PICK-UP

Davidson County REST
Recvd: 01/21/09 15:00 31 pg
Fees:157.00 Taxes:0.00
20090121-0005246

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

for

HARPETH VILLAGE

a planned unit development

This instrument prepared by:

Austin Daniel, Managing Member
Biltmore Development, LLC
209 Gothic Court, Suite 108
Franklin, TN 37067

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
for
HARPETH VILLAGE
a planned unit development

This Declaration of Covenants, Conditions, and Restrictions is made this the 1st day of January, 2009 by and between **Biltmore Development, LLC**, a Tennessee Corporation (herein referred to as the "Declarant") and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property in Davidson County, Tennessee as more particularly describe on **Exhibit A** attached hereto and incorporated herein by this reference (herein referred to as the "Property"), which Property consists of a planned unit residential development known as HARPETH VILLAGE (herein referred to as the "Development"), which is more particularly shown on the Final Plat for Harpeth Village of record as **Instrument No. 20060505-0052434**, in the Register's Office for Davidson County, Tennessee (herein referred to as the "Plat");

WHEREAS, it is to the benefit, interest, and advantage of Declarant and of each and every person or other entity hereafter acquiring all or any portion of the Property that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of the Property be established, fixed, and set forth and declared to be covenants running with the land;

WHEREAS, the Declarant, now desires to supersede any and all restrictions for the Development that may presently exist with respect to the Property described herein and to establish restrictions applicable to such Property in accordance with the terms of this Declaration;

NOW, THEREFORE, Declarant hereby declares that all of the Properties described in **Exhibit A** shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions. Such easements, restrictions, covenants and conditions are for the purpose of protecting the value and desirability of the Properties, and shall run with the real property submitted to this Declaration. They shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1
Definitions

SECTION 1.1 "Additional Maintenance Area" shall mean those portions of a Residential Unit which the Association is responsible for maintaining, pursuant to Article 8, Section 8.2, and those portions of a Residential Unit which by contract with the Owner, the Association undertakes to maintain.

SECTION 1.2 "Assessments" shall mean all Assessments for Common Expenses provided for herein which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Residential Units and of maintaining the Properties, all as may be specifically authorized from time to time, provided that in the event of Assessments for exterior maintenance, insurance, or replacement reserves which pertain only to particular

Residential Units, such Assessments shall be levied upon a pro rata basis among benefitted Owners. There shall be an Annual Assessment, which shall mean the amount assessed yearly against such Owner as established from time to time by the Board. There may be Special Assessments assessed from time to time against each Owner, or a particular Owner, for construction, reconstruction, repair, or replacement of capital improvements to be established, collected, and used as provided herein.

SECTION 1.3 "Association" shall mean and refer to Harpeth Village Homeowners Association, Inc., a Tennessee non-profit corporation, its successors and assigns.

SECTION 1.4 The "Board of Directors" or "Board" shall mean the duly elected Directors for the Association, which is the elected body responsible for managing the affairs of the Association.

SECTION 1.5 "Common Area" shall mean all real and personal property, including the Property, but excluding Residential Units, components thereof and easements appurtenant thereto, now or hereafter owned by the Association for the common use and enjoyment of the Owners, including, but not limited to, all lawns, any and all streets, roads, bridges, parking areas, drainage facilities, ponds, waterways, fences, structures, sidewalks, curbs, signs, lights, common utilities, and other improvements. The Common Area to be owned by the Association shall be conveyed to the Association prior to the conveyance of a Residential Unit to any purchaser. For the purpose of tax assessment, all common area will be divided on a percentage basis and assigned to each individual unit as referenced in **Exhibit B**.

SECTION 1.6 "Limited Common Area" shall mean all real and personal property, including the Property that lies 15 feet from the rear of each unit extending toward the rear of the property line. This area will typically include the patio or deck, which is attached to each Residential Unit unless that unit shall have a patio or deck attached to the side of the Residential Unit. In this instance the "Limited Common Area" shall also include 15 feet of the side yard as well.

SECTION 1.7 "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association and maintaining the Common Area, including, without limitation, any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

SECTION 1.8 "Declarant" shall mean Biltmore Development, LLC, its successors and assigns, Celebration Homes, LLC, provided such successors and assigns are designated, in writing, by Declarant or such successor or assigns by the rights of the Declarant set forth herein.

SECTION 1.9 "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

SECTION 2.00 "Mortgage" shall include a deed of trust, as well as a mortgage or similar instrument intended to create a security interest in a Residential Unit.

SECTION 2.11 "Mortgagee" shall mean the holder, beneficiary or person entitle to the beneficial interest under a Mortgage.

SECTION 2.12 "Mortgagor" shall include the grantor, trustor or similar party conveying a beneficial interest, lien or similar security interest under a Mortgage.

SECTION 2.13 "Owner" shall mean and refer to one or more persons or entities, including, without limitation the Declarant, who hold the record title to any Residential Unit which is part of the Property, but excluding in all cases any party holding an interest merely as security for performance of an obligation.

SECTION 2.14 "Person" shall mean a natural person, a corporation, a partnership, limited liability company, trustee, or other legal entity.

SECTION 2.15 "Plat" shall mean and refer to the Final Plat of Harpeth Village, recorded simultaneously with this Declaration as **Instrument No. 20060505-0052434** in the Register's Office for Davidson County, Tennessee.

SECTION 2.16 "Property" shall mean and refer to the real property described in **Exhibit A** attached hereto and incorporated herein by this reference, including Outparcel 8, open space A and B.

SECTION 2.17 "Residential Unit" or "Unit" shall mean a portion of the Property intended for any type of independent ownership for use and occupancy as a residence, by a single family, whether a residence is constructed thereon or not. All Residential Units shall be shown and identified as numbered units upon the Plat. A Residential Unit shall include all easement rights appurtenant to such Unit as set forth herein or as shown on the Plat or subsequent Plat, which will include exclusive use easements to all Units.

ARTICLE 2
Property Rights

Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to the restrictions or limitations contained in this Declaration, as the same may be amended from time to time as provided for herein. Each Owner shall have an exclusive easement for the use of any driveway, patio or other improvements designed for the exclusive use of such Owner's Residential Unit in addition to all easement rights including exclusive use easements to all Units appurtenant to such Units as set forth herein or shown on the Plat or any subsequent Plat which voids, vacates or supersedes a prior Plat. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

ARTICLE 3
Membership and Voting Rights

SECTION 3.1 Membership. Every person who is the record Owner of a fee or undivided fee interest in any Residential Unit that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership, and any transfer of a Residential Unit shall operate automatically to transfer to the new record owner thereof the membership in the Association appurtenant thereto. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Residential Unit owned. In the event the Owner of a Residential Unit is more than one person or entity, voting and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including, without limitation, the right to vote, may be exercised by a Member but in no event shall any Owner be entitled to more than one (1) vote for

each Residential Unit owned by such Owner, except as for Class "B" members as set forth below.

SECTION 3.2 Classes of Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A" Members. Class "A" members shall be all Owners with the exception of Class "B" members, if any. Class "A" members shall be entitled to only one (1) vote, for each requiring a vote, for each Residential Unit in which they hold the interest required for membership set forth in Section 3.1 hereof.

(b) Class "B" Members. Class "B" members shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale and who is designated as such in a recorded instrument executed by Declarant or its successor. The Class "B" members shall be entitled to four (4) votes for each Residential Unit owned. The Class "B" membership shall terminate and become converted to Class "A" memberships upon the first occurrence of the following:

(1) when ninety percent (90%) of the Units planned for the Property have certificates of occupancy issued thereon and have been conveyed to Persons other than the Declarant or builders holding title solely for purposes of development and sale;

(2) when, in its sole discretion, the Class "B" Member so determines.

Within thirty (30) days after the termination of the Class "B" Control Period, the Association shall call a special meeting to be held at which the Class "A" Members shall elect five (5) directors. The directors elected by the Class "A" Members shall not be subject to removal by the Declarant acting alone. Two (2) of the five (5) directors shall serve a term of one (1) year and the remaining three (3) directors shall serve a term of two (2) years.

(c) Voting Procedures. Members shall vote in person or by proxy executed, in writing, by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by such Member of his or her interest in such person's Residential Unit. The Board may, in its discretion, promulgate an official proxy form and, in such event, no proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Member's vote shall be cast by the duly authorized officer or agent of such corporate Member upon written evidence of such person's authority presented to the Secretary of the Association at such meeting. Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Members of each Class present at the meeting shall, prior to voting on any matters, demand a written ballot. Where directors or officers are to be elected by the Members, the official solicitation of proxies for such elections may be conducted by mail. Any Owner of Residential Units which are leased may, in the lease or other written instruments, assign the voting rights appurtenant to the Residential Unit to the lessee, for the term of such lease, provided that a copy of such instrument is furnished to the Secretary of the Board of Directors prior to any meeting. When more than one Person owns an interest in any Residential Unit, the vote for such Residential Unit shall be exercised by one (1) of such persons as proxy or nominee for all persons owning an interest as Owners in the Residential Unit. In no event shall more than one (1) vote be cast with respect to any Residential Unit, except as provided for Class "B" members. In the event of the Owners of a Unit cannot unanimously agrees as to a vote to be cast, no vote shall be recorded for such Residential Unit.

ARTICLE 4
Maintenance and Alteration of Units

SECTION 4.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Area with such maintenance to be funded as hereinafter provided. Such maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of **ALL** landscaping and other flora on the Common Area (shrubs, trees, mulch), and structures or improvements situated upon the Common Areas. This shall include the landscaping in front of each Residential Unit and Open Space A and B. The Association shall further have the exclusive right to contract for trash and rubbish removal, all as set forth more fully in Article 8. Further, the Association shall be responsible for the repair and maintenance of all roofs, siding, soffit trim and gutters; however, should any interior damage occur in a Residential Unit, due to the exterior enclosure failure, resulting in water leaks, it shall be the responsibility of the individual Unit owner to repair that damage at the owners expense.

SECTION 4.2 Owner's Maintenance Responsibility. In accordance with this Declaration, and except as provided in Article 8, all maintenance of the interior portions of the Residential Unit, all structural components of the Residential Unit, and other improvements not maintained by the Association shall be the sole responsibility of the Owner thereof. Specifically, and without limiting the generality of the immediately preceding sentence, such requirements shall include:

(a) The Residential Unit Owner shall not make any changes, decorations or alterations of his/her Unit that would effect the exterior appearance of any portion of the building or which would jeopardize the safety, soundness or structural integrity of any Unit, common element, limited common element, or building, or impair any easement. No Owner shall decorate the glass windows serving their Unit(s) or otherwise change the appearance of the windows as viewed from the exterior of the Unit, except for drapes or curtains which must comply with the rules and regulations adopted by the Association.

(b) Except as reserved herein to the Declarant, no Residential Unit Owner shall make any alteration in the portions of the Residential Unit or which are to be maintained by the Association, or the Common Area, common elements or limited common elements which are to be maintained by the Association, without first obtaining the prior written approval of the Board of Directors of the Association. A copy of the plans for all such work prepared by an architect, licensed to practice in this state, shall be filed with the Association prior to the commencement of the work unless such requirement is waived, in writing, by the Directors of the Association. The time for performance of such work must be approved, in advance, by the Directors of the Association.

(c) If a Unit Owner fails to maintain and repair his Unit as required herein, the Association may perform such maintenance or repair and assess the Unit Owner for all expenses incurred together with up to a twenty percent (20%) service charge for the Association's services. The Association shall have a lien upon such Owner's Unit to secure payment of such expenses and service charges which the Association may enforce in the same manner as a lien for assessments as set forth in Section 9.7 herein.

(d) Residential Unit Owners shall have the responsibility and bear the expense of maintenance, repair and replacement of all air conditioning and heating equipment, plumbing, electrical, gas, water, sewer and all low voltage wiring (including without limitation, coaxial cable, ethernet, telephone and similar wiring), serving such Owner's Unit and comprising a portion of that Unit, whether

such equipment is located inside or outside such Unit's boundaries. Further, each Residential Unit Owner shall be responsible for the maintenance of all the Units windows and exterior doors, the Units mailbox, the Units driveway and the sidewalk leading from the driveway to the front entrance.

(e) Residential Unit Owners shall not make any changes, decorations, or alterations of balconies, patios, or any other limited common element allocated to their Residential Units, which would affect the exterior appearance of any portion of the building without the prior written approval of the Board of Directors of the Association.

ARTICLE 5
Insurance and Casualty Losses

SECTION 5.1 Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area and the Residential Units, excluding personal property contents of the Residential Units against loss or damage by fire or other hazards, including extended coverage and vandalism. This insurance shall be in an amount sufficient to cover the full replacement costs of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have at least a One Million Dollar ($1,000,000.00) single person limit as respects bodily injury and property damage, a One Million Dollar ($1,000,000.00) limit per occurrence, and a Five Hundred Thousand Dollar ($500,000.00) minimum property damage limit.

Premiums for all insurance as required by this Article 5 shall be Common Expenses of the Association. The policy or policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. Cost of insurance coverage shall be included in the Annual Assessment, as defined in Article 9, Section 9.3, herein.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as Trustee for the respective benefitted parties, as further identified in subsection (b) immediately below. Such insurance shall be governed by the provisions hereinafter set forth.

(a) All policies shall be written with a company licensed to do business in Tennessee and holding a rating of BBB+ or better in the Financial Category as established by A.M. Best, if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All insurance policies shall be for the benefit of the Residential Unit Owners and their mortgagees as their interests may appear.

(c) Exclusive authority to adjust losses under policies in force on the Property obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if available for a reasonable premium, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with the construction in the Davidson County area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its Manager, the Owners, and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(iii) that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized agent without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner, or mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owner's policies from consideration; and

(vi) that no policy may be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, workman's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment, but may not be less than three (3) months' Assessments, plus reserves on hand. Such bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

SECTION 5.2 Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which insurance proceeds are paid is to be repaired or

reconstructed, the proceeds or portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Commons Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements or reserve account. This is a covenant for the benefit of any mortgagee of a Residential Unit and may be enforced by such mortgagee.

(b) If it is determined, as provided for in Section 5.3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 5.2(a) hereof.

SECTION 5.3 Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the costs of repair or reconstruction of the damaged or destroyed properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Members holding at least seventy-five percent (75%) of the total eligible votes of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct such Common Area. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair of reconstruction, or both are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the Common Area damaged or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined, by the Association, in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the damaged portions of the Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

SECTION 5.4 Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members, levy a Special Assessment against the Owners in proportion to the number of Residential Units owned by such Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE 6
No Partition

Except as is permitted in this Declaration or amendments thereto, there shall be no physical

partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless (i) a casualty occurs to the Common Area as contemplated by Section 5.3 of this Declaration, and (ii) the Member elect not to repair such Common Area in accordance with Section 5.3(b) of this Declaration, or unless the Property has been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property, nor from acquiring title to the real property which may or may not be subject to this Declaration.

ARTICLE 7
Condemnation

Whenever all or any part of the Common Area is taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association as Trustee for all Owners and shall be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) of the Members of the Association eligible vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the provisions in Article 5 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE 8
Rights and Obligations of the Association

In addition to the powers delegated to it by the Charter, the Association shall have the obligation to perform each of the following duties:

SECTION 8.1 Operation and Maintenance of the Common Areas. To operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of the Common Area, together with all easements for operation and maintenance purposes and for the benefit of the Association or its Members over and within the Common Area, to keep all improvements, if any, of whatever purpose from time to time located thereon in good order, condition, and repair. Any other provision of this Declaration, the Charter of the Association, or the By-Laws of the Association notwithstanding, the Association always shall maintain lien-free title to the Common Area excepting only the lien of current taxes not yet due and payable.

SECTION 8.2 Maintenance Obligations for the Residential Units. In addition to the operation, maintenance, and management duties of the Association set forth in Section 8.1 above, and excepting the Owner's maintenance obligations set forth in Section 4.2 herein, the Association shall provide for the good maintenance, care, repair, and replacement of the following portions of the Residential Units:

(a) The exterior landscaping and walkways located on or about each Residential Unit. Specifically excluded as an exterior maintenance responsibility of the Association are rear patios, decks, privacy fences, driveways and sidewalks from the driveway to the front entrance. These items shall remain the responsibility of the Owner of the Residential Unit benefitted by such improvements. The Association shall have the right, however, to contract with the Owner of any Residential Unit for the maintenance of such other areas and items as the Board may deem appropriate.

(b) Maintenance of the exterior including, painting, non-structural repair of the exterior building surfaces as the Board shall deem necessary and proper, maintenance of the roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, replacement of exterior trim, caulking and other repairs to roof covers (to include the repair and replacement of all non-structural components of the roof of each Residential Unit), and other miscellaneous repairs of a nonstructural nature. Such exterior maintenance shall not include maintenance, repair or cleaning of glass surfaces (including, without limitation, windows and sliding glass doors), screens, patio covers or exterior doors and does not include interior damage as stated in Article 4, Section 4.1.

(c) All other elements of Residential Units and the improvements located thereon shall be maintained by the Owner of the particular Residential Unit involved. In the event that an Owner fails to maintain his Unit and the improvements thereon in a manner satisfactory to the Board, the Association, after approval by a two-thirds (2/3) vote of the Board, shall have the right, through its agents and employees, to enter upon said Unit and to repair, maintain, and restore the Unit and the exterior portion of the Unit, including the lot on which it is situated, and any other improvement situated thereon. The costs of such exterior maintenance shall be added to and become a part of the assessment to which such Unit is subject and the Association shall have a lien, to secure payment of such sums (together with reasonable interest thereon until paid in full, and all collection expenses, including, without limitation, reasonable attorneys' fees and litigation expenses), which the Association may enforce in the same manner as a lien for assessments as set forth in Section 9.7 herein.

(d) Notwithstanding any obligation of the Association under this Section 8.2 or elsewhere in this Declaration, if the need for exterior maintenance and repair by the Association is caused by the willful or negligent conduct, act or omission of an Owner, his family, guests, invitees, or other Persons using or occupying this Residential Unit with such Owner's express or implied permission, the cost of such repair or maintenance shall be assessed against such Owner and shall be due and payable thirty (30) days from the date of notice thereof, such Assessment to be collected and enforced as provided in Article 9 of this Declaration. Such Assessment shall not require the approval of any of the Members.

(e) For the sole purpose of performing the exterior maintenance upon each Residential Unit required by this Section 8.2, each Owner hereby grants the duly authorized employees or agents of the Association the right, upon reasonable notice to such Owner, to enter upon or into any Residential Unit at reasonable hours of any day except Sunday. The duly authorized agents or employees of the Association shall have the right to enter in or upon any Residential Unit or into any structure thereon, without notice of the Owner thereof, when, in the judgment of the Association, acting through its Board of Directors, such entrance is necessary to prevent damage to such Residential Unit or surrounding Residential Units by fire, criminal act, natural disaster, or other similar emergency.

SECTION 8.3 Water and Other Utilities. To acquire, provide, and/or pay for, water sewerage, garbage disposal, electrical, telephone, gas, and other necessary utility services for the Common Area.

SECTION 8.4 Taxes and Assessments. To pay all real and personal property taxes and assessments separately levied upon or assessed against the Association and/or of the property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, in good faith; provided, however, that such taxes or assessments are paid or a bond in an amount at least equal to such taxes and assessments if posted prior to the sale or other disposition of any property to satisfy the payment of such taxes or assessments.

SECTION 8.5 Insurance. To obtain from reputable insurance companies qualified to do business in the State of Tennessee, with a financial rating by Best's Insurance Reports of BBB+ or better, and maintain in force at all times such insurance as is required by this Declaration.

SECTION 8.6 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within Davidson County conveyed to it by the Declarant.

SECTION 8.7 Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Such rules and regulations may include reasonable monetary fines, suspension of the Owner's right to vote, and suspension of the right to use the Common Area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. The Board shall be entitled to collect, from any Owner who violates any provision of this Declaration or such rules and regulations all court costs, litigation expenses and attorneys' fees incurred in the enforcement of this Declaration and such rules and regulations. Imposition of sanctions shall be as set forth in the By-Laws. In addition, the Association, through the Board, may by contract or other agreement, enforce violations of county codes, regulations or ordinances on the Property for the benefit of the Association and its Members; provided, however, the Board shall not be required to enforce any such violation.

SECTION 8.8 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any Right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

SECTION 8.9 Garbage and Refuse Removal. The Association shall have the exclusive right to contract with one or more private or public waste disposal companies for the regular removal of garbage and other refuse from the Development. The costs and expenses for such garbage and refusal removal services shall be Common Expenses and shall be included assessments set forth in Article 9; provided, however, the Board may make special allocations of the assessments for garbage and refuse removal against any Residential Unit to the extent such Unit produces excessive garbage or refuse which results in additional charges for the removal of such excess garbage or refuse. The Board shall not make any special allocations against the Developer or any builder constructing units within the Development during the initial period of construction of the Residential Units.

ARTICLE 9
Assessments

SECTION 9.1 Creation of Assessments. There are hereby created Assessments for Common Expenses as may be from time to time authorized by the Board of Directors. The Annual Assessment shall be allocated equally among all Residential Units within the Association, except for Units owned by Declarant. For Units owned by the Declarant, the Assessments shall only be for expenses incurred for the use and benefit of the Declarant, and such Assessments shall exclude expenses which do not benefit Declarant. Special Assessments may be levied against all Residential Units when all Units are benefited, or against a single Residential Unit or group of Residential Units in particular portions of the Property when, in the opinion of the Board, the Special Assessments benefit less than the Association as a whole. Each Owner, by accepting his or her deed, is deemed to covenant and agree to pay the assessments provided for in this Declaration. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the Annual Assessment for any delinquent payment of installments or uncured violation of the provisions of this Declaration. Unless the Board determines otherwise, the Annual Assessment shall be paid in equal monthly installments. The Association is authorized and encouraged, but not required to seek public and private funds to help defray, in whole or in part, the expenses for which assessments would be necessary. To the extent received, such funds shall be used to reduce the assessments otherwise required by the budget required under Section 9.3 of this Article. The Association is further authorized to enter into subsidy contracts with Declarant or other entities for the payment of some portion of the Common Expenses. Such contract or contracts shall be for the benefit of and enforceable by the Association.

SECTION 9.2 Personal Liability of Owners for Assessments. Any and all assessments made pursuant to this Declaration together with interest at the highest rate allowable under the laws of the State of Tennessee, court costs, reasonable attorneys' fees and litigation expenses, shall also be the personal obligation of the Person who was the Owner of such Residential Unit at the time the assessment arose, and such Owner(s) grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, no first priority Mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. Each Owner and such Owner's grantees, successors and assigns shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance or transfer of such Owner's Residential Unit(s), but without prejudice to the rights of the grantees, successors or assigns to recover from the grantor the amounts paid by the grantee for delinquent assessments. Such liability may not be avoided by Owner's waiver of a use of any common element or by the abandonment of the Residential Unit. Any lien for unpaid assessments or charges extinguished by foreclosure of a first priority mortgage , by a deed in lieu of such foreclosure, or by tax or judicial sale of the property may be reallocated and assessed by the Association to all of the Residential Units as a common expense.

SECTION 9.3 Computation of Annual Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the annual meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared. The Board shall cause a copy of the budget, and the amount of the Annual Assessment to be levied against each Residential Unit for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the Annual Assessment shall become effective unless disapproved at the meeting by a vote of

at least Two-Thirds (2/3) of the Members of both classes entitled to vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding fiscal year shall continue for the succeeding year.

SECTION 9.4 Special Assessments. In addition to the Annual Assessments authorized herein, the Board may levy, during any calendar year, but in no event prior to the first annual meeting of the Members, Special Assessments, applicable only to that year, to be used solely to defray, in whole or in part, the cost of any construction, reconstruction, or unexpected expense.

SECTION 9.5 Lien for Assessments. To secure the payment of any Assessment, a lien is expressly retained in favor of the Association on each and every Residential Unit. Such lien shall be prior and superior to all other liens, except (1) property taxes, assessments, and other levies which by law are superior thereto, and (2) the lien or charge of any first priority Mortgage of record (meaning any duly recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien shall secure any and all assessments made pursuant to this Declaration, together with interest at the highest rate allowable under the laws of the State of Tennessee, court costs, reasonable attorneys' fees and litigation expenses.

SECTION 9.6 Payment of Assessments. Any and all assessments made pursuant to this Declaration and any installments thereon, paid more than fifteen (15) days after the date when such assessment was due, as determined by the Board, shall bear interest at the maximum rate allowed by law or at such lesser interest rate determined by the Board. In addition, any installment paid more than fifteen (15) days after the date when such installment was dues shall be subject to a reasonable late charge in an amount determined by the Board. All payments shall first be applied to expenses incurred by the Association in connection with the collection of any assessment or the enforcement of the provisions of this Declaration, and second to any late charges and fined due, third to interest, and finally to the assessment(s).

SECTION 9.7 Enforcement and Collection of Assessments. The Association shall have the right to sue for and collect any and all unpaid assessments (together with all other amounts due under this Declaration), to foreclose upon the lien securing the assessments or to institute any other competent proceeding. In any event, the Association shall be entitled to recover all delinquent payments, together with late charges, and all costs of collection as provided for herein, including, without limitation, reasonable attorneys' fees.

SECTION 9.8 Capital Budget and Contribution. As contemplated by Section 9.3, the Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by Annual Assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment, as provided in Section 9.3 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

SECTION 9.9 Certificate of Payment. The Board shall upon request and for a reasonable charge

determined by the Board, furnish to any Person a certificate, signed by an officer of the Association, setting forth whether or not all Assessments, whether Annual or Special, on a specified Residential Unit have been paid.

ARTICLE 10
Use Restrictions

SECTION 10.1 In addition to all other covenants and conditions set forth contained herein, the use of the Properties is subject to the following:

(a) Residential Use. Except as otherwise provided in this Declaration, each Residential Unit shall be used solely as a single-family residence and for no other purpose, and there shall not be constructed or maintained upon any Residential Unit more than one single-family residence. Except as otherwise provided in this Declaration, the Common Area shall be used for recreational, social, and other purposes directly related to the single-family use of the Residential Units authorized hereunder.

(b) Interior Maintenance. Each Owner shall be responsible for the maintenance of, and shall maintain, the interior of this Residential Unit, including interior walls, windows, glass, ceilings, floors, doors, windows, and permanent fixtures and appurtenances thereto, patios and other easement areas appurtenant to such Unit, and such other portions of this Unit for which care and maintenance is his responsibility, in a clean, sanitary, and attractive condition, reserving to each Owner, however, complete discretion as to choice of furniture, furnishings, and interior decorating.

(c) Common Area Landscaping. The Association shall have the sole right and the obligation at any time to plant, replace, maintain, and cultivate shrubs, trees, grass, plants, and other landscaping upon the Common Area as determined by the Board.

(d) Signs and Billboards. No sign or billboard of any kind shall be displayed to the public view on the Property, any Residential Unit or portion of the Common Area, except for (1) directional or informational signs, established by Declarant or the Association, (2) signs used by Declarant, or by its successors or assigns, to advertise the Properties, provided such signs are located on the Common Area or on Residential Units owned by Declarant and are removed upon Declarant's sale of all Residential Units. the prohibitions set forth in this subsection (d) provided that this requirement shall not preclude the placement by Owners of "For Sale" signs in the front of individual Residential Units of such size, character, and number as shall from time to time be approved by the Board. The Association shall have the right to remove any such unapproved sign, advertisement, billboard or structure that is placed on the Property, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

(e) Mailboxes. The Association shall have the sole right to designate a standard, uniform mailbox for use within the Development and may set forth such standard through the rules and regulations promulgated by the Board of Directors, provided that such mailbox standards shall comply with all United States Postal regulations.

(f) Quiet Enjoyment. No noxious or offensive activity shall be carried on, in or upon any Residential Unit or any part of the Properties, nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood, that shall interfere in any way with each Owner's quiet enjoyment of his respective Residential Unit, or that shall increase the rate of insurance in any way.

The provisions of this Paragraph are subject to the rights of Declarant and its successors and assigns to develop the Properties as provided for herein.

(g) Temporary Structures. No structure of a temporary character, or other out-building shall be placed or used on or about the Property or the Common Area at any time, as a residence or otherwise, either temporarily or permanently. No trailer, camper, boat, or similar equipment shall be permitted to remain upon or within the Common Area unless on a space designated for such use by the Association. Declarant or its agents shall have the right to conduct any business necessary for the sale of Residential Units, including showing model units and maintaining a sales and/or construction office on the Common Area or in any Residential Units owned by Declarant. In furtherance thereof, Declarant shall have an easement over all of the Common Area for ingress, egress, and parking for itself, its agents, employees, and prospective buyers of Residential Units for so long as Declarant or any subsidiary or affiliated company owns any interest in the Property.

(h) Animals. In no event will the total number of dogs, cats, or such other household pets approved by the Association be more than two. No animals, reptiles, rodents, livestock, birds, fish, or poultry of any kind shall be raised, bred or kept in or on the Common Area except that dogs, cats or such other household pets approved by the Association may be kept in the Residential Units, provided such pets are not kept, bred, or maintained for any commercial purposes or in unreasonable numbers. Owners must obey the leash law at all times and are responsible for the removal of all pet waste in the Common Area. Notwithstanding the foregoing, no animals may be kept outside the Residential Units. In any event, each Owner shall be absolutely liable to all remaining Owners, their families, guests, invitees and tenants and the Association for any and all damage to person or property caused by any pets brought or kept in or upon any Residential Unit or on the Common Area or by any Owner or by members of his family, guest or invitees. Upon the written request of any Owner, the Board shall determine conclusively, in its sole and absolute discretion, whether, for the purpose of this subsection (g), a particular species of animal, bird, fowl, poultry, or livestock is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds is reasonable. All Residential Unit owners shall be responsible to pick-up and dispose of any feces left outside by their pet.

(i) Exterior Structures. No fences, ornamental screens, awnings, screen doors, sunshades, walls, or hedges shall be erected or permitted upon the Common Area except such as are installed in accordance with the initial construction of the improvements or approved by the Board. No building, including out-buildings, patios, fences, and porches, shall be removed from, erected on, placed or altered on any portion of the Common Area until the construction plans and specifications and a plan showing the exact location of the structure or improvements have been approved, in writing, by the Board, in its sole discretion. In making such decision the Board may consider quality of workmanship and materials, harmony of external design with existing structure or structures, location and general aesthetics of the Development. Any alteration in the exterior color of any structural improvement shall be subject to the prior approval of the Board. The prohibitions set forth herein shall not apply to Declarant.

(j) Parking and Motor Vehicles. All recreational vehicles (including, but not limited to, campers, boats, boat trailers, other types of trailers, etc.) and inoperative or unlicensed vehicles must be stored in the garage. No tractor trailers, buses, motor homes or large commercial vehicles may be parked on driveways or on the streets within the Property except for those that are making normal deliveries or pickups during normal business hours. The foregoing shall not apply to Declarant's reasonable storage of construction vehicles and supplies relating to construction of structures permitted under this Declaration. The Board of Directors may impose rules and regulations not inconsistent with this Declaration with

respect to the maintenance and use of parking spaces provided on the Common Area and the uses, operating and control of motor vehicles thereon. Motor vehicles may not be parked in the street overnight.

(k) Antenna, Towers, Satellite Dishes, Etc. Unless approved by the Board, no towers, antennae, aerials, or other facilities for the reception or transmission of radio or television broadcasts or other means of communication shall be erected and maintained or permitted to be erected and maintained on any portion of the Common Area. Owners may install satellite dishes with a diameter of less than twenty (20) inches, provided such are installed and erected in locations toward the rear of the Residential Unit so as not to be visible from the street (unless such location would preclude reception of a signal of acceptable quality) and in a manner so as to be as reasonably unobtrusive as possible. All other devices for the reception of broadcast signals that are visible from the street or are prohibited, except upon express waiver by the Board. Television antennae must be located to the rear of the roof ridge line of the Residential Unit. Freestanding antennae are prohibited and no antenna shall be erected on a wooden pole. Plans for the installation of any satellite dish or of any antenna that exceeds six (6) feet in height must be submitted to the Board for approval.

(l) Basketball Goals (permanent or portable) – Unless approved by the Board, no basketball goals shall be placed in use, even temporarily, on any location of the property.

(m) Garbage Collection. All garbage, refuse and recycling containers shall be kept, at all times, in the garage of the Residential Unit except for the night before pick-up and each Owner shall return such container to his garage no later than the afternoon of pick-up. No incinerators shall be kept or maintained on or about the Common Area or any Residential Unit.

(n) Storage Tanks. No exposed above-ground tanks or receptacles shall be permitted for the storage of fuel, water, or any other substance on the Property or the Common Areas.

(o) Clothes Lines. Outside clothes lines are prohibited.

(p) Window Air Conditioning Units. No window or wall type air conditioning units shall be permitted.

(q) Taxes and Utilities. Each Owner shall pay all real and personal property taxes or charges assessed against his respective Residential Unit and the utility charges for said Residential Unit.

(r) General Nuisances. Each Owner shall refrain from any act or use of his Residential Unit, which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to others. No Residential Unit shall be used for storage of material and equipment, except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish of any kind and the burning (except as permitted by law) of any such materials is prohibited. No Owner shall permit any thing or condition to exist upon any portion of such Owner's Residential Unit allocated to such Unit that shall induce, breed, or harbor infections, plant diseases, vermin or noxious insects. No noxious, offensive, or illegal activity shall be carried on upon any Residential Unit or the Common Areas. No motorcycle, motorbike, motor scooter, or any other unlicensed motorized vehicle shall be permitted to be operated on or in the Common Areas. No Residential Unit shall be used, in whole or in part, for the storage of any substance, thing, or material which emits foul or noxious odors or which will cause any noise that will or might disturb the peace and

quiet of the Owners of surrounding Residential Units or the Property. The foregoing shall not be construed to prohibit the temporary deposits of trash and other debris for pick-up by garbage and trash removal service units in conformity with subsection (l) above.

(s) Dangerous Hobbies and Activities. The pursuit of any inherently dangerous activity or hobby, including, without limitation, the assembly and disassembly of motor vehicles or other mechanical devices, the shooting of firearms, fireworks, or pyrotechnic devices of any type or size, and other such activities shall not be pursued or undertaken on any part of any Residential Unit or upon the Common Areas without the consent of the Board.

(t) Visual Obstruction at the Intersection of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) feet and six (6) feet above the surface of the streets shall be placed, planted or permitted to remain on any corner Residential Unit within the triangular area formed by the curb lines of the streets involved and a line running from curb line to curb line at points twenty-five (25) feet from the junction of the street curb lines. The same limitations shall apply on any Residential Unit within ten (10) feet from the intersection of a street property line with the edge of a driveway.

(u) Governmental Restrictions. Each Owner shall observe and comply with all laws, statutes, ordinances, rules, and regulations of federal, state, or municipal governments or authorities applicable to use, occupancy, construction, and maintenance of any improvements upon the Property, including, without limitation, all governmental building codes, health regulations, zoning restrictions, and other regulations applicable to his Residential Unit. In the event of any conflict between any provision of any such governmental code, regulation, or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

SECTION 10.2 Additional Restrictions. The Board of Directors shall be entitled to invoke additional rules and regulations from time to time for the operation, use, and maintenance of the Property, including the Residential Units and Common Area, provided such rules and regulations are not inconsistent with this Declaration.

SECTION 10.3 Inspection and Enforcement.

(a) During reasonable hours, any member or representative of the Board shall have the right to enter upon and inspect any portion of the Property and the improvements thereon for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with. Such Persons shall not be deemed guilty of trespass by reason of such entry, provided 24 hours prior written notice has been given to the Owner of any Residential Unit entered upon.

(b) In the event that an Owner fails to comply with the provisions of this Article 11 or any other provisions of this Declaration, the Board shall notify such Owner in writing of such lack of compliance, which notice shall specify the nature of such lack of compliance. If, within five (5) days following receipt of such notice, such Owner (1) fails to remedy his lack of compliance, or (2) fails to deliver written notice to the Board requesting a hearing before the Board with regard to the matters of non-compliance set forth in such notice, the Association may enter in or upon such Owner's Residential Unit for the purpose of remedying the matters set forth in such notice and shall not be liable for trespass in connection with such entry. If the Owner timely requests a hearing before the Board, the Board shall promptly hold a hearing and shall provide the Owner with at least seven (7) days' written notice

concerning the date, time, and place thereof. At the hearing, the Owner will have an opportunity to discuss with the Board the merits of the claims set forth in the Board's original notice of noncompliance and the Board will determine what action, if any, is to be taken by the Owner. The decision of a majority of the members of the Board present at the hearing will be binding on the Association and the Owner. In the event that it is determined that the Owner has not complied with the provisions of this Article 11 or any other provisions of this Declaration, the Board shall establish a reasonable time within which the Owner shall comply. If the Owner fails to comply within such time period, determined by the Board, the Association may enter in or upon the Owner's Residential Unit for the purpose of remedying such matters and shall not be liable for trespass in connection therewith. The cost of remedying an Owner's failure to comply with the provisions of this Article shall be assessed to the Owner by the Board. Such assessment shall be due and payable thirty (30) days from the date of written notice thereof and shall be collected and enforced in the manner provided in Article 9 of this Declaration.

(c) Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration or the rules and regulations of the Association by self help (specifically including but not limited to, the towing of vehicles that are in violation of parking rules and regulations), or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in Article 9 & 9.7 above. In any such actions, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including, without limitation, reasonable attorneys' fees, court costa and litigation expenses incurred by the Association.

ARTICLE 11
General Provisions

SECTION 11.1 Term. The covenants and restrictions of the Declaration shall run with the land and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3) of the then Owners, has been recorded within six (6) months prior to the expiration of the then existing term of these Declaration, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

SECTION 11.2 Amendments.

(a) The Declarant may amend this Declaration at any time prior to the recording of the deed conveying the first Residential Unit to an Owner unaffiliated with Declarant. After the recording of such deed, the Declaration my be amended by the Declarant at any time, for any reason prior to the termination of the Class "B" membership without Board or Association approval. Any amendment must be recorded in the Register's Office for Davidson County, Tennessee.

(b) No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

(c) The Declarant absolutely reserves the right to amend this Declaration without the approval or consent of the Class A members concerning any matters which may be promulgated or

required by any municipal, governmental, quasi-governmental or permanent lending institution for the purposes of obtaining acquisition and development or construction financing or permanent financing for any Residential Units.

SECTION 11.3 Indemnification. The Association shall indemnify every officer and director against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good, faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

SECTION 11.4 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Residential Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Residential Units, due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant, or the Association.

SECTION 11.5 Easements for Utilities, Etc.

(a) There is hereby reserved to the Declarant and granted to the Association blanket easements upon, across, over, and under all of the Property for ingress, egress, installation, replacing, repairing, and maintaining master television antenna systems, security, and similar systems walkways, and all utilities, including, but not limited to, water, sewers, telephone, gas and electricity.

(b) Declarant hereby reserves unto the Association, or its duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as set forth in this Declaration, the Charter, By-Laws, and Association Rules.

(c) Notwithstanding anything herein expressly or impliedly to the contrary, this Declaration and the conveyance of each Residential Unit shall be subject to all easements heretofore or hereafter granted by Declarant, by the Board, or otherwise, for the installation and maintenance of utilities and drainage facilities necessary for the use, operation, maintenance, and development of the Properties.

(d) Whenever sanitary sewer connections, water connections, or electricity, gas, or telephone lines are installed within the Property, which connections or any portion thereof lie in or upon the Common Area or Residential Units owned by Owners other than the Owners of the Residential Units served by said connections, the Owner of each Residential Unit served by said connections is hereby granted an easement with respect to those connections and shall have the right, and hereby is granted an

easement to the full extent necessary upon the Residential Unit of Common Area upon which said connections, or any portion thereof, lie for the purpose of repairing, replacing, and generally maintaining said connections as and when the same may be necessary.

(e) Whenever sanitary sewer connections, water connections, or electricity, gas, or telephone lines are installed within the Property, which connections serve more than one Residential Unit, the Owner of each Residential Unit served by said connections shall be entitled to full use and enjoyment of such portions of said connections as serve his Residential Unit.

(f) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then upon the written request to the Association of any one of such Owners, the matter shall be submitted to the Board, which shall decide the dispute and make an assessment against any or all of the Owners involved, which assessment shall be collected and enforced in the manner provided by Article 9 of this Declaration.

(g) Each of the easements provided for in this Declaration shall be deemed established upon the recordation of this Declaration and thenceforth shall be deemed covenants running with the land for the use and benefit of the Residential Units and the Common Area, as the case may be, superior to all other encumbrances applied against or in favor of any portion of the Property. In furtherance of the easements provided for in this Declaration, the individual deeds to Residential Units may, but shall not be required to, set forth said easements.

(h) Easements are reserved to Declarant, its agents and invitees to the extent necessary, as determined by Declarant, to enable Declarant to carry on any construction, development, sale, or leasing activity, as more specifically provided for in this Declaration. Such easements shall include, without limitation, easements for the construction, development, maintenance, use and enjoyment of the Development. Said easements include, without limitation, easements for ingress and egress, easements for construction, installation, use, maintenance, repair and replacement of lines, conduits, pipes and facilities for water, sewer, gas, electric, telephone, communications, television and other utilities in connection with the building, development, maintenance, repair, replacement, and use of the Development.

(i) Easements are granted for the exclusive use of the Property and appurtenances to each Residential Unit consistent with the Plat and any and all subsequent revised Plats.

(j) There is hereby reserved, without further assent or permit, a general easement to all policemen, firemen, security guards employed by Declarant or by the Association, firemen, ambulance personnel, and all similar emergency services personnel to enter upon the Property or any portion thereof which is made subject to this Declaration in the performance of their respective duties. Furthermore, employees of the Metropolitan Government for Nashville & Davidson County, Tennessee or of any utility serving the Property, may enter upon the Property for the purpose of making repairs.

SECTION 11.6 Construction and Sale by Declarant. Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Residential Units shall continue, it shall be expressly permissible for Declarant to construct, maintain and carry on upon portions of the Property, other than Residential Units owned by persons other than Declarant, such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, utilities, model units and sales offices, and the Declarant shall have an easement for access to such facilities. The

right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant as models and sales offices. This Section may not be amended without the express written consent of the Declarant.

SECTION 11.7 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 11.8 Right of Entry. The Association shall have the right to enter into any Residential Unit for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. It is intended that this right of entry shall include the right of the Association to enter a Residential Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

SECTION 11.9 Notice of Transfer of Unit. Whenever a Residential Unit Owner shall sell, give, or otherwise transfer his/her Unit, or any interest therein, such Residential Unit Owner shall give the Association written notice, within thirty (30) days before the date of closing, of such transfer, which notice shall briefly describe the transfer and shall state the name, address and telephone number of the transferee.

ARTICLE 12
Party Walls

SECTION 12.1 General Rules of Law to Apply. Each wall or fence built as a part of the original construction of a structure upon the Property and placed on the dividing line between two Residential Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

SECTION 12.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, in proportion to such use.

SECTION 12.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, to the right of any such Owner to call for a larger contribution from any other Owner under any rule of law regarding the liability for negligent or willful acts or omission.

SECTION 12.4 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 12.5 Right to Contribution Runs with Land. The right of any Owner to contribution

from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

SECTION 12.6 Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE 13
Obligation to Rebuild

SECTION 13.1 Damage and Destruction; Duty to Rebuild. If all or any portion of any residence constituting a part of a Residential Unit is damaged or destroyed by vandalism, malicious mischief, fire, windstorm, or other casualty, it shall be the duty of the Owner of said residence to rebuild, repair, or reconstruct said residence in a manner that will restore it substantially to its appearance and condition immediately prior to the casualty.

SECTION 13.2 Time Limitation. The Owner of any damaged residence shall be obligated to proceed with all due diligence and commence reconstruction within forty-five (45) days after the damage occurs and to complete reconstruction within twelve (12) months after the damage occurs for any major structural damage and within ninety (90) days for any minor non-structural damage, unless prevented by causes beyond their reasonable control, except that disputes concerning insurance coverage shall not be deemed an adequate cause for delay.

ARTICLE 14
Annexation of Additional Property

SECTION 14.1 Annexation Without Approval of Class "A" Membership. As the Owner thereof, or if not the Owner, with the consent of the Owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time subject additional property to this Declaration up until December, 31st, 2018. Such annexation shall be accomplished by filing with the Register of Deeds for Williamson County, Tennessee, an amendment to this Declaration annexing such property. Such supplemental Declaration shall not require the consent of the Class "A" Members and any such annexation shall be effective upon the filing for record of such supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other persons or entities the unilateral right, privilege, and option to annex additional property, which said right is herein reserved to Declarant.

SECTION 14.2 Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, which upon conveyance for dedication to the Association may be accepted by the Board on behalf of the Association and thereafter shall be maintained by the Association at its expense for the benefit of the Members.

SECTION 14.3 Amendment of Annexation Clause. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any of the Property or maintains a Class "B" voting interest.

ARTICLE 15
Declarant's Rights

Any or all of the Special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Register's Office for Davidson County, Tennessee.

ARTICLE 16
Arbitration of Claims Involving Declarant and Builders

All disputes, claims, and questions regarding the rights and obligations of the Declarant and/or any builder constructing Units within the Development, pursuant to this Declaration, the Bylaws or otherwise relating to the Development and the Association, are subject to binding arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules in Nashville, Tennessee. In case of dispute involving the Declarant or any builder constructing Units in the Development, any party may make a demand for arbitration by filing such demand in writing with the other parties. If the parties agree on the selection of an arbitrator, there shall be one arbitrator. If no agreement is reached within thirty (30) days after demand for arbitration, the arbitration panel shall consist of three (3) arbitrators, consisting of one contractor, one design professional and one construction attorney. If there is a single arbitrator, his decision shall be final and binding; if there are three (3) arbitrators, the decision of any two of them shall be final and binding. No one shall act as an arbitrator who is in any way financially interested in the work or in the business affairs of any of the parties involved in such dispute. Should any party refuse or neglect to furnish the arbitrators with any necessary papers or information or otherwise participate in the arbitration, the arbitration panel is empowered by all such parties to proceed *ex parte*. The decision of the arbitrators shall be a condition precedent to any right of legal action that either party may have against the other. In addition to all other relief granted or damages awarded, the substantially prevailing party in any proceeding under this Article 16, shall be entitled to recover reasonable attorneys' fees, professional fees, costs and expenses, incurred in connection with such proceeding.

IN WITNESS WHEREOF, the undersigned Declarant has executed this the 1ST day of January, 2009.

DECLARANT:

By: _____

Its: Managing Member

STATE OF TENNESSEE)
)
COUNTY OF Williamson)

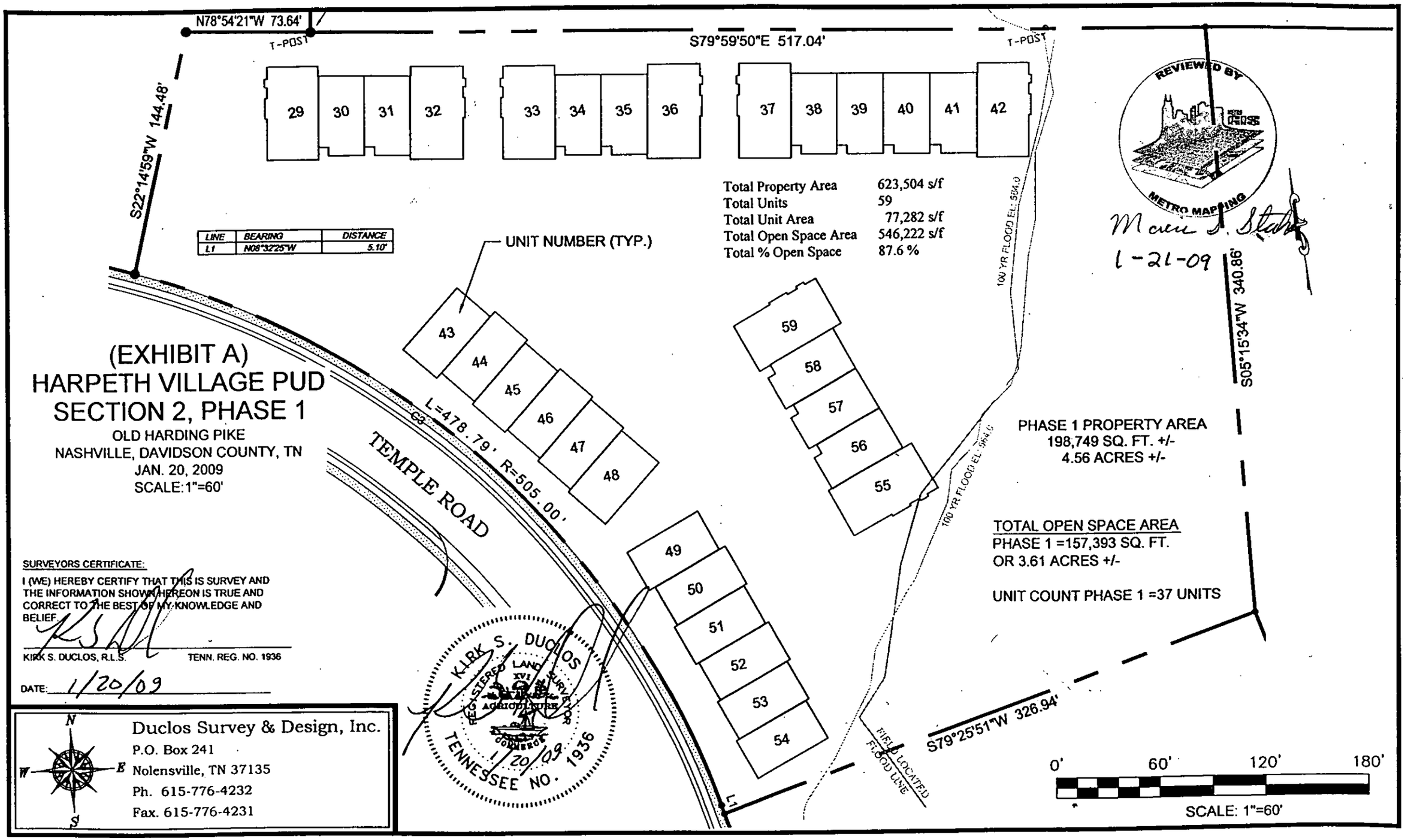
Before ~~me~~ the undersigned, a Notary Public in and for said County and State, personally appeared Austin Daniel, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged ~~him~~ self to be the Managing Member of Biltmore Development, LLC, the within named bargainor, a TN LLC, and that he as such Managing member, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as its Managing member.

Witness my hand and seal, at office in Franklin, TN this 2 day of January, 2009

Notary Public
My commission expires:

MARY POLLAK
NOTARY PUBLIC
STATE OF TENNESSEE
WILLIAMSON COUNTY

MY COMMISSION EXPIRES:
11-21-09


N78°54'21"W 73.64'
T-POST
S79°59'50"E 517.04'
T-POST
S22°14'59"W 144.48'
29
30
31
32
33
34
35
36
37
38
39
40
41
42
Total Property Area 623,504 s/f
Total Units 59
Total Unit Area 77,282 s/f
Total Open Space Area 546,222 s/f
Total % Open Space 87.6 %
LINE BEARING DISTANCE
L1 N08°32'25"W 5.10'
UNIT NUMBER (TYP.)
43
44
45
46
47
48
59
58
57
56
55
49
50
51
52
53
54
L=478.79'
R=505.00'
C2
TEMPLE ROAD
100 YR FLOOD EL: 584.0
100 YR FLOOD EL: 584.6
S05°15'34"W 340.86'
S79°25'51"W 326.94'
FIELD LOCATED FLOOD LINE
L1
REVIEWED BY
METRO MAPPING
Marcus S. Starks
1-21-09
(EXHIBIT A)
HARPETH VILLAGE PUD
SECTION 2, PHASE 1
OLD HARDING PIKE
NASHVILLE, DAVIDSON COUNTY, TN
JAN. 20, 2009
SCALE:1"=60'
PHASE 1 PROPERTY AREA
198,749 SQ. FT. +/-
4.56 ACRES +/-
TOTAL OPEN SPACE AREA
PHASE 1 =157,393 SQ. FT.
OR 3.61 ACRES +/-
UNIT COUNT PHASE 1 =37 UNITS
SURVEYORS CERTIFICATE:
I (WE) HEREBY CERTIFY THAT THIS IS SURVEY AND THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
KIRK S. DUCLOS, R.L.S.
TENN. REG. NO. 1936
DATE: 1/20/09
KIRK S. DUCLOS
REGISTERED LAND SURVEYOR
TENNESSEE NO. 1936
1/20/09
0'
60'
120'
180'
SCALE: 1"=60'
N
W
E
S
Duclos Survey & Design, Inc.
P.O. Box 241
Nolensville, TN 37135
Ph. 615-776-4232
Fax. 615-776-4231

SURVEYORS CERTIFICATE:

I (WE) HEREBY CERTIFY THAT THIS IS SURVEY AND THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

KIRK S. DUCLOS, R.L.S. TENN. REG. NO. 1936

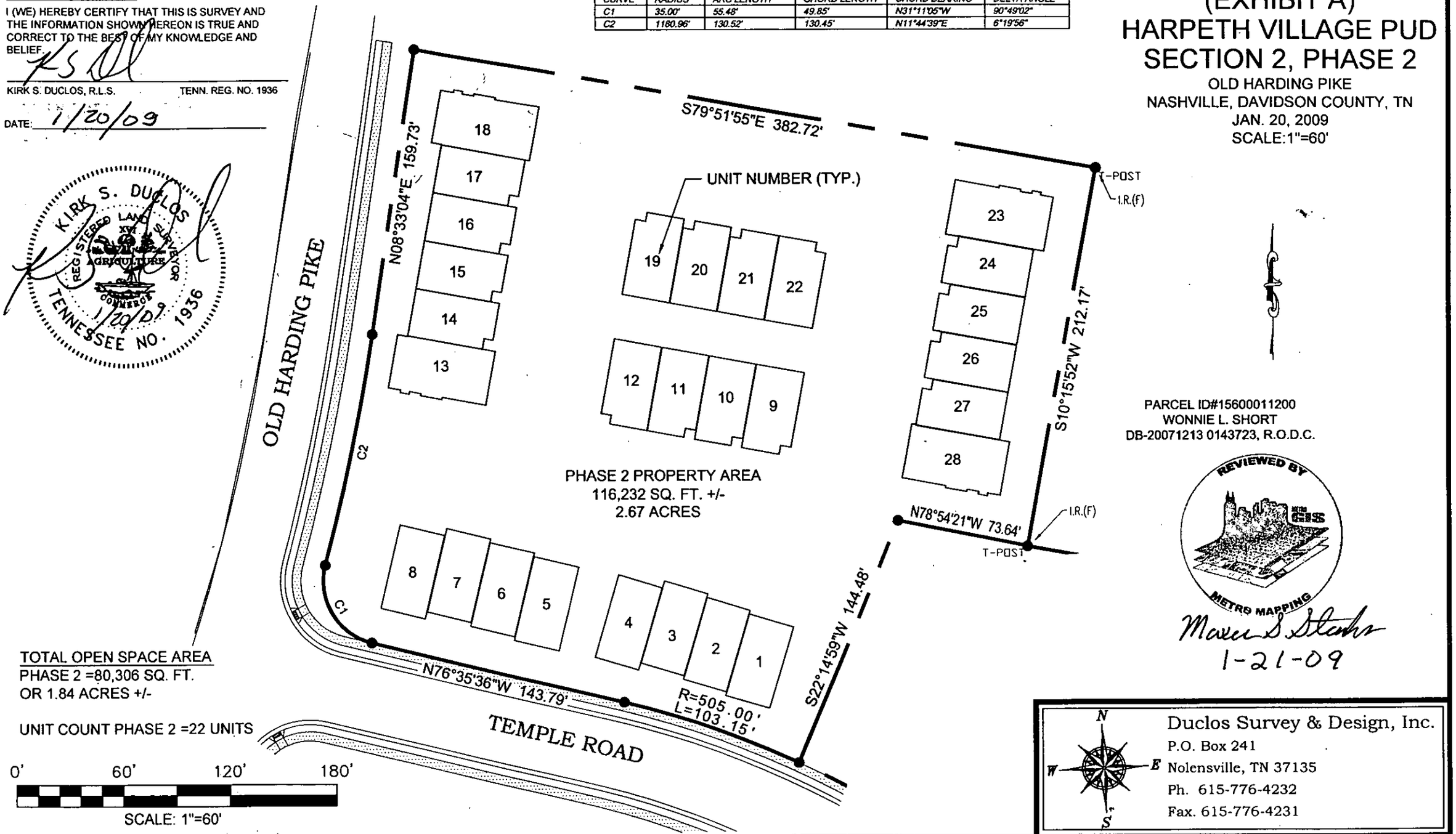
DATE: 1/20/09

KIRK S. DUCLOS REGISTERED LAND SURVEYOR AGRICULTURE COMMERCE TENNESSEE NO. 1936 1/20/09

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	35.00'	55.48'	49.85'	N31°11'05"W	90°49'02"
C2	1180.96'	130.52'	130.45'	N11°44'39"E	6°19'56"

(EXHIBIT A)
HARPETH VILLAGE PUD
SECTION 2, PHASE 2

OLD HARDING PIKE
NASHVILLE, DAVIDSON COUNTY, TN
JAN. 20, 2009
SCALE:1"=60'



PHASE 2 PROPERTY AREA
116,232 SQ. FT. +/-
2.67 ACRES

PARCEL ID#15600011200
WONNIE L. SHORT
DB-20071213 0143723, R.O.D.C.

REVIEWED BY GIS METRO MAPPING

Marcus Stark
1-21-09

TOTAL OPEN SPACE AREA
PHASE 2 =80,306 SQ. FT.
OR 1.84 ACRES +/-

UNIT COUNT PHASE 2 =22 UNITS

0' 60' 120' 180'

SCALE: 1"=60'

Duclos Survey & Design, Inc.
P.O. Box 241
Nolensville, TN 37135
Ph. 615-776-4232
Fax. 615-776-4231

SURVEYORS CERTIFICATE:

I (WE) HEREBY CERTIFY THAT THIS IS SURVEY AND THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

KIRK S. DUCLOS, R.L.S. TENN. REG. NO. 1936

DATE: 1/20/09

KIRK S. DUCLOS REGISTERED LAND SURVEYOR AGRICULTURE CONNERLY TENNESSEE NO. 1936 1/20/09

(EXHIBIT A)
HARPETH VILLAGE PUD
SECTION 2, OPEN SPACE "A & B"

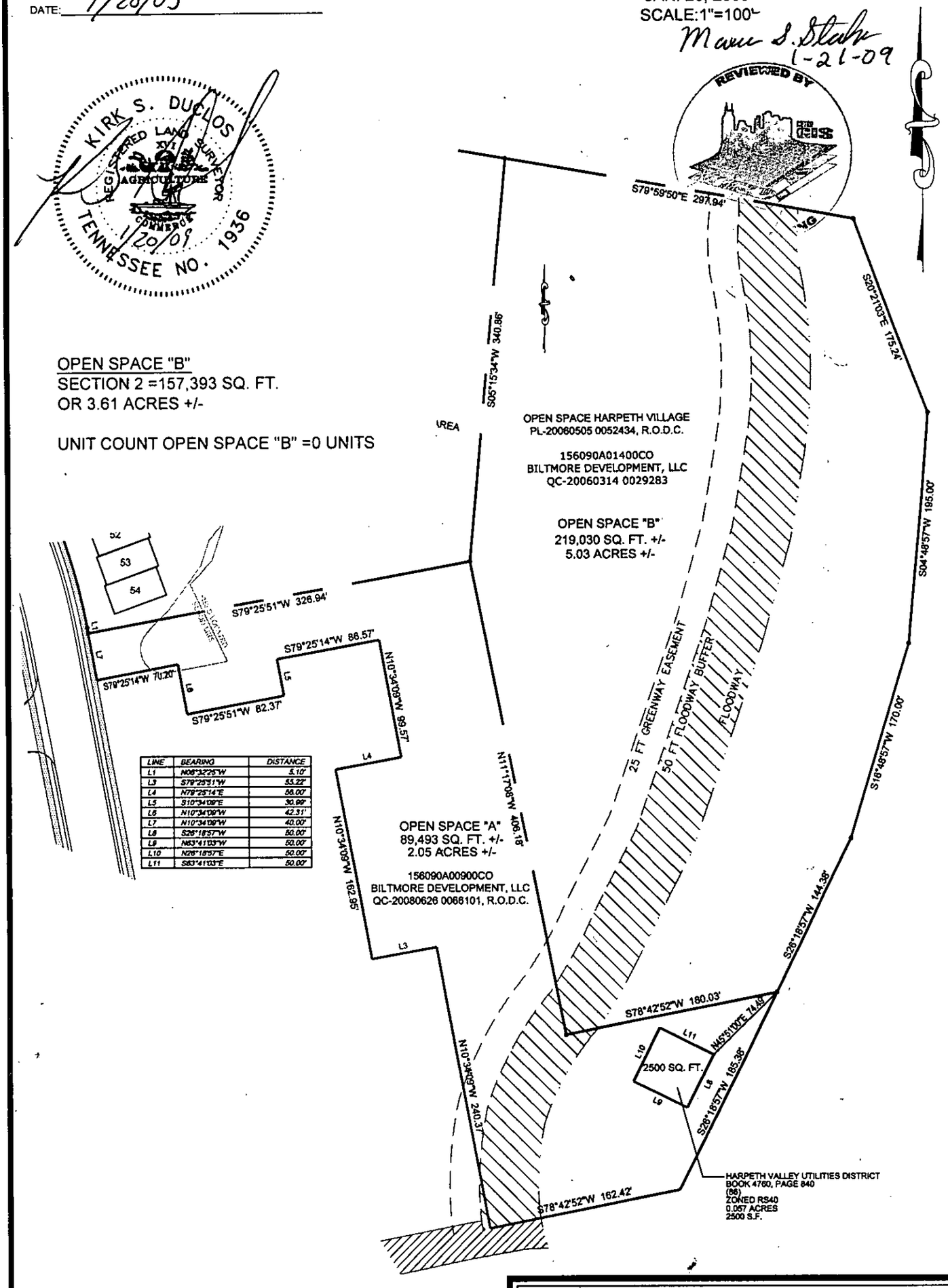
OLD HARDING PIKE
NASHVILLE, DAVIDSON COUNTY, TN
JAN. 20, 2009
SCALE:1"=100'

Marie S. Stahr 1-21-09

REVIEWED BY

OPEN SPACE "B"
SECTION 2 =157,393 SQ. FT.
OR 3.61 ACRES +/-

UNIT COUNT OPEN SPACE "B" =0 UNITS



LINE	BEARING	DISTANCE
L1	N06°32'25"W	5.10'
L3	S79°25'51"W	55.22'
L4	N79°25'14"E	86.00'
L5	S10°34'09"E	30.99'
L6	N10°34'09"W	42.31'
L7	N10°34'09"W	40.00'
L8	S26°18'57"W	50.00'
L9	N63°41'03"W	50.00'
L10	N26°18'57"E	50.00'
L11	S63°41'03"E	50.00'

0' 100' 200' 300'

SCALE: 1"=100'

Duclos Survey & Design, Inc.
P.O. Box 241
Nolensville, TN 37135
Ph. 615-776-4232
Fax. 615-776-4231

EXHIBIT B

COMMON AREA TAX ASSESSMENT PERCENTAGE INTERESTS

Unit	Street Number	Plan	% of Ownership
1	801 Silkwood Dr	C	1.695%
2	803 Silkwood Dr	C	1.695%
3	805 Silkwood Dr	C	1.695%
4	807 Silkwood Dr	C	1.695%
5	809 Silkwood Dr	C	1.695%
6	811 Silkwood Dr	C	1.695%
7	813 Silkwood Dr	C	1.695%
8	815 Silkwood Dr	C	1.695%
9	800 Silkwood Dr	B	1.695%
10	802 Silkwood Dr	B	1.695%
11	804 Silkwood Dr	B	1.695%
12	806 Silkwood Dr	B	1.695%
13	928 Silkwood Cr	A	1.695%
14	926 Silkwood Cr	B	1.695%
15	924 Silkwood Cr	B	1.695%
16	922 Silkwood Cr	B	1.695%
17	920 Silkwood Cr	B	1.695%
18	918 Silkwood Cr	A	1.695%
19	917 Silkwood Cr	B	1.695%
20	915 Silkwood Cr	B	1.695%
21	913 Silkwood Cr	B	1.695%
22	911 Silkwood Cr	B	1.695%
23	910 Silkwood Cr	A	1.695%
24	908 Silkwood Cr	B	1.695%
25	906 Silkwood Cr	B	1.695%
26	904 Silkwood Cr	B	1.695%
27	902 Silkwood Cr	B	1.695%
28	900 Silkwood Cr	A	1.695%
29	1001 Pine Meadow Ct	A	1.695%
30	1003 Pine Meadow Ct	B	1.695%
31	1005 Pine Meadow Ct	B	1.695%
32	1007 Pine Meadow Ct	A	1.695%
33	1009 Pine Meadow Ct	A	1.695%
34	1011 Pine Meadow Ct	B	1.695%
35	1013 Pine Meadow Ct	B	1.695%
36	1015 Pine Meadow Ct	A	1.695%
37	1017 Pine Meadow Ct	A	1.695%
38	1019 Pine Meadow Ct	B	1.695%
39	1021 Pine Meadow Ct	B	1.695%

40	1023 Pine Meadow Ct	B	1.695%
41	1025 Pine Meadow Ct	B	1.695%
42	1027 Pine Meadow Ct	A	1.695%
43	1010 Pine Meadow Ct	C	1.695%
44	1012 Pine Meadow Ct	C	1.695%
45	1100 Smokewood Way	C	1.695%
46	1102 Smokewood Way	C	1.695%
47	1104 Smokewood Way	C	1.695%
48	1106 Smokewood Way	C	1.695%
49	1108 Smokewood Way	C	1.695%
50	1110 Smokewood Way	C	1.695%
51	1112 Smokewood Way	C	1.695%
52	1114 Smokewood Way	C	1.695%
53	1116 Smokewood Way	C	1.695%
54	1118 Smokewood Way	C	1.695%
55	1115 Smokewood Way	A	1.695%
56	1113 Smokewood Way	B	1.695%
57	1111 Smokewood Way	B	1.695%
58	1109 Smokewood Way	B	1.695%
59	1107 Smokewood Way	A	1.695%

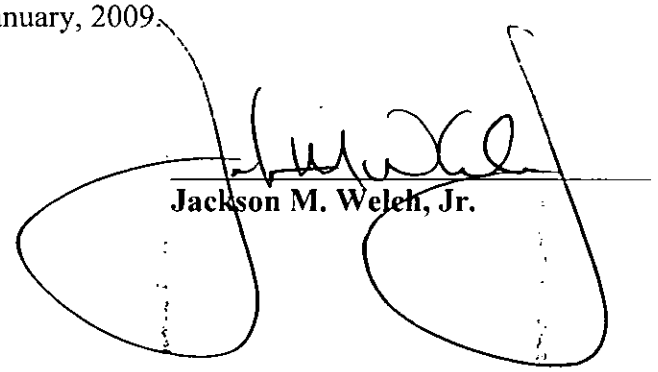
NOTE:

*** All Square Footage posted are approximates and may vary by unit upon completion.**

ATTORNEY'S CERTIFICATE

The undersigned, and attorney duly licensed to practice law in the state of Tennessee, after having reviewed the documents presented by Biltmore Development, LLC, and in accordance with T.C.A. §66-27-103(b), does hereby opine that all legal documents required by the Horizontal Property Act (T.C.A. §66-27-101 et seq.) for the creation of a planned unit development are attached hereto.

Dated this 20th day of January, 2009.



Jackson M. Welch, Jr.