BILL GARRETT, Davidson County
Trans:T20110048363 DEEDMAST
Recvd: 08/08/11 12:27 14 pgs
Fees:72.00 Taxes:0.00
20110808-0060841

This Instrument Prepared By:
Marcy E. Shelton
GULLETT, SANFORD, ROBINSON & MARTIN, PLLC
315 Deaderick Street, Suite 1100
P. O. Box 198888
Nashville, Tennessee 37219-8888

**SECOND AMENDMENT TO AND INSTRUMENT OF ANNEXATION OF ADDITIONAL PROPERTY INTO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENUE SOUTH TOWNHOMES, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS**

**THIS INSTRUMENT** is made this 20th day of July, 2011 by **H & K INVESTMENTS**, a Tennessee general partnership, as Developer ("Developer") under the Declaration of Covenants, Conditions and Restrictions for Avenue South Townhomes, a Horizontal Property Regime with Private Elements of record as Instrument Number 20100907-0070753, Register's Office for Davidson County, Tennessee, as amended pursuant to the First Amendment to Declaration of Covenants, Conditions and Restrictions for Avenue South Townhomes, a Horizontal Property Regime with Private Elements of record as Instrument Number 20100921-0075025, Register's Office for Davidson County, Tennessee (the "Declaration"). Pursuant to Paragraph 14 of the Declaration, Developer hereby amends the Declaration to annex and bring within the coverage and encumbrance of the Declaration, real property located in the City of Nashville, Davidson County, Tennessee, more particularly described as follows:

Being Lot No. 4 on the Plan of Dr. R.W. Grizzard's Subdivision of Part of the Bosley Tract, of record in Book 3106, Page 120, as revised in Book 3106, Page 131, Register's Office for Davidson County, Tennessee, to which reference is hereby made for a more complete and accurate description.

Being part of the same property conveyed to H & K Investments by deed from Ray E. Tarkington, of record as Instrument Number 20100802-0060487, Register's Office for Davidson County, Tennessee.

By virtue of this Instrument, the property described herein is made a part of the "Property" as defined in the Declaration. The property described herein shall be subject to all the terms and provisions set forth in the Declaration, as such may be amended from time to time.

By virtue of this Instrument, the Declaration is further amended and supplemented as follows:

1. Section 1. Definitions

(l) "Parcel" means, in addition to that parcel or tract of real estate described in the Declaration, the Property described in this instrument and annexed pursuant to the terms hereof.

(n) "Plat" means, in addition to the maps or drawings filed as Collective Exhibit C to the Declaration, the maps or drawings filed as Exhibit A to this instrument.

(r) "Unit" means, in addition to the units shown and depicted in the Declaration, the portion of the Property as shown on the Plat filed as Exhibit A to this instrument and designated in the Plat for separate ownership and occupancy the boundaries of which are shown on the Plat and are described herein and shall include the Private Elements and the residence and improvements now or hereafter located thereon. The Units are identified by number on the Plat and may be held and conveyed by reference to such number.

2. Section 4. Association of Unit Owners and Administration and Expenses for Opertation of the Property. The third sentence of Section 4(1) of the First Amendment is amended to provide as follows: The undivided interest in the Common Elements, the Common Expense liability and votes in the Association, are allocated twenty-five percent (25%) to each Unit as shown on the plat and map filed as Amended Exhibit D to the First Amendment and Exhibit B to this instrument.

3. The Declaration is further amended to include and incorporate by reference the Certificate attached hereto as Exhibit C to amend and supplement Exhibit E to the Declaration.

**IN WITNESS WHEREOF**, this Instrument has been executed on the day and date of first above written.

**DEVELOPER:**

**H & K INVESTMENTS,**
a Tennessee general partnership

By: _____
Robert Kincaid, General Partner

STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **ROBERT KINCAID,** with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is **GENERAL PARTNER** of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

**WITNESS** my hand, at office, this 20th day of July, 2011.

Notary Public

My Commission Expires: Aug 23, 2011

AIDA WOODROOF
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires Aug. 23, 2011

CONSENT TO INSTRUMENT OF ANNEXATION OF ADDITIONAL PROPERTY INTO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENUE SOUTH TOWNHOMES, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS, BY AMERICAN SECURITY BANK & TRUST

**AMERICAN SECURITY BANK & TRUST**, is a state banking association whose address is 101 Springhouse Court, Hendersonville, Tenessee (the "Bank").

The Bank holds a promissory note signed by H & K Investments. The promissory note is secured by a Tennessee Deed of Trust, Assignment of Leases and Rents and Security Agreement against the real property described in Exhibit A of this Declaration. The deed of trust was recorded on August 2, 2010 as Instrument Number 20100802-0060488, Register's Office for Davidson County, Tennessee.

By signing this instrument, the Bank consents to the recording of the Instrument of Annexation of Additional Property into Declaration of Covenants, conditions and Restrictions for Avenue South Townhomes.

**AMERICAN SECURITY BANK & TRUST**

By: C. Richard Bobo EVP
Name/Title

STATE OF TENNESSEE )
COUNTY OF SUMNER )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, C. Richard Bobo, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the EVP **(add title of officer)** of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

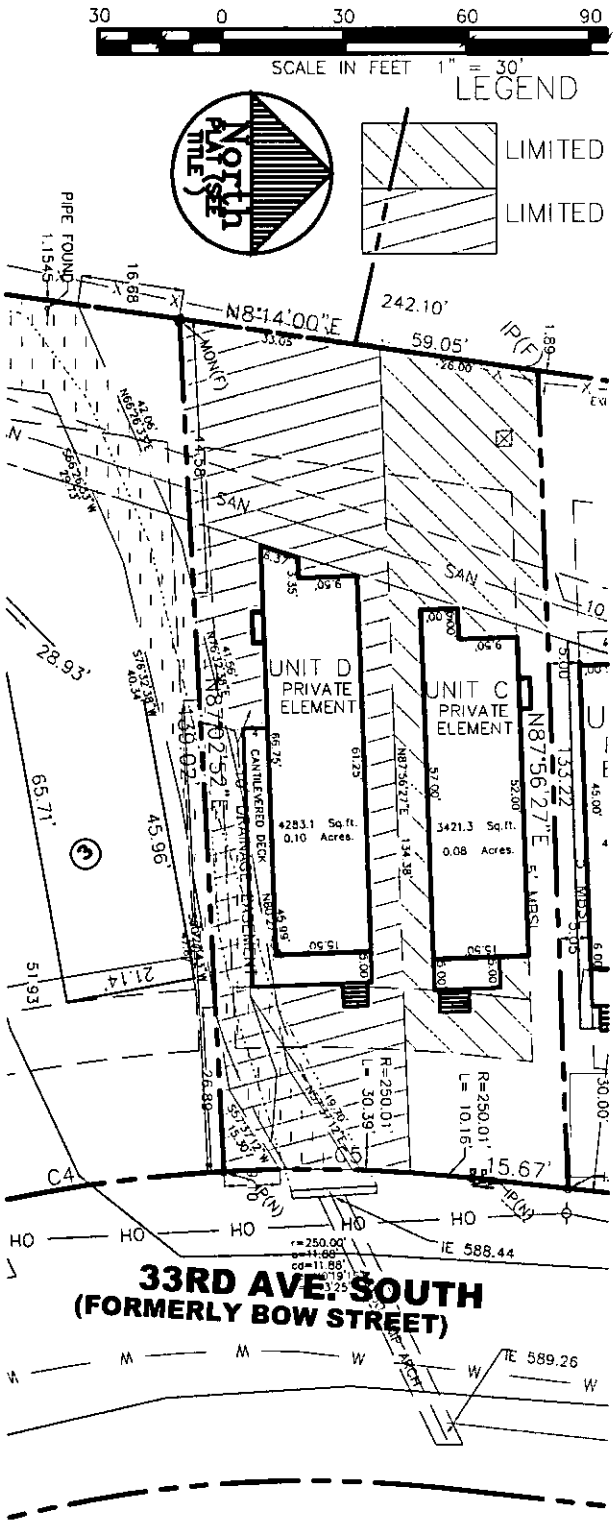
**WITNESS** my hand, at office, this 8th day of July, 2011.

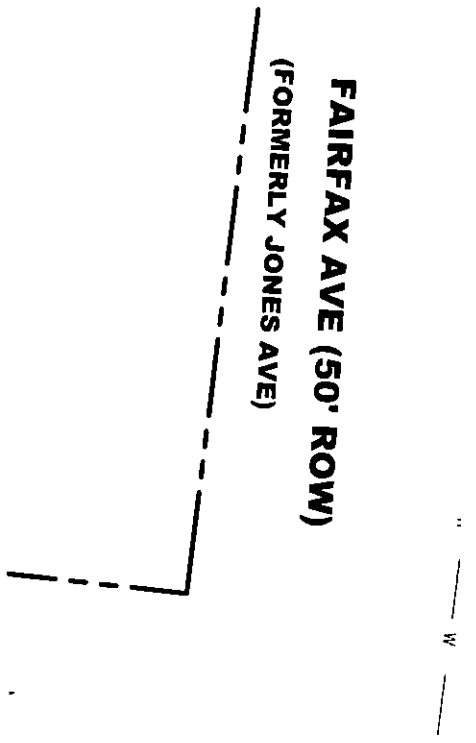
Notary Public

My Commission Expires: March 3, 2015

LEIGH FRY NOTARY PUBLIC AT LARGE DAVIDSON COUNTY, TENN.

**EXHIBIT A**
**(SECOND AMENDED COLLECTIVE EXHIBIT C TO THE DECLARATION)**
**PLAT AND PLANS**




The undersigned, WALTER H. DAVIDSON, Professional Engineer and Registered Land Surveyor, licensed in the State of Tennessee, certifies that construction of the buildings proposed for Avenue South Townhomes, a horizontal property regime with private elements, complies with the requirements for a planned unit development as set forth in Tennessee Code Annotated Section 66-27-103(b) and are in substantial compliance with the Metropolitan Zoning Code for Metropolitan Nashville and Davidson County.

DATED this 30TH day of May 2011

Walter H. Davidson, PE, RLS

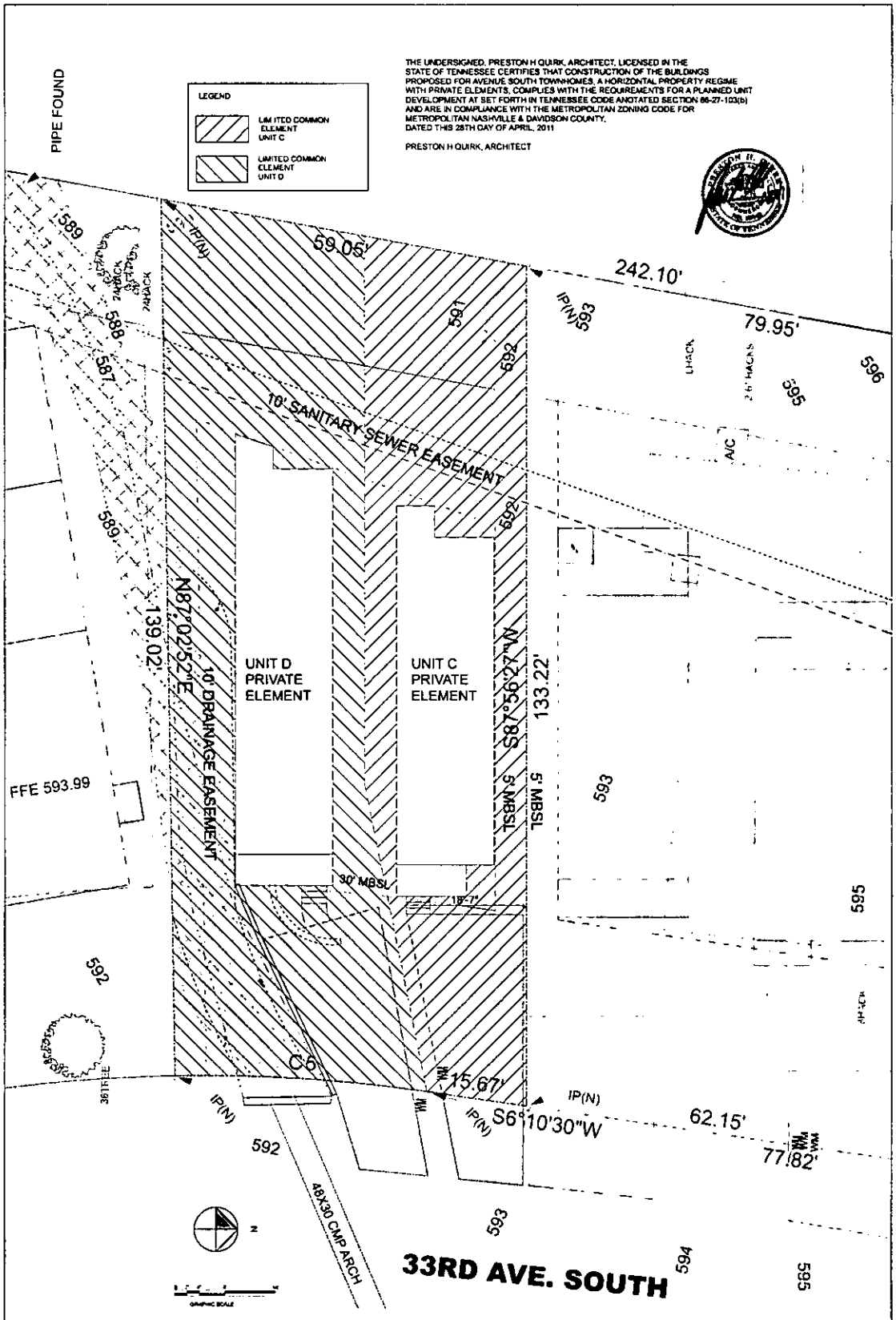
WALTER H. DAVIDSON REGISTERED ENGINEER AGRICULTURE OWNER TENNESSEE NO. 104...

WALTER H. DAVIDSON REGISTERED LAND SURVEYOR COMMERCE TENNESSEE NO. 1467

Walter H Davidson 6/2/11

AVENUE SOUTH TOWNHOMES
A HORIZONTAL PROPERTY REGIME
WITH PRIVATE ELEMENTS
OWNER: H&K PROPERTIES
PROPERTY: BEING LOT #4 DR. R.W. GRIZZARD'S SUBDIVISION OF PART OF BOSLEY TRACT AS REVISED BOOK 3106 PAGE 131 RODCT

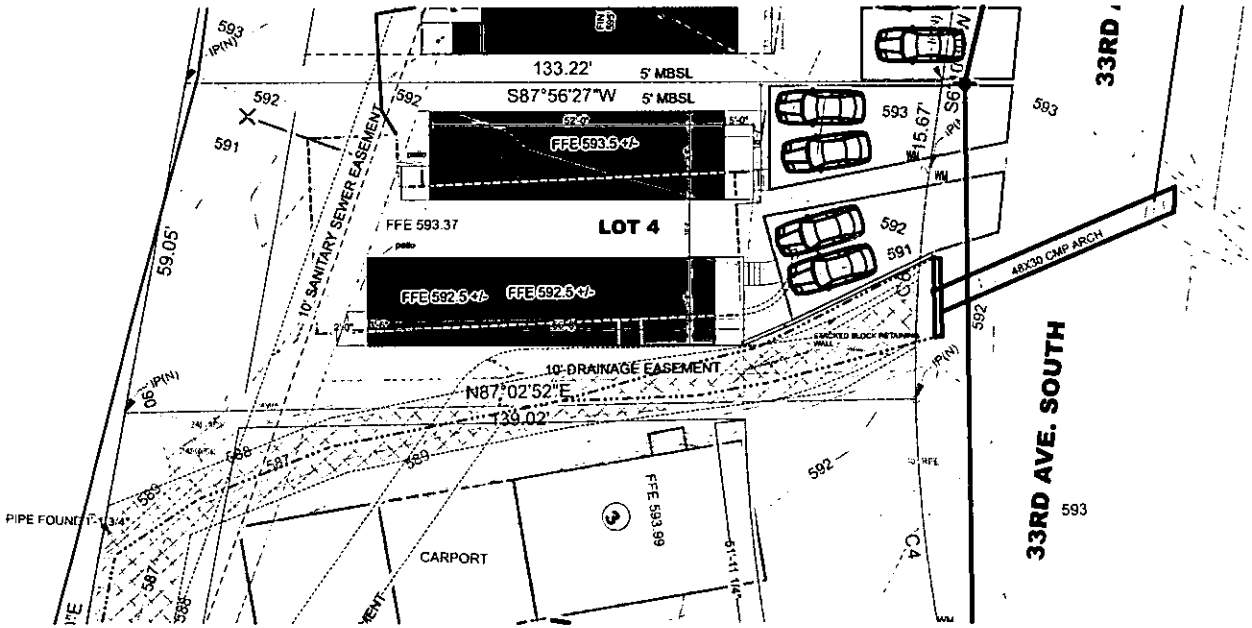
WALTER DAVIDSON & ASSOCIATES
CONSULTING ENGINEERS- SURVEYORS
5127 MARC COURT
NASHVILLE, TENNESSEE 37211
PHONE 615-331-2156




QUIRK DESIGNS

2931 BERRY HILL DRIVE
SUITE 200
NASHVILLE, TN 37204
Phone. (615) 269-9248 Fax. (615) 627-1298
email: quirkdesigns@comcast.net

AVENUE SOUTH TOWNHOMES
A HORIZONTAL PROPERTY REGIME
WITH PRIVATE ELEMENTS
OWNER: H&K PROPERTIES
PROPERTY: BEING PART OF LOT #4 DR. R.W. GRIZZARDS SUBDIVISION
OR PART OF BOSLEY TRACT AS REVISED BOOK 3106 PAGE 131 RODCT




1 SITE PLAN

SCALE 1" = 10'

QUIRK DESIGNS
2011 BERRY HILL DRIVE
SUITE 200
NASHVILLE, TN 37204

I, Preston Quirk certify that the plans of Avenue South Townhomes contain all of the information required by the Tennessee Horizontal Property Act as amended.

Preston W. Quirk

33rd Ave. Lot 4
Rob Kincaid
33rd Avenue North
Nashville, , TN 37212

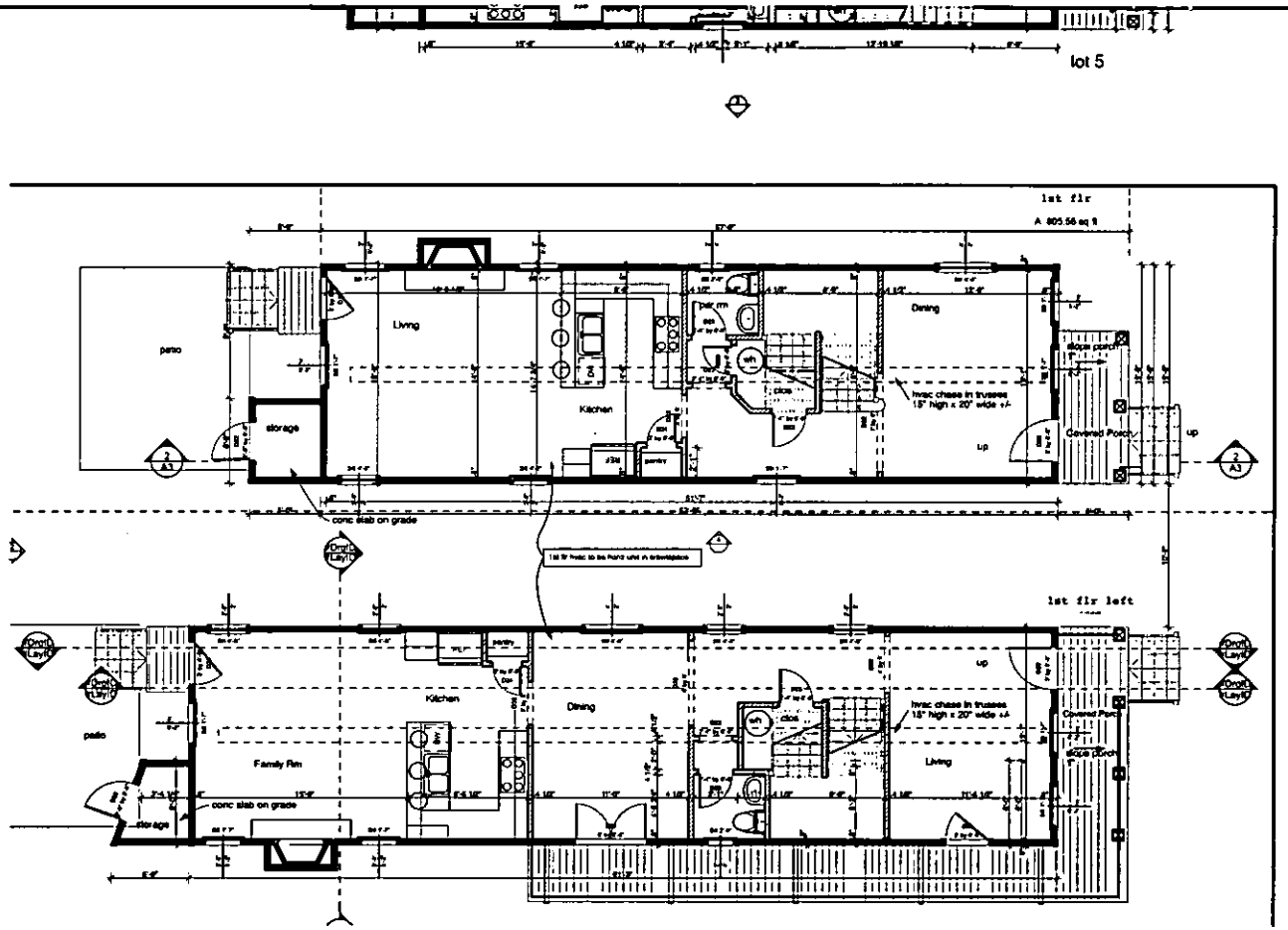
DATE: 6/16/11
REVISION

PROJECT NO: 10-041

COPYRIGHT 2007
QUIRK DESIGNS

SITE PLAN

C1
SHEET 1




1 1st Floor Plan

| floor areas - lot 4 - left side: | floor areas - lot 4 - right side: |
|---|---|
| 1st flr - 949 sf | 1st flr - 806 sf |
| 2nd flr - 949 sf | 2nd flr - 806 sf |
| total - 1898 sf | total - 1612 sf |

QUIRK DESIGNS

I, Preston Quirk certify that the plans of Avenue South Townhomes contain all of the information required by the Tennessee Horizontal Property Act as amended.

33rd Ave. Lot 4
LEFT SIDE
Rob Kincaid
33rd Avenue North
Nashville, , TN 37212

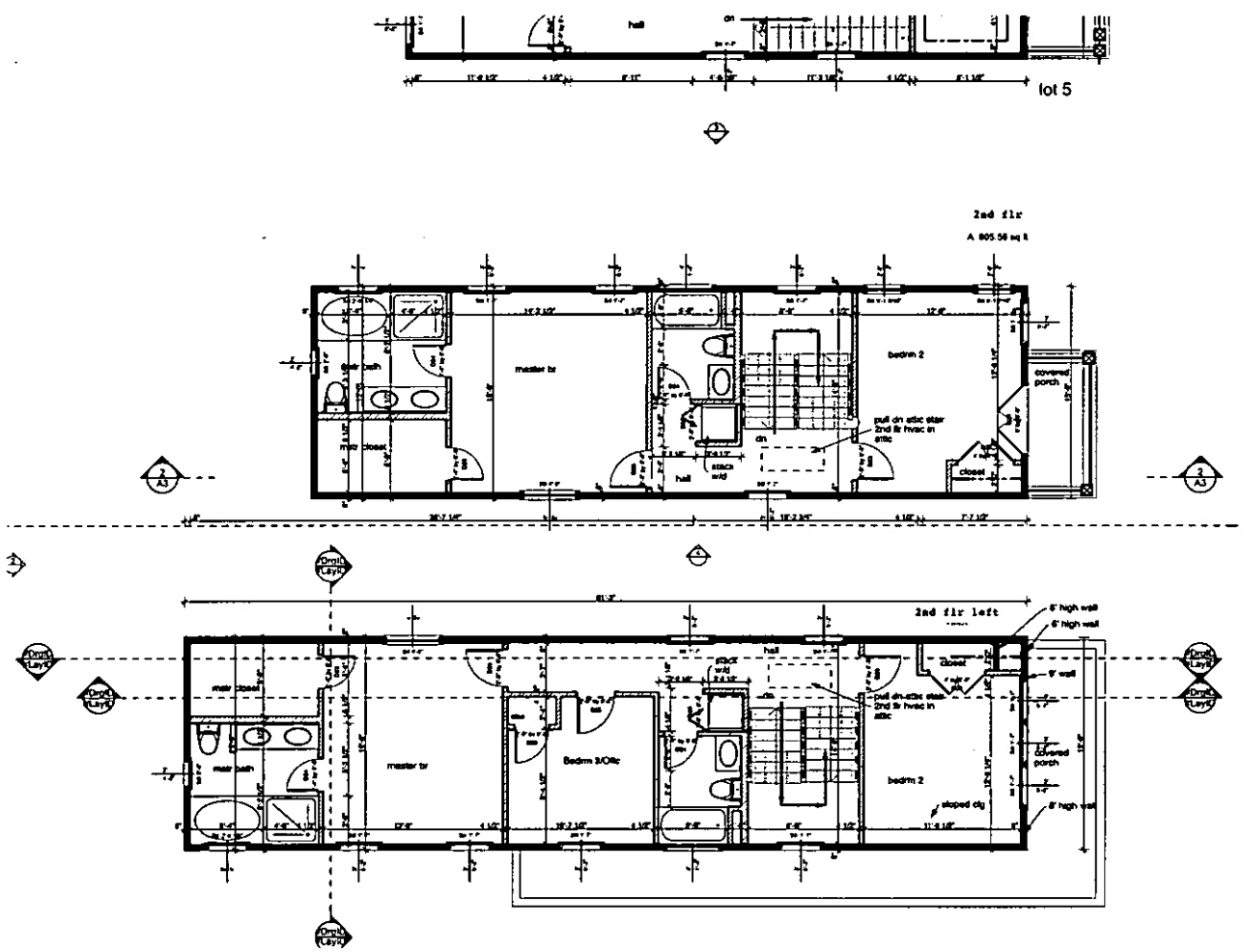
DATE: 4/4/11
REVISION

PROJECT NO: 10-041

COPYRIGHT 2007
QUIRK DESIGNS

1ST FLR PLANS

A1
SHEET 2




1 2nd Floor Plan

QUIRK DESIGNS

I, Preston Quirk certify that the plans of Avenue South Townhomes contain all of the information required by the Tennessee Horizontal Property Act as amended.

33rd Ave. Lot 4
Rob Kincaid
33rd Avenue North
Nashville, , TN 37212

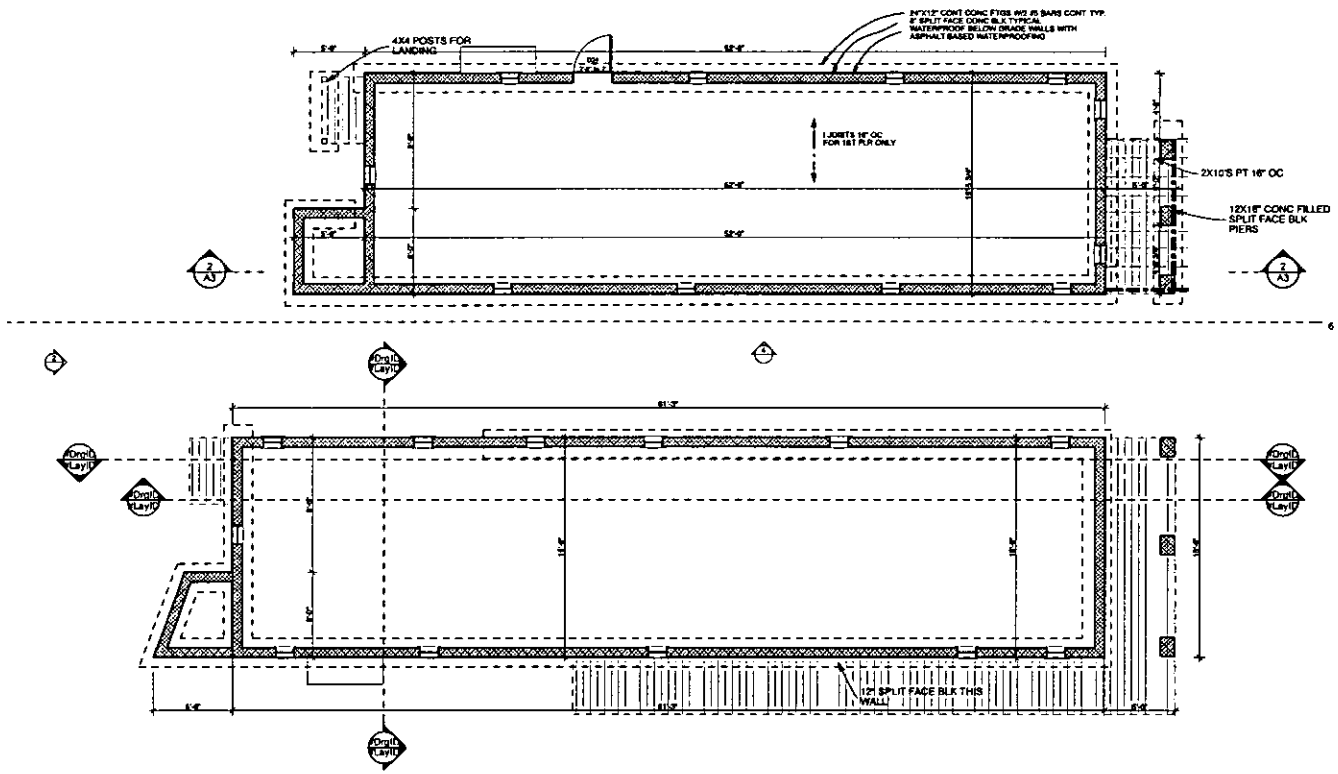
DATE: 4/4/11
REVISION

PROJECT NO: 10-041

COPYRIGHT 2007
QUIRK DESIGNS

2ND FLR PLANS

A2
SHEET 3




1 Foundation Plan

SCALE: 1/4" = 1'-0"

QUIRK DESIGNS

I, Preston Quirk certify that the plans of Avenue South Townhomes contain all of the information required by the Tennessee Horizontal Property Act as amended.

Preston W. Quirk

33rd Ave. Lot 4
LEFT SIDE
Rob Kincaid
33rd Avenue North
Nashville, , TN 37212

DATE: 4/4/11
REVISION

PROJECT NO: 10-041

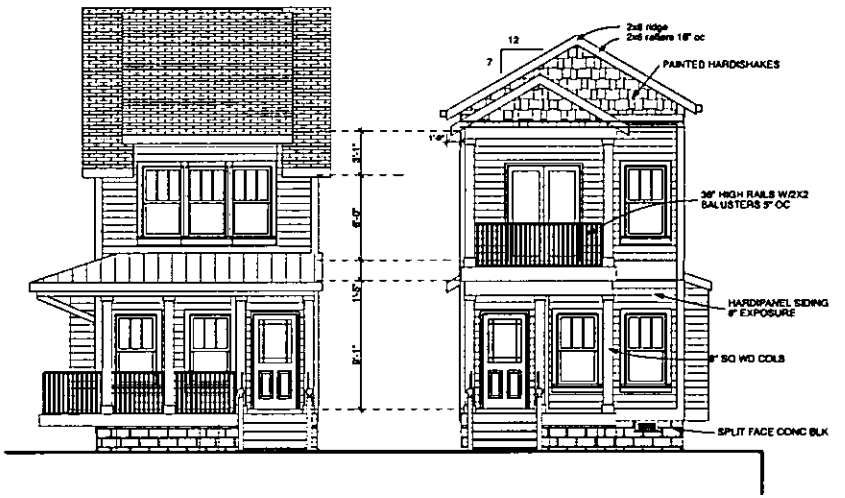
COPYRIGHT 2007
QUIRK DESIGNS

Foundation Plan

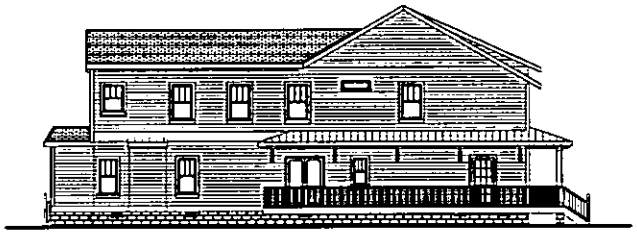
A3
SHEET 4



2 REAR ELEV



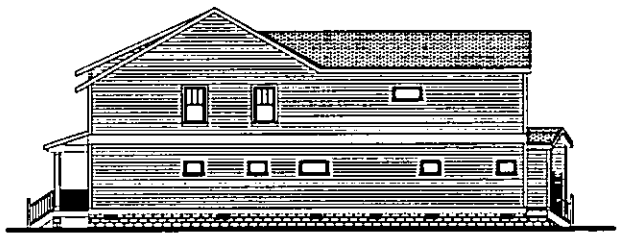

1 FRONT ELEV



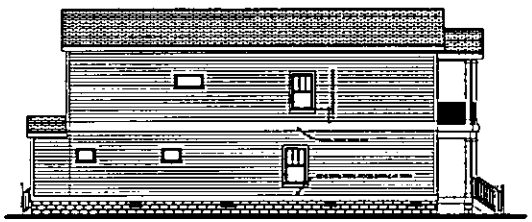
5 L UNIT, LEFT ELEV



4 R UNIT, RIGHT ELEV



6 L UNIT, RIGHT ELEV



3 R UNIT, LEFT ELEV

QUIRK DESIGNS

I, Preston Quirk certify that the plans of Avenue South Townhomes contain all of the information required by the Tennessee Horizontal Property Act as amended.

33rd Ave. Lot 4
LEFT SIDE
Rob Kincaid
33rd Avenue North
Nashville, , TN 37212

DATE: 4/4/11
REVISION

PROJECT NO: 10-041

COPYRIGHT 2007
QUIRK DESIGNS

Elevations

A4
SHEET 5

**EXHIBIT B**
**(SECOND AMENDED EXHIBIT D)**

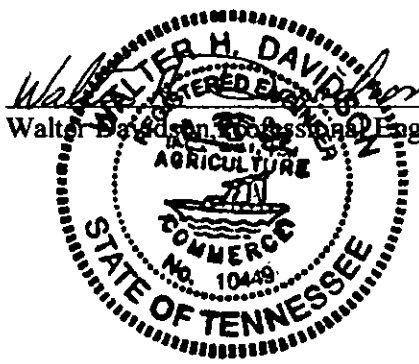
SCHEDULE OF ALLOCATED INTERESTS TO DECLARATION OF AVENUE SOUTH TOWNHOMES, A HORITZONAL PROPERTY REGIME WITH PRIVATE ELEMENTS

| UNIT | SQUARE FOOTAGE | COMMON ELEMENT OWNERSHIP | LIABILITY FOR COMMON EXPENSES | VOTES |
|---|---|---|---|---|
| A | 4,419 | 25.00% | 25.00% | 1 |
| B | 4,091 | 25.00% | 25.00% | 1 |
| C | 3,421 | 25.00% | 25.00% | 1 |
| D | 4,283 | 25.00% | 25.00% | 1 |

**EXHIBIT C**
**CERTIFICATE**

The undersigned, **WALTER DAVIDSON,** Professional Engineer, licensed in the State of Tennessee, certifies that construction of the buildings proposed for Avenue South Townhomes, a horizontal property regime with private elements, will be in substantial compliance with the applicable building and zoning codes for planned unit developments.

**DATED** this 12 day of July, 2011.




Walter Davidson, Professional Engineer