, by **MADISON PARTNERS, a TENNESSEE GENERAL PARTNERSHIP**, consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland,

**WITNESSETH:**

THAT the Grantor and Declarant herein, Madison Partners, a Tennessee General Partnership, consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, are the owners of certain realty situated in Montgomery County, Tennessee by deed of record in Official Record Book Volume 1177, Page 2159, in the Register's Office for Montgomery County, Tennessee, and having recorded a Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. §§ 66-27-101. et seq., by Declaration of record in Official Record Book Volume 1284, Page 2261, in the Register's Office for Montgomery County, Tennessee and by plat of record in Plat Book F, Page 712, in the Register's Office for Montgomery County, Tennessee, and any modifications, revisions, or amendments to said Declaration or Plat, to which reference is hereby expressly made;

WHEREAS, Paragraph 25. Amendment and Paragraph 14. Expansion of Projects of said Declaration, provide for the establishment, addition and inclusion of Units to Madison Summit, a

Planned Unit Development, created under Tenn. Code Ann. §§ 66-27-101. *et seq.*;

WHEREAS, Madison Partners, a Tennessee General Partnership consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, desire to amend the Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. §§ 66-27-101 *et seq.* as follows:

- A. Paragraph 14.1 **Development Requirements.** Paragraph (a)(i)(3): 100% of the front of the unit shall be composed of a mixture of brick, stone, Hardiboard, dryvit or approved equivalent; the remaining sides (sides and rear) to be constructed of brick;  
**Shall be amended to read as follows:** 100% of the unit shall be composed of a mixture of brick, stone, Hardiboard, or dryvit or approved equivalent; the remaining sides (sides and rear) to be composed of brick or other masonry material as approved by Developer.
- B. Exhibit B-2 is amended to Exhibit B-2, attached hereto; said Exhibit establishes, adds and includes new Units under the Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. §§ 66-27-101. *et seq.*
- C. Exhibits B-3E, B-3F, B-3G, B-3H, attached hereto, are incorporated and added to the Declaration to identify the new Units.

NOW, THEREFORE, Madison Partners, a Tennessee General Partnership, consisting of Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, amend the aforementioned Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. §§ 66-27-101. *et seq.* as follows:

- A. Paragraph 14.1 **Development Requirements.** Paragraph (a)(i)(3): 100% of the front of the unit shall be composed of a mixture of brick, stone, Hardiboard, dryvit or approved equivalent; the remaining sides (sides and rear) to be constructed of brick;  
**Shall be amended to read as follows:** 100% of the unit shall be composed of a mixture of brick, stone, Hardiboard, or dryvit or approved equivalent; the remaining


sides (sides and rear) to be composed of brick or other masonry material as approved by Developer.

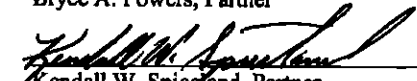
- B. Exhibit B-2 is amended to Exhibit B-2, attached hereto; said Exhibit establishes, adds and includes new Units under the Declaration Establishing Madison Summit, a Planned Unit Development, created under Tenn. Code Ann. §§ 66-27-101. *et seq.*
- C. Exhibits B-3E, B-3F, B-3G, B-3H, attached hereto, are incorporated and added to the Declaration to identify the new Units.

IN WITNESS WHEREOF, Grantors have executed this instrument the day and date first above written.

  
Robert S. Powers, Partner

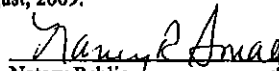
  
James Michael Atkins, Partner

  
Bryce A. Powers, Partner

  
Kendall W. Spiceland, Partner

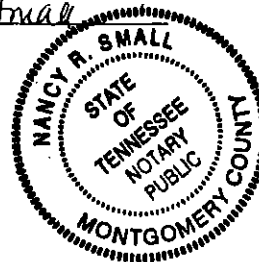
STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Personally appeared before me, the undersigned Notary Public in and for the State and County aforesaid, Robert S. Powers, James Michael Atkins, Bryce A. Powers and Kendall W. Spiceland, with whom I am personally acquainted, and who acknowledged the execution of the within instrument for the purpose therein contained and who further acknowledged that they are partners of Madison Partners, a Tennessee General Partnership (herein called the "Maker"), or a constituent of the Maker and is authorized by the Maker or by its constituent, the constituent being authorized by the Maker, to execute this instrument on behalf of the Maker on this 24 day of August, 2009.

  
Notary Public



My Commission Expires: 1/2/2010

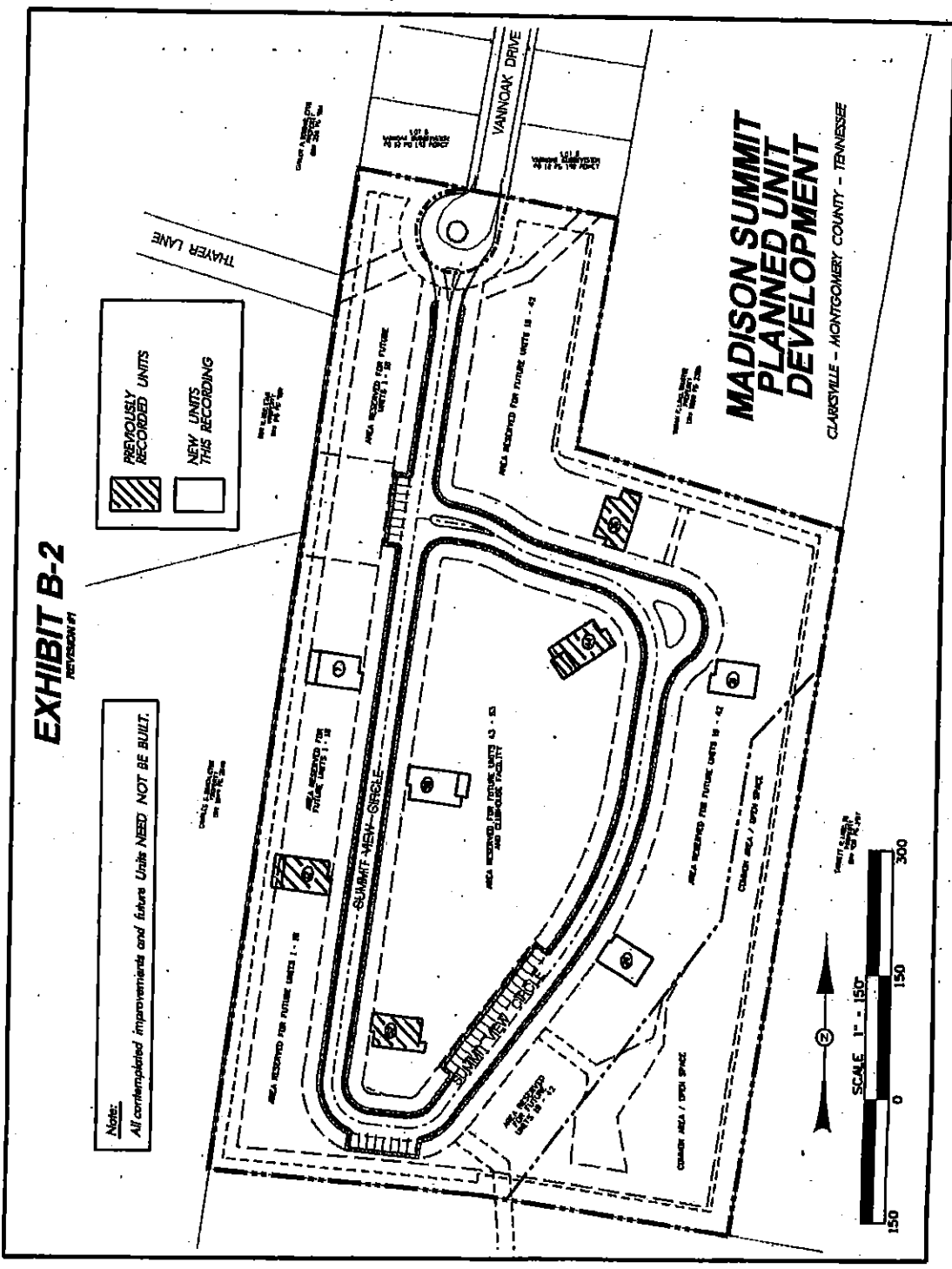
J:\CMR\Amendment to Restrictions\Medison Summit Amendment 8-20-09



**EXHIBIT B-2**  
REVISION #1

**Note:**  
 All contemplated improvements and future Units **NEED NOT BE BUILT.**

	PREVIOUSLY RECORDED UNITS
	NEW UNITS THIS RECORDING



**MADISON SUMMIT  
 PLANNED UNIT  
 DEVELOPMENT**  
 CLARKEVILLE - MONTGOMERY COUNTY - TENNESSEE

SCALE 1" = 150'

0 150 300

EXHIBIT B-3E  
UNIT 7 MADISON SUMMIT

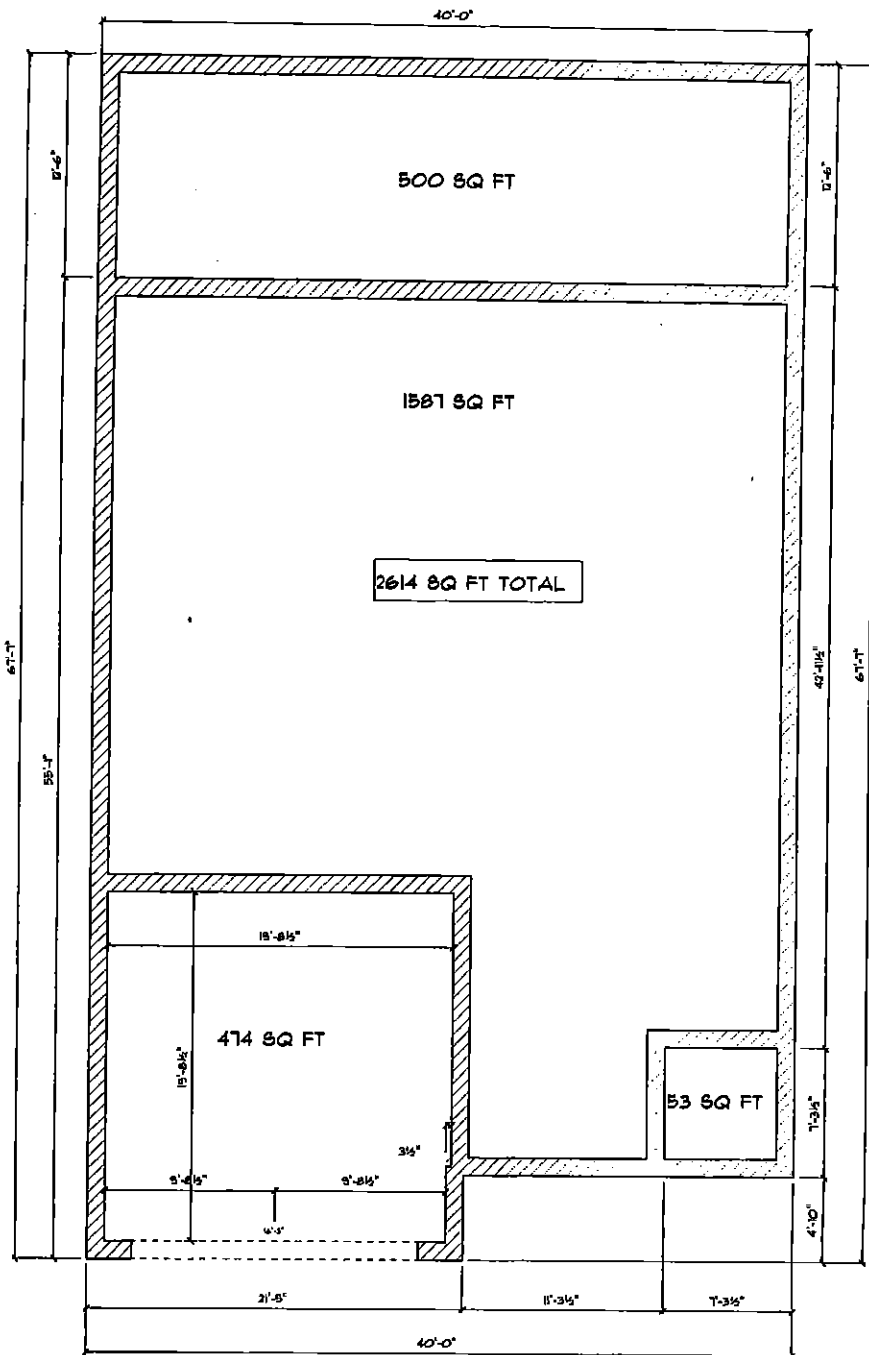




EXHIBIT B-3F  
UNIT 24 MADISON SUMMIT

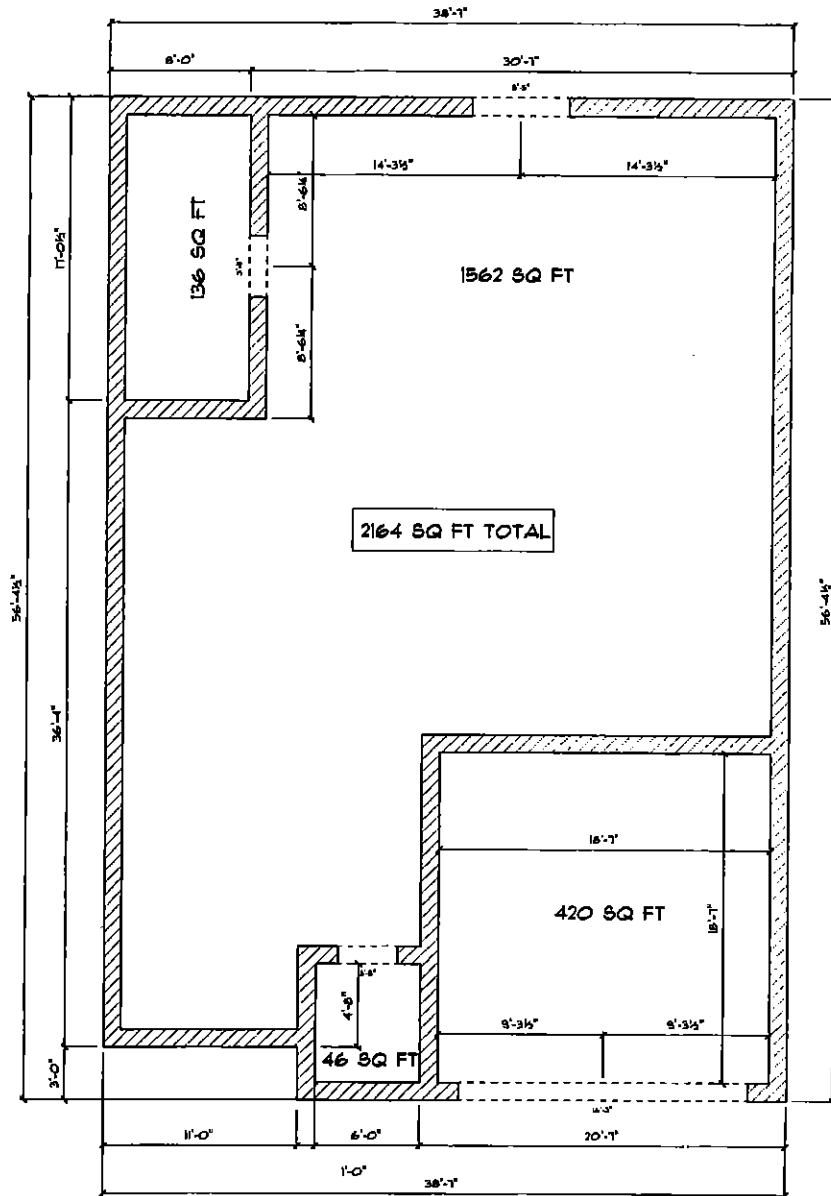


EXHIBIT B-3G  
UNIT 31 MADISON SUMMIT

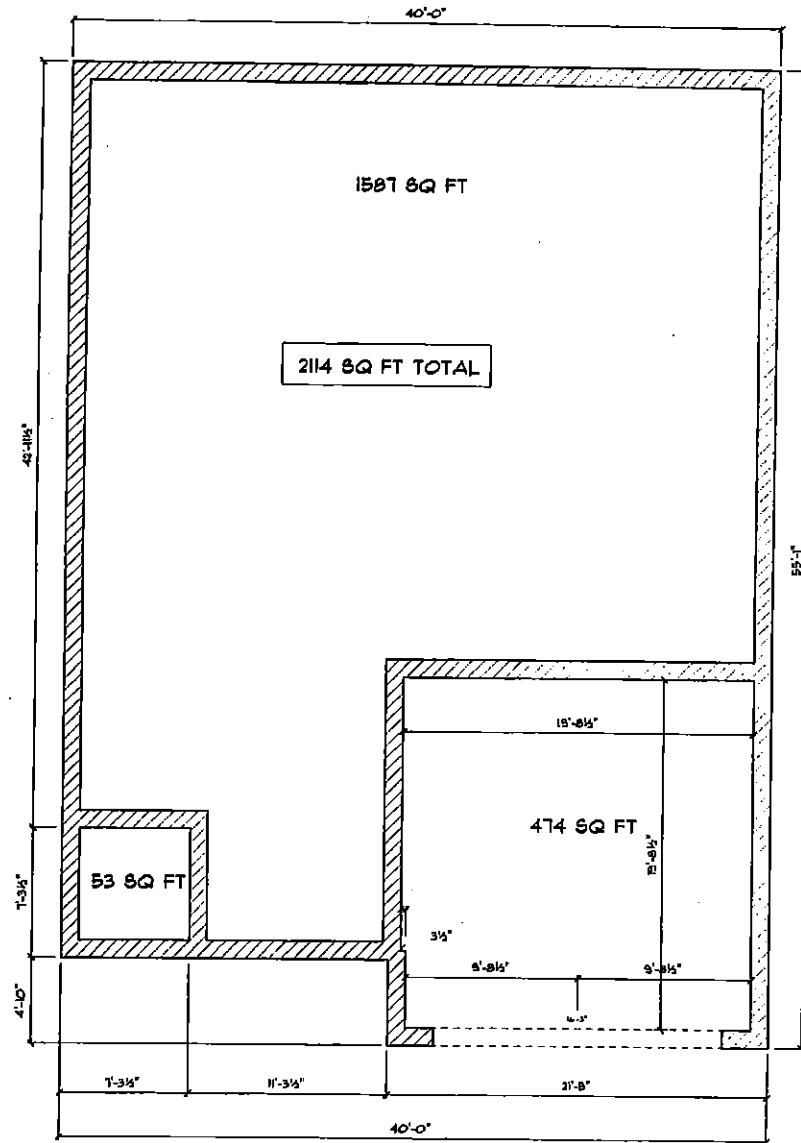


EXHIBIT B-3H  
UNIT 88 MADISON SUMMIT

