This instrument prepared by:
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315 Deaderick Street, Suite 2100
Nashville, Tennessee 37238

FILE BOX 57

Davidson County REST
Recvd: 11/11/02 13:28 24pgs
Fees:122.00 Taxes:0.00
20021111-0138979

# DECLARATION FOR WEST END I

(a Planned Unit Development)

FRENCH BROTHERS, LLC (the "Developer"), hereby executes this Declaration to establish a planned unit development with regard to certain real estate (the "Property") located in Nashville, Davidson County, Tennessee and more particularly described in Exhibit A attached hereto and made a part hereof.

WITNESSETH:

The Developer hereby establishes a planned unit development (the "PUD") as provided in Tennessee Code Annotated, Title 66, Chapter 27, Section 103, (the "Act") as to the Property and all improvements to be hereafter erected thereon. The PUD shall be known as WEST END I. The Developer makes the following declarations regarding divisions, limitations, expansions, restrictions, reservations, easements, covenants and conditions, hereby declaring that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to this Declaration. The provisions of this Declaration constitute covenants running with the land and are binding on and for the benefit of present and future owners, lessees and mortgagees of any part of the PUD.

A. Definitions. Certain terms as used in this Declaration shall be defined as follows:

1. "Corporation" means the West End I Townhouse Corporation, a nonprofit corporation whose membership consists of all of the PUD Owners.

2. "Common Elements" means (a) all portions of the Property existing for common use, which are not defined herein or which are not labeled as Private Elements on the PUD Plat attached hereto as Exhibit B.

(b) The common wall between Townhome 3619 and Townhome 3621.

(c) Irrigation system and cost of water used by the system which shall be metered to the Corporation.

(d) Landscaping.

(e) Driveways and parking areas shown on the PUD Plat.

3. "Common Expenses" means and includes all charges, costs, and expenses

incurred by the Corporation for and in connection with the administration and operation of the PUD, including, without limitation, maintenance, repair, replacement, painting and restoration (to the extent not covered by insurance) of the Common Elements; any additions and alterations thereto; all labor, services, common utilities, materials, supplies and equipment therefor, all liability for loss or damage arising out of or in connection with the Common Elements and their use; all premiums for hazard, liability and other insurance with respect to the PUD; all liabilities incurred in acquiring a Unit pursuant to judicial sale; and all administrative, accounting, legal and managerial expenses. Also, "Common Expenses" shall include amounts incurred in replacing, or substantially repairing, major capital improvements of the PUD, including, but not limited to, road, and driveway resurfacing. Further, "Common Expenses" shall include any contributions to maintenance of driveways providing access to the PUD. All of the above shall constitute Common Expenses of the PUD for which the PUD Owners shall be equally and severally liable for on a quarter-annual basis. The PUD's Common Expense budget shall include a reserve for capital expenditures.

4. "Private Elements" means the areas of the Property as indicated on the PUD Plat including the land area upon which each Townhome is located and for which fee simple ownership and exclusive use is reserved to the owner thereof. Further, "Private Elements" shall include the Townhomes and all improvements built within said land area.

5. "Property" means the real estate describe on Exhibit A attached hereto.

6. "Townhome" means the residential structure or building and associated courtyard as indicated on Exhibit B attached hereto and incorporated herein by reference, located on the Property and having direct access to the Common Elements. "Townhome" shall have the same meaning as "Apartment" under the Act. Each Townhome shall be subject to fee simple ownership and exclusive use by the owner thereof. The identification numbers, location and extent of each Townhome are as shown on Exhibit B.

7. "Owner" means the fee simple owner of a Townhome.

8. "Bylaws" means the Bylaws of the Corporation attached hereto as Exhibit C.

B. Description of Townhomes. The PUD shall consist of two (2) Townhomes and lots as shown on Exhibit B as Townhome 3619 and Townhome 3621.

C. Common Interest. Each Townhome shall have appurtenant thereto an equal and undivided interest in the Common Elements; shall have an equal and undivided share in all Common Expenses; and shall have an equal and undivided interest for all other purposes, including voting.

D. Easements; Reservations; Parking Spaces. The Townhomes, Private Elements and Common Elements shall have and be subject to the following easements:

1. An easement shall exist for the maintenance, repair and replacement of any and all pipes, wires, conduits, or other utility lines running through the Common Elements and

serving each Townhome.

2. If any part of the Common Elements encroaches upon any Townhome, an easement shall exist for the encroachment, the maintenance, repair and replacement thereof, so long as it continues. If any Townhome shall be partially or totally destroyed and then rebuilt, minor encroachments on any parts of the Common Elements due to reconstruction shall be permitted, and easements shall exist for said encroachments.

3. An easement shall exist for any part of a residential structure, including, but not by way of limitation, the roof, eave, cornice, gutter and related structural elements, as shall encroach over or upon any adjoining Townhome or the Common Elements. Said easement shall also exist for the maintenance, repair and replacement of said encroaching structural elements.

4. An easement shall exist for ingress, egress and maintenance in favor of any public utility providing utility service to the PUD and the Townhomes.

5. An easement shall exist in favor of the Corporation and/or each Owner to access the roof of each Townhome to the extent reasonably necessary to permit repair and/or replacement of the roof or other portions of the adjoining Townhome.

6. The Developer reserves the right during development to grant, transfer, cancel, relocate, and otherwise deal with all utility and other easements now or hereafter affecting the Common Elements. After transfer of control of the administration of the PUD to the Corporation, as provided in Section H below, the Corporation may grant permits, licenses, and easements over the Common Elements for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the PUD.

7. Any exterior parking area or other exterior paved portion of the PUD designated for parking purposes shall be part of the Common Elements and not part of any individual Townhome, except as indicated on Exhibit B.

8. Developer is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, lease, or rent Townhomes to any person approved by it. Developer shall have the right to transact, on the PUD property, any business deemed necessary by Developer to consummate the sale, lease, or resale of Townhomes, including, but not limited to, the right to post signs, to reserve parking spaces for prospective purchasers, to use the Common Elements and to show Townhomes. Signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of Developer. As long as any Townhome belonging to Developer remains unsold, neither the PUD Owners, nor the Corporation, nor the use of the PUD property, shall interfere with the sale of Townhomes.

E. Alteration and Transfer of Interests. The Common Elements and easements appurtenant to each Townhome shall have a permanent character and shall not be altered without the consent of the Corporation and the Owner affected, except where such authority is retained herein

by the Developer. The Common Elements and easements shall not be separated from the Townhome to which they appertain, and shall be deemed to be conveyed, leased or encumbered with the Townhome even though the Common Elements or easements are not expressly mentioned or described in the conveyance or other instrument. Nothing in this Section shall prevent the Developer or the Corporation from subsequently designating (and allowing the construction of) attached porches, patios (with enclosure fences) and balconies as Private Elements.

F. Partition. The Common Elements shall remain undivided and shall not be the object of any action for partition or division of any part thereof except as provided by the Act.

G. Restrictions. The Townhomes and the Common Elements shall be subject to the following restrictions which restrictions shall be permanent:

1. Except as otherwise approved in writing by the Corporation, the Townhome shall be used only as a private dwellings, shall not be subdivided, and shall be subject to such limitations and conditions as may be contained herein, or in the Bylaws of the Corporation, or any rules which may be adopted from time to time by the Corporation as to the use and appearance of the Townhomes and the Common Elements.

2. Any Townhome lease shall be in writing and shall be subject to this Declaration, as may be amended, and to the Bylaws and rules as amended from time to time. No Townhome shall be rented on a daily, weekly or month to month basis.

3. Violation of this Declaration, the Bylaws or any rules adopted by the Corporation, may be remedied by the Corporation, or its agent, by the imposition of reasonable fines or by legal action for damages, injunctive relief, restraining order, or specific performance. In addition, an aggrieved Owner may maintain a legal action for similar relief. An Owner, in accepting ownership of a Townhome, agrees to become subject to his enforcement in the event of a violation.

H. Townhouse Corporation. The administration of the PUD shall be vested in the Corporation. The Corporation has been incorporated as a nonstock, non-profit corporation under the name " West End I Townhouse Corporation, which Charter is recorded in the Davidson County, Tennessee Register's Office. A copy of the initial Bylaws of the Corporation is attached to this Declaration as Exhibit C. The owner of any Townhome, upon acquiring title, shall automatically become a member of the Corporation and shall remain a member until such time as his ownership of such Townhome ceases for any reason, at which time his membership in the Corporation shall automatically cease. The administration of the PUD, including the adoption and amendment of Bylaws, adoption of rules, assessment of Common Expenses and all other matters relating to the administration of the PUD, is vested in the Developer until (i) four months from the date both Townhomes of the PUD have been conveyed, (ii) the Developer elects to surrender this power to the PUD Owners, or (iii) three years after the date of conveyance of the first Townhome to an owner other than Developer, whichever first occurs. Until that time, the Developer shall constitute the Corporation, and shall possess the irrevocable proxy of the PUD Owners to operate and administer the PUD during this time, which proxy each Owner automatically grants upon acceptance of a deed

to a Townhome. All Owners, by acceptance of a deed to a Townhome, agree to this administration of the PUD by the Developer.

I. Administration of the PUD. Administration of the PUD, including the use, maintenance, repair, replacement and restoration of the Common Elements, and any additions and alterations to then, shall be in accordance with the provisions of the Act, this Declaration, the Bylaws of the Corporation, and all rules adopted by the Corporation. Specifically (but not exclusively), effective upon completion of all Townhomes, the Corporation shall:

1. Maintain, repair and replace the Common Elements and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governing authority, where applicable to the Common Elements.

2. Pay the Common Expenses and levy and collect the necessary sums from the Owners to fund such payments.

J. Delegation of Administration. The Corporation shall be authorized to delegate the administration of its duties and powers by written contract to a professional managing agent or administrator employed for that purpose by the Corporation so long as such contract does not exceed three years in duration and is cancelable by the Corporation, without cause or payment of a termination fee upon ninety days prior written notice. It shall be the duty of the Corporation to determine, annually, the estimated Common Expenses of the PUD for the succeeding twelve months, and having so determined, to make and collect the assessment quarter-annually from each Owner. Each Owner shall contribute equally, but assessments shall not begin until the first full month following the transfer of all the Townhomes and shall be prorated based upon the portion of the quarter-annual period remaining. At the time the purchase of a Townhome from Developer is closed, the Corporation shall collect from the purchaser an amount equal to one quarter's assessment, such amount shall not be deemed the payment of the quarter's assessment, but shall be considered a working a capital fund for the Corporation.

K. Waiver of Use of Common Elements. No Owner may except himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Townhome.

L. Unpaid Common Expenses Constitute Lien; Power of Sale.

1. Unpaid Common Expenses shall constitute a lien on the Townhome of the delinquent Owner, prior to all other liens except for (i) liens for taxes and assessments lawfully imposed by governmental authorities against such Townhomes and (ii) the lien of a first deed of trust. Such lien shall also secure reasonable attorney fees and all costs incurred in the collection of the unpaid share of Common Expenses or the enforcement of the lien. If an Owner shall fail to pay the proportionate share of Common Expenses for a period of ten days following the date on which the same become due, the Corporation may assess a "late charge" of fifteen percent (15%) per annum of the unpaid amount or such other late charge as the Corporation may determine. If such share

remains unpaid for a period of thirty days following the due date, together with any late charge thereon, the Corporation may declare the entire proportionate share of Common Expenses of that Owner for the next succeeding full twelve calendar months immediately due and payable, without further notice or demand, and proceed to collect the same. The lien for unpaid Common Expenses may be enforced by suit by the Corporation or the Corporation's agent, acting on behalf of the Corporation, in like manner as a mortgage or deed of trust of real property, provided that thirty days' prior written notice of intent to sue to enforce the lien shall be mailed, postage prepaid to all persons having an interest in such Townhome (including any mortgagees), as shown on the Corporation's record of ownership. The Corporation shall have the power to bid on such Townhome at judicial sale or pay for and accept a deed in lieu of foreclosure; and to acquire, hold, lease, mortgage and convey such Townhome. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without judicial lien enforcement and without waiving the right to enforce the lien securing the same. Without in any manner limiting its rights aforesaid, the Corporation or the Corporation's agent, acting on behalf of the Corporation, may also file a lien for unpaid Common Expenses.

2. For and in consideration of the privileges, protections, mutual enjoyment and use of the Common Elements, the assumption of the obligations of PUD Owners set forth in this Declaration, the receipt of which is hereby acknowledged, and to secure the payment of shares of Common Expenses assessed against an Owner, late charges and attorney fees as provided herein, hereinafter collectively referred to as the "Secured Charges," a lien is expressly retained in favor of the Corporation.

For the purpose of better and more effectually securing the Secured Charges, rendering unnecessary any court proceedings for the enforcement of said lien in the event of the nonpayment of the Secured Charges, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the Owners, their heirs, successors, administrators, and assigns, hereinafter referred to as Trustors, hereby transfer and convey unto Thomas C. Scott, Trustee, his successors and assigns (the "Trustee"), their respective Townhomes with the appurtenances, estate, title and interest thereto belonging.

Trustors agree (i) to pay the Secured Charges when due, as provided in this Declaration; (ii) be hereafter placed against their Townhome and which shall adversely affect the lien of this instrument or enforcement of the terms and provisions hereof; (iii) to keep their respective Townhomes in good repair; (iv) to comply with all of the terms and conditions of this Declaration and Bylaws and all rules and regulations of the Corporation; and (v) to pay upon demand of Trustee or the Corporation, all the costs and expenses, together with reasonable attorney fees, of any court appearance or other proceedings required by Trustee, his successors or the Corporation to enforce any provision of this Declaration or the Bylaws or any rule and regulation of the Corporation. If any Trustor fails to do any of these things, then Trustee or the Corporation may do any or all of these things and the amounts so paid shall bear interest at the highest rate allowed under applicable laws in effect from time to time from the day of payment and shall become a part of the Secured Charges secured hereby.

If a Trustor shall pay the Secured Charges when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Townhome. If the Secured Charges with respect to any Townhome are not paid promptly when due, this trust conveyance shall remain in full force and effect and the trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty days notice by three publications in any newspaper, daily or weekly, published in Davidson County, Tennessee to sell the Townhome at the front door of the Court House in that County to the highest bidder for cash, at public outcry, free from all statutory rights of redemption, the equity of redemption, homestead, dower and all exemptions of every kind, which are hereby expressly waived; and the Trustee, or his successor intrust, is authorized and empowered to execute and deliver a deed to the purchaser. The Corporation may bid at any sale under this trust conveyance. The Corporation may at any time after default in the payment of any of the Secured Charges, enter and take possession of the property, and shall only account for the net rents actually received by it. It is further agreed that, if the Corporation fails, before instructing the Trustee to sell the Townhome, 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 case of sale hereunder, the proceeds will be applied by the Trustee as follows:

(i) First, to the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided, including reasonable attorney 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;

(ii) Second, to the payment of all unpaid Secured Charges with respect to such Townhome;

(iii) Third, to the payment of all taxes which may be unpaid with respect to such Townhome;

(iv) Fourth, the residue, if any, will be paid to the Owner of such Townhome, his order, representatives or assigns;

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

M. Acquisition at Foreclosure Sale. Where the mortgagee of a first deed of trust of record or other purchaser of any Townhome acquires ownership of such Townhome as a result of the endorsement of the deed of trust, such Townhome shall no longer be subject to a lien for unpaid assessments for Common Expenses which become due prior to such acquisition of title, except where such lien rights may be asserted against surplus proceeds of the sale.

N. Insurance. The Corporation shall carry a master policy of fire and extended coverage, vandalism, malicious mischief insurance and liability insurance, in a minimum amount of $1,000,000 for each occurrence, and if required by law, workers' compensation insurance (referred to in this Declaration as "master policy"), with respect to the PUD and the Corporation's administration thereof in accordance with the following provisions:

1. The master policy shall be purchased in the name of the Corporation for the use and benefit of the Corporation, the PUD Owners and their mortgagees or trustees as their interests may appear, subject to the provisions of this Declaration and the Bylaws (and provisions shall be made for the issuance of appropriate mortgagee endorsements to the mortgagees of the PUD Owners). The PUD Owners shall be responsible for obtaining fire and extended insurance coverage at their own expense upon their Townhomes and equipment and personal property. In addition, the Owners shall be responsible for obtaining comprehensive personal liability insurance covering liability for injury to person or damage to property of others within such Owner's Townhome, or in another Townhome in the PUD or upon the Common Elements resulting from the negligence of the insured Owner, in such amounts as may from time to time be determined by the Corporation, but in no case less than Five Hundred Thousand Dollars ($500,000.00) for each occurrence. The Owners shall use their best efforts to see that all property and liability insurance carried by an Owner or by the Corporation shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Owners of the Corporation and the respective employees, and agents of the Owners or the Corporation as the case may be.

2. All improvements, personal property and other Common Elements of the PUD shall be insured against fire and other perils covered by a standard extended coverage endorsement, including those covered by the standard "all risk" endorsement, in an amount equal to 100% of the current replacement cost thereof. The policy shall contain a "Special Condominium Endorsement," if available. The Corporation may elect to carry insurance to cover such other perils as from time to time be customarily covered with respect to buildings and improvements similar in construction, location and use.

3. The Corporation shall use its best efforts to see that the liability insurance carried contains cross-liability endorsements or appropriate provisions to cover liability of the PUD Owners individually and as a group (arising solely because of their ownership interests in the Common Elements), to another Owner.

4. The Corporation may, but shall not be required to, procure fidelity bond coverage for persons or entities handling or administering Corporation funds, whether or not those persons or entities receive compensation for their services. The fidelity bonds shall cover the greater of (i) the maximum funds that will be in the Corporation's custody at any time or (ii) the sum of three months' assessments on all Townhomes plus the Capital Replacement Fund.

5. All premiums upon insurance purchased by the Corporation shall be Common Expenses.

6. Proceeds of all insurance policies owned by the Corporation shall be received by the Corporation for the use of the Owners and their mortgagees as their interests may appear; provided, however, the proceeds of any insurance received by the Corporation because of property damage shall be applied to repair and reconstruction of the damaged property, except as may otherwise be permitted by Section O of this Declaration.

7. Each Owner shall be deemed to appoint the Corporation as his true and lawful attorney in fact to act in connection with all matters concerning the maintenance of the master policy. Without limiting the generality of the foregoing the Corporation as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Corporation, the Owners and their respective mortgagees, as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Owners and the PUD as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Corporation in regard to such matters. The Corporation shall not be responsible for procurement or maintenance of any insurance covering the structure or contents any Townhome nor the liability of any Owner for injuries therein, not caused by or connected with the Corporation's operation, maintenance or use of the PUD.

8. All insurance policies shall require the insurer to notify the Corporation and each first mortgage holder named in the mortgage clause in writing at least 10 days before the insurer cancels or substantially changes the policy.

O. Reconstruction. Where casualty destruction, partial or total, occurs to a Townhome, any reconstruction or repair must be substantially in accordance with the original plans and specifications, unless such modifications to said plans and specifications are approved by both Owners.

P. Alteration of the PUD. Restoration or replacement of the PUD (unless resulting from casualty destruction), or material alterations or additions to the buildings in the PUD, shall be undertaken by any Owner only after approval by the Corporation, which shall have the authority to amend this Declaration with the written consent of the owners of and the holders of all liens on Townhomes affected and in accordance with the complete plans and specifications approved in writing by the Corporation. Promptly upon completion of such restoration, alteration or replacement, the Corporation shall duly record an amendment to this Declaration if and to the extent there are any changes to the Common Elements, or Private Elements.

Q. Maintenance Fund. The Board shall establish and pay into a Maintenance Fund all Common Expense collections from the PUD Owners, assessed for and attributable to current expenses and shall pay from the Maintenance Fund all current common Expenses of the PUD.

R. Capital Replacement Fund. The Corporation shall establish a Capital Replacement Fund and pay into the same from month to month that portion of Common Expense collections from the Owners, attributable to the Common Expense budget item for capital replacement reserves. For

example, if ten percent of the Common Expense budget for that particular year is assigned to capital replacement reserves, ten percent of Common Expense collections shall be paid over to the Capital Replacement Fund. Disbursements from this Fund, other than for investments as hereinafter authorized, shall be made only for replacing, or substantially repairing, major capital improvements, or for repayment of indebtedness incurred under Section T of this Declaration, approved by the Corporation. Fund balances available for investment may be invested by the Corporation in interest-bearing securities and/or savings accounts, so long as such investment is issued by an instrumentality of the State of Tennessee or insured under a program secured by the full faith and credit of the United States Government.

S. Additional Common Expense Provisions. In addition to the other provisions of this instrument relating to the PUD's Common Expenses, the following requirements and limitations are applicable:

1. The interest of each Owner in the Maintenance Fund and Capital Replacement Fund cannot be withdrawn or separately assigned, but are deemed to be transferred with such Townhome even though not mentioned or described in the conveyance thereof.

2. If the PUD herein created shall be terminated or waived, any part of the funds remaining after full payment of Common Expenses and costs of termination shall be distributed to the then existing Owners.

T. Incurrence and Retirement of Indebtedness. The Corporation may borrow money from time to time for the following purposes:

1. To cover any budgetary deficit for operational expenses, so long as such loan can be repaid within six months from anticipated Common Expense income not needed for ongoing operations.

2. To pay costs of reconstruction, major repair, replacement or alteration of the Common Elements incurred under Section O (to the extent not covered by insurance proceeds) and Section P of this Declaration. There shall be no more than one authorized loan outstanding at any one time. When it is necessary to effect such a loan, the Corporation may pledge, as security thereon, its rights to receive that part of the monthly Common Expense income that is necessary to amortize the payoff of the loan.

U. Voting and Voting Percentages. Each Townhome, whether constructed or not, shall be entitled to one (1) vote in all matters as to which a vote of PUD Owners is taken hereunder. Owners shall be entitled to vote at Corporation meetings in person or by written proxy.

V. Eminent Domain. The following provisions shall control upon any taking by eminent domain:

1. In the event of the taking of an entire Townhome by eminent domain, the

Owner and the Owner's mortgagee(s), as their interests may appear, shall be entitled to receive the award for such Townhome taking and, after acceptance thereof, the Owner, the Owner's mortgagee(s) and other interest holder shall be divested of all interest in the PUD. If any condemnation award shall become payable to any owner whose Townhome is not wholly taken by eminent domain, then such award shall be paid by the condemning authority to the Corporation on behalf of such owner. In that event, the Corporation shall rebuild the Townhome as is necessary to make it habitable and remit the balance, if any, of the condemnation proceeds pertinent to the Owner thereof and the Owner's mortgagee(s), as their interests may appear.

2. If there is any taking of any portion of the PUD other than any Townhome, the condemnation proceeds relative to such taking shall be paid to the Corporation. The affirmative vote of not less than three of the PUD Owners shall determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate. If no such affirmative vote is obtained, such condemnation proceeds shall be remitted to the PUD Owners equally.

3. If the PUD continues after taking by eminent domain, then the remaining portion of the PUD shall be re-surveyed and this Declaration amended accordingly by the Corporation.

W. Mortgagee's Rights.

1. A holder, insurer or guarantor of a first deed of trust ("Mortgagee"), upon written request to the Corporation stating the Mortgagee's name and address and the Townhome number of the Townhome, will be notified timely and in writing by the Corporation of the following:

(a) Any condemnation or casualty loss which affects a material portion of the PUD or which affects any Townhome that secures the Mortgagee's mortgage or deed of trust;

(b) Any sixty day delinquency in the payment of assessments or charges owed by the owner of any Townhome on which the Mortgagee holds the mortgage or deed of trust;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Corporation; and

(d) Any proposed action that requires the consent of mortgage holders.

2. The Corporation shall make available for inspection, upon request and during normal business hours or under other reasonable circumstances, to any Owner or Mortgagee current copies of this Declaration, the Bylaws, any rules and regulations, and the

books, records and financial statement s of the Corporation.

3. The Corporation shall furnish, upon written request, a financial statement for the immediately preceding fiscal year to any Mortgagee.

4. Except as provided by the Act in case of substantial loss to the Townhomes and/or Common Elements, unless the Owners have given their prior written approval, the Corporation shall not be entitled to:

(a) By act or omission seek to abandon or terminate the PUD;

(b) Change the pro-rata interest or obligations of any Townhome for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (ii) determining the pro-rata share of ownership of each Townhome in the Common Elements;

(c) Partition or subdivide any Townhome;

(d) By act or omission seek to abandon, partition, subdivided, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the PUD shall not be deemed a transfer within the meaning of this clause); and

(e) Use hazard insurance proceeds for losses to any PUD property (whether to Townhomes or to Common "Elements) for other than the repair, replacement or reconstruction of the PUD.

5. No interpretation shall be given to this Declaration or any other Condominium documents which would give an Owner, or any other party, priority over any rights of first Mortgagees pursuant to their mortgages in the case of a distribution to PUD Owners of insurance proceeds or condemnation awards for losses to or taking of Townhomes and/or Common Elements.

X. Amendment of Declaration. Except as otherwise provided in this Declaration, or in the Act, this Declaration may be amended from time to time by:

1. The Owners, voting in person or by proxy at a meeting of the Corporation. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. An amendment adopted by the Owners shall be signed and certified by the President and Secretary of the Corporation as having been duly adopted and shall be effective upon recording of the signed instruments setting forth the amendment. No amendment shall discriminate against any Owner, or against any class or group of Townhomes, unless the Owner(s) affected shall consent. No amendment shall change any Townhome, nor the share of the Common

Elements appurtenant to it, nor increase the Owner's share of the Common Expenses, unless the Owner affected and all record holders of liens on the affected Townhome, join in the amendment.

2. The Developer by recording amended floor plans of the Townhomes on an as built basis without necessity for any Owners or other owners of interest joining in.

Y. Transfer of Developer's Rights. The Developer may assign, transfer or convey its interest in the Property and its interest as the Developer under the Declaration. Any mortgagee of the Developer may acquire the Property or the Developer's interest under this Declaration in order to enforce its mortgage. Any such successor to the Developer shall succeed to all of the rights of the Developer under this Declaration, including, without limitation, those rights set forth in Sections B, D, H, J and X, and under the Bylaws.

Z. Termination. The PUD may be terminated as follows:

1. If it is determined that the damaged property shall not be reconstructed because of substantial loss in accordance with Tenn. Code Ann. 66-27-109.

The termination of the PUD shall be evidenced by a deed in compliance with Tenn. Code Ann. 66-27-109, certifying the facts effecting the termination, which deed shall become effective upon being recorded in the Register's Office of Davidson County, Tennessee.

2002 WITNESS the signature of the Developer on this 7th day of NOVEMBER.

FRENCH BROTHERS, LLC

BY: _____

ITS: CHIEF MANAGER

**STATE OF TENNESSEE )**
**COUNTY OF DAVIDSON )**

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Rick French, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Chief Manager, authorized to execute this instrument on behalf of **FRENCH BROTHERS, LLC**, the within named bargainor, and that he as such Chief Manager, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by himself as Chief Manager.

**WITNESS** my hand and official seal at office on this the 7th day of November, 2002.

Patty J. Welch
NOTARY PUBLIC

My Commission Expires: 7/30/05

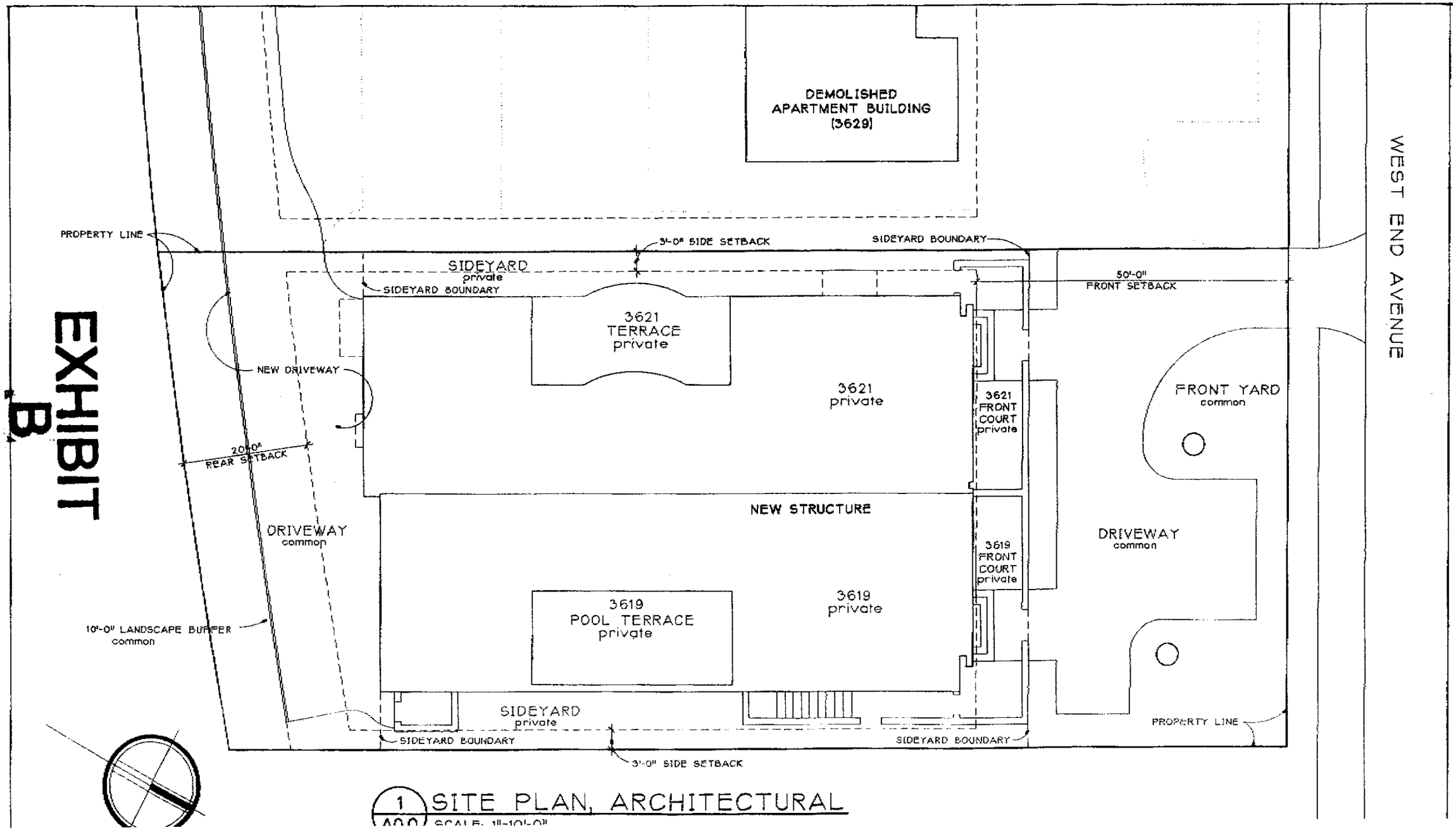
PATTY J. WELCH
NOTARY PUBLIC AT LARGE
DAVIDSON COUNTY, TENN.
My Commission Expires JULY 30, 2005

**EXHIBIT A**
**PROPERTY DESCRIPTION**

Being the Easterly part of Lot No. 4 of Block "A" on the Map of Whitland Realty Company's subdivision, as of record in Book 332, page 141, Register's Office for Davidson County, Tennessee.

Said part of Lot No. 4 fronts 75 feet on the Southerly side of West End Avenue, and runs back between lines 170 feet on the Easterly line and 181 feet on the Westerly line, to the Northerly line of Lots Nos. 9 and 10, and shows 76 feet 1-1/2 inches, more or less, on the Southerly line.

Being the same property conveyed to Declarant by Quitclaim Deed from Rick French of record as Instrument No. 20021111-0138978, Register's Office for Davidson County, Tennessee.




1 A00 SITE PLAN, ARCHITECTURAL

SCALE: 1"=10'-0"

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## EXHIBIT C
## BYLAWS OF WEST END TOWNHOUSE CORPORATION

The following Bylaws are the Bylaws of West End I, a Townhouse Corporation , incorporated under the laws of the State of Tennessee. The terms herein shall have the same meaning as those contained in the Declaration to which the Bylaws are attached.

### ARTICLE I: Membership

**Section 1. Qualification**. The owners of the Townhomes of the PUD shall constitute the Owners and the Member of the Corporation (the" Corporation"). The owner of any Townhome upon acquiring title thereto shall automatically become a Member of the Corporation and shall remain a Member thereof until such time as his ownership of such Townhome ceased for any reason, at which time his Membership in the Corporation shall automatically cease. Owners shall be entitled to one (1) vote for each Townhome.

**Section 2. Place of Meetings**. Meetings of the Corporation shall be held in the PUD or such other suitable place convenient to the Townhome owners as may be designated by the Corporation.

**Section 3. Annual Meetings**. Annual meeting of the Corporation shall be held on the last Monday of September of each year at a time set by the Corporation However, the first organizational meeting of the Corporation shall occur within ten (10) days following surrender by the Developer of control of the Corporation, as provided in the Declaration.

**Section 4. Special Meetings**. Special meetings of the Corporation may be held at any time upon the call of the President or a petition signed by a least fifty percent (50%) of the Members and presented to the Secretary following surrender of the Developer's control.

**Section 5. Notice of Meetings**. The Secretary shall give written or printed notice of each annual and special meeting to every Owner according to the Corporation's record of ownership at least five (5) days before the date set for such meeting, stating whether it is an annual or special meeting, the authority for the call thereof, the place, day and hour of such meeting and the purpose therefore, in any of the following ways: (a) by delivering it to the Townhome owner personally, or (b) by leaving it at the Owner's Townhome in the PUD or at the Owner's usual residence or place of business, or (b) by mailing it, postage prepaid, addressed to the Owner at the address for that Owner as it appears on the Corporation's record of ownership. If notice is given pursuant to the provisions of this section, the failure of any Owner to receiving actual notice of any meeting shall in no way invalidate such meeting or any actions taken. The presence of any Owner in person or by proxy at any meeting shall be deemed a waiver of any require notice to such owner unless he shall at the opening thereof object to the holding of such meeting because of the failure to give notice in accordance with the provisions hereof.

**Section 6. Quorum**. The presence at any meeting in person or by proxy of a majority of the Owners shall constitute a quorum, and the acts of a majority of the Owners present, in person or by proxy, at any meeting at which a quorum is present shall be the acts of the Corporation except as otherwise provided herein.

**Section 7. Voting**. Each Townhome shall be entitled to one vote. Votes may be cast in person or by proxy by the respective Owners as shown in the record of ownership of the Corporation. It a Townhome is owned by two or more persons, any record owner present at a meeting may cast the vote of the Townhome, as the Owners agree among themselves. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Corporation the vote for any Townhome owned or controlled by him in such capacity, whether or not the same shall have been transferred to his name in the Corporation's record of ownership, provided that he shall first present evidence satisfactory to the Secretary that he owns or controls such Townhome in such capacity.

**Section 8. Proxies and Pledges**. The authority given by any Owner to another person to represent him at meetings of the Corporation shall be in writing, signed by such owner and filed with the Secretary, and unless limited by its terms shall continue until revoked by writing filed with the Secretary or by the death or in capacity of such owner. Voting rights transferred or pledged by mortgage, deed of trust or agreement of sale or lease of any Townhome or interest therein, a true copy of which is filed with the Corporation shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Corporation in like manner.

**Section 9. Adjournment**. Any meeting of the Corporation may be adjourned from time to time to such place and time as may be determined by majority vote of the Owners present, whether or not a quorum is present, without notice other than the announcement at such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

**Section 10. Voting.** The PUD only has two Townhomes and therefore anything herein to the contrary notwithstanding, it is agreed that all actions of the Corporation must be by unanimous vote. In the event any matter that is voted upon only receives one vote in favor or in the event both Owners are not present in person or proxy, the provisions of Article VII shall govern.

## ARTICLE II: Officers and Directors October 22, 2002

**Section 1. Designation**. The principal officers of the Corporation shall be a President and a Secretary/Treasurer. The Corporation may appoint an assistant treasurer, and assistant secretary and such other officers as in its judgment may be necessary.

**Section 2. Election, Terms and Compensation**. The officers of the Corporation shall be elected annually by the Corporation at its annual meeting, who shall serve until their successors have been duly elected and qualified.

**Section 3. Removal.** An officer may be removed either with or without cause by vote of a majority of the Members of the Corporation and that officer's successors elected at any regular meeting of the Corporation, or any special meeting.

**Section 4. President and Vice President**. The President shall be the chief executive officer of the Corporation and shall preside at all meetings of the Corporation Subject to the control of the Corporation, the President shall exercise general supervision and direction over the management and conduct of the business and affairs of the Corporation. The President shall also have such other powers and duties as maybe provided by those Bylaws or assigned from time to time by the Corporation. The Vice President, if any, shall so served in the absence of the President.

**Section 5. Secretary/Treasurer**. The Secretary/Treasurer shall (i) attend and keep the minutes of all meetings of the Corporation, give all notices thereof as provided by these Bylaws, maintain and keep a continuous and accurate record of ownership of all Townhomes and have charge of such books documents and records of the Corporation as the Corporation may direct and (ii) maintain and keep the financial records and books of account of the Corporation, prepare regular reports thereof and be responsible for the proper deposit and custody, in the name of the Corporation, of all its funds and securities.

**Section 6. Auditor**. The Corporation may appoint annually an accountant or accounting firm as auditor, who may not be an officer of the Corporation nor own any interest in any Townhome, to audit the books and financial records of the Corporation.

**Section 7. Directors**. The Board of Directors shall consist of the Owner of the two Townhomes. All actions of the Board of Directors must be by unanimous vote.

## ARTICLE III: Administration

**Section 1. Management**. The Corporation shall at all times manage and operate the PUD and have such powers and duties as may be necessary or proper therefore, including without limitation the following:

(a) Supervision of the immediate management and operation of the PUD;

(b) Inspection, maintenance, repair, replacement and restoration of the common elements and any additions and alterations thereto;

(c) Purchase, maintenance and replacement of any equipment and provision for all water and utility services required for the common elements;

(d) Employment, supervision and dismissal of such personnel as may be necessary for the maintenance and operation of the PUD;

(e) Preparation at least sixty (60) days before each fiscal year of a proposed budget and schedule of assessment for such year;

(f) Collection of all installments of assessments levied and payment of all common expenses authorized by the Corporation;

(g) Purchase and maintenance in effect of all policies of hazard and liability insurance for the PUD required by the Declaration and such other insurance and bonds as may be required or authorized by the Declaration or the Corporation;

(h) Notification of all persons having any interest in any Townhome, according to the Corporation's record of ownership, of any delinquency exceeding sixty (60) days in the payment of any assessment against such Townhome;

(i) Assignment and supervision of motor vehicle parking including the authority to make reasonable rules, fines and charges in regard thereto;

(j) Supervision of the use of the common elements, which includes adoption and enforcement of PUD Rules and enforcement of the provisions of the Declaration and these Bylaws.

**Section 2. Managing Agent**. The Corporation may employ from time to time a responsible Managing Agent or Administrator to manage and control the PUD, subject at all times to direction by the Corporation, with all the administrative functions set forth specifically in preceding Section 1, and such other powers and duties, an at such compensation as the Corporation may establish. The employment contract for a Managing Agent or Administrator shall not exceed three (3) years in duration and shall be terminable by the Corporation without cause and without payment of a termination fee upon ninety (90) days notice.

**Section 3. Execution of Instruments**. All checks, drafts, notes acceptance, conveyances, contracts and other instruments shall be signed on behalf of the Corporation by such person or persons as shall be provided by general or special resolution of the Corporation or, in the absence of any such resolution applicable to such instrument, by the President or the Secretary/Treasurer.

## ARTICLE IV; Obligations of Owners

**Section 1. Assessments**. All Owners shall pay to the Corporation, or if a Managing Agent is appointed, to the Managing Agent, in advance, when due, the quarter-annual assessments against their respective Townhomes for Common Expenses of the PUD in accordance with the Declaration. The assessment is delinquent if not received on or before the first day of the quarter that it is due. If any Owner is delinquent in the payment of any assessment for a period in excess of ten (10) days, a late charge of fifteen percent (15%) of the delinquent assessment shall be payable for each month of delinquency beginning with the initial months. In the event any Owner is delinquent in the payment of any quarter-annual assessment for a period in excess of thirty (30) days, including any

late charge due thereon, the Corporation (or Managing Agent, if appointed ) may declare the entire assessment for the next twelve (12) full calendar months with respect to such Townhome to be immediately due and payable.

**Section 2. Maintenance of Townhomes**. Every Owner shall, at his own expense and at all times, repair, maintain, and keep the Private Elements of his Townhome, including, without limitation, all internal installations therein, such as water, electricity, telephone, sewer, sanitation, air conditioning, lights and all other fixtures and accessories belonging to such Townhome, and the interior decorated or finished surfaces of all walls, floors and ceilings of such Townhome, in good order and condition except as otherwise provided by law or the Declaration, and shall be liable for all loss or damage whatsoever caused by his failure to perform any such work diligently, and, in case of such failure after reasonable notice to perform, shall reimburse to the Corporation promptly on demand for all expenses incurred by the Corporation in performing any such work authorized by the Corporation or the Managing Agent. In addition, each Owner shall maintain all basement walls and floor surrounding his Townhome to prevent water leakage into the Townhome or adjoining Townhomes and shall keep clean all interior and exterior windows and any appurtenant garage areas, storage areas and patio areas. Every Owner and occupant shall reimburse the Corporation promptly on demand for all expenses incurred by the Corporation in repairing or replacing any loss or damage to the Common Elements, where caused by such owner or occupant or by their guests or Members of their households, or incurred for cleaning or repairing appurtenant limited Common Elements. Each Owner shall give prompt notice to the Corporation or Managing Agent of any loss or damage or other defect in the PUD when discovered.

**Section 3. Use of PUD**.

(a) Each Townhome of the PUD shall be used solely for one-family residential purposes.

(b) All Common Elements of the PUD shall be used solely for their respective purposes as designed.

(c) No Owner or occupant shall place, store or maintain in the Common Elements any furniture, packages or objects of any kind or otherwise obstruct transit through such common elements or permit said elements to be unsightly or disorderly.

(d) Every Owner and occupant shall at all times keep his Townhome in a strictly clean and sanitary condition and observe and perform all laws, ordinance, rules and regulations now or hereafter made by any governmental authority or the Corporation applicable to the PUD.

(e) No Owner or occupant shall make or suffer any waster or unlawful, improver or offensive use of his Townhome or the PUD nor alter or remove any furniture, furnishings or equipment of the common elements.

(f) No Owner or occupant shall erect or place in the PUD any structure including fences, walls and patios (except as may be within the boundaries of a Townhome's Private Elements), nor make any additions or alterations to any common elements of the PUD, except as may be permitted in the Declaration and except in accordance with plans and specifications, including detailed plot plan, prepared by a licensed architect, if so required by the Corporation, unless approved by the Corporation, which approval may be given with accompanying restrictions as to the Owner's duties of maintenance, repair and replacement of such improvements and any common elements affected thereby.

(g) No signs, posters or bills may be placed or maintained in the PUD unless approved by a majority of Owners, except that an owner may place and maintain a 'FOR SALE" sign in front of his building for a reasonable time, not to exceed 3 feet by 2 feet in size.

(h) No Owner or occupant shall decorate or landscape any entrance or other planting area adjacent to his Townhome except in accordance with standards therefore established by the Corporation or specific plans approved in writing by the Corporation, which standards or approval may be given with accompanying restrictions as to the Owner's duties of maintenance, repair and replacement of such decorating or landscaping and any common elements affected thereby.

(i) All occupants shall exercise extreme care about making noises and in the use of musical instruments, radios, televisions and amplifiers that may disturb other occupants.

(j) No garments, rugs or other objects shall be hung from windows or facades of the PUD or in other areas within view of other occupants.

(k) No rugs or other objects shall be dusted or shaken from windows of a Townhome or cleaned by beating or sweeping on any exterior part of the PUD.

(l) No refuse, garbage or trash of any kind shall be thrown, placed or kept on any common elements of the PUD except in the areas provided for such purpose.

(m) No livestock, poultry, rabbits, snakes or other such animals shall be allowed or kept in any part of the PUD. Dogs, cats, small caged animals or small birds shall be allowed, subject to regulations by the Corporation, including regulations as to the number thereof.

(n) No Owner or occupant shall, without the written approval of the Corporation, install any wiring for electrical or telephone installations, television antenna, machines or air conditioning equipment, awnings, exterior light fixtures or other equipment or appurtenances whatsoever on the exterior of the PUD or protruding through the walls, windows or roof thereof, except as may have been installed in the original construction of a Townhome's Private Elements.

(o) Nothing shall be allowed, done or kept in any Townhomes or common elements of the PUD which would cause any increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereof maintained by or for the Corporation.

**Section 4. PUD Rules**. The Corporation may adopt, amend or repeal any rules and regulations governing details of the operation and use of the PUD not inconsistent with any provisions of law, the Declaration or these Bylaws.

**Section 5. Expenses of Enforcement**. Every Owner shall pay to the Corporation promptly on demand all costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the Corporation in collecting any delinquent assessments against such Townhome, foreclosing its lien therefore or enforcing any provisions of the Declaration, these Bylaws or the Rules against such owner or any occupant of such Townhome.

**Section 6. Record Ownership**. Every Owner shall promptly cause to be duly recorded the deed, assignment or other conveyance to him of such Townhome or other evidence of his title thereto, and shall file a copy of same with the Corporation, and the Secretary shall maintain all such information in the record of ownership of the Corporation.

**Section 7. Mortgages**. Any Owner who mortgages his Townhome, or any interest therein, shall notify the Corporation of the name and address of his mortgagee, and also of the release of such mortgage, and the Secretary shall maintain all such information in the record of ownership of the Corporation. The Corporation or Managing Agent as the request of prospective purchaser of any Townhome, or interest therein, shall report to such person the amount of any assessments against such Townhome then due and unpaid.

## ARTICLE VI: Miscellaneous

**Section 1. Amendment**. These Bylaws may be amended in any respect not inconsistent with provisions of law or the Declaration by vote of not less than two-thirds (2/3$^{rd}$) of the Owners (as defined in the Declaration) at any meeting of the Corporation duly called for such purpose.

**Section 2. Interpretation**. In case any provision of these Bylaws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect.

**Section 3. Enforcement**. Violation of the provisions of the Declaration, these Bylaws or any PUD rules may be remedied in any court of law or equity having jurisdiction thereof by the Corporation or its managing agent or administrator or any Owner or owners entitled to relief, with the remedies available to such person or persons including damages, restraining order, injunction, accounting, lien enforcement and specific performance, or any combination thereof.

**Section 4. Developer's Rights**. During the period of control of the PUD by the Developer, the Developer shall have the right to enforce the provisions of the Declaration, Bylaws, and PUD Rules as set out immediately above and in Article V, Section 5 of these Bylaws.

## ARTICLE VII: Alternative Dispute Resolution

If either of the events described in Article I, Section 10 occurs, (collectively or in either case, a "Claim"), the Owners (hereinafter the "Parties") agree to utilize the alternative dispute resolution ("ADR") provisions which provide for a two-step ADR process. The first step shall be a face-to-face meeting of representatives of the Parties. The second step, if needed, shall be non-binding mediation.

Step One - Meeting of the Parties. In the event of a Claim, either Party may demand a face-to-face meeting of the respective parties (a "Meeting") by sending demand to the other Party. This Meeting shall be set by agreement and shall be held at the PUD. The parties agree to use their diligent best efforts to agree upon the time of a Meeting and to attempt to amicably resolve the Claim at the Meeting. Although the parties may bring an attorney to the Meeting, each Party shall be limited to two representatives at the Meeting (including any counsel). The parties agree that the Meeting shall be for the purpose of reaching a mutually acceptable and amicable resolution of the Claim. Multiple Meetings may be required only by mutual consent. The Meeting shall not be recorded in any manner, including by video, audio, or stenographic means unless all parties consent in writing.

Step Two - Non-Binding Mediation. If, within twenty days after the demand for a Meeting, no meeting has been held or, if scheduled and either Party fails to attend the meeting, either Party may demand a non-binding mediation of any Claim. Any such mediation shall be administered by the American Arbitration Association (the "Association") under its then current rules for mediation applicable to mediation of commercial lease disputes. The Parties undertake and agree to use their diligent best efforts to resolve any claim or claims by a non-binding mediation administered by the Association under its said applicable mediation rules before having recourse to arbitration or a judicial forum. There shall be one mediator. The mediator's fees, and all fees and expenses charged by the mediator or the Association, shall be shared equally by the Parties; provided, that if any Party has failed or refused to attend the Meeting described in the preceding paragraph, then such Party shall pay seventy-five percent of all such costs and expenses. The mediation shall not be recorded in any manner, including by video, audio, or stenographic means unless all Parties consent in writing at or prior to the mediation and the Parties agree that, even if kept or made, no such recording shall be used by either of them for any purpose whatsoever.

All negotiations pursuant to Step One and Two are confidential and shall be treated as being for the purpose of compromise and settlement negotiations for the purpose of applicable rules of evidence.

## Certificate of Adoption

The undersigned Developer and Owner of all Townhomes of the PUD hereby adopts the foregoing as the Bylaws of West End I, Townhouse Corporation, Inc. on the 7th day of November, 2002.