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This instrument was prepared by:
Jerome K. Lanning
1100 Park Place Tower
Birmingham, Alabama 35203

**DECLARATION OF CONDOMINIUM
OF
THE GABLES, A CONDOMINIUM**

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DECLARATION OF CONDOMINIUM

OF

THE GABLES, A CONDOMINIUM

This Declaration made this 27th day of November, 1984, by BHN Corporation, a corporation, and Southwood Park Estates, Inc., a corporation as tenants in common and general partners of Riverchase Properties, an Alabama general partnership (collectively "Developer"), for itself, and for its successors, grantees and assigns, pursuant to the Condominium Ownership Act of Alabama, Code of Alabama 1975, §§ 35-8-1, et seq., for the purpose of creating a condominium and establishing certain easements, covenants and restrictions to run with the land.

R E C I T A L S :

Developer owns in fee certain real property in the City of Hoover, Shelby County, Alabama, which said real property is more particularly described in Exhibit A-1 attached hereto and made a part hereof as if set out in full, and is subject to those easements, rights of way and other restrictions set forth in Exhibit A-1 (the "Land").

Developer has commenced and shall proceed with the improvement of said real estate by the construction thereon of four (4) residential buildings, said buildings together containing as private elements thirty-eight (38) condominium units, and the construction of tennis courts, a clubhouse, pool, a guard house and other improvements as common elements, which proposed improvements are depicted as to location, layout, apartment numbers and dimensions, identifying the common elements and private elements of each building, by the site plan, building plans, floor plans and sections prepared by Coulter, Gay, Salmon & Martin Engineering Company, Inc., and Edward Bailey & Associates, Inc., Architects, described in Exhibit B attached hereto and hereby made a part hereof as if set out in full. The estimated latest date for the completion of construction of the residential buildings and the improvements constituting the common elements is December 31, 1984.

Other real property adjacent to the Land, which real property is more particularly described in Exhibit A-2 to this Declaration, and improvements may, at the option of Developer, be submitted in whole or in part to condominium ownership under this Declaration as subsequent phases, but Developer is not required to submit any portion thereof to condominium ownership under this Declaration (the "Subsequent Phase Land"). The effect of the submission of all or any portion of the Subsequent Phase Land to condominium ownership under this Declaration is explained in Section 39 of this Declaration entitled Phase Development.

NOW, THEREFORE, Developer hereby makes the following declaration, and specifies that the provisions hereof shall constitute covenants running with said real estate and shall be binding upon Developer, and its successors, grantees and assigns, and all subsequent purchasers of any

portion of said real estate and improvements, and their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. **Condominium Form of Ownership.** The purpose of this Declaration is to submit the Land described in Exhibit A-1 hereto and all improvements constructed or to be constructed thereon, and all easements, rights and interests appurtenant thereto, to the condominium form of ownership and use in the manner provided for in the Condominium Ownership Act of Alabama.

2. **Name.** The name by which this Condominium shall be known is: "The Gables, A Condominium," or by such other name as may from time to time be designed by the Board.

3. **Address.** The post office address of this condominium is 100 Gables Drive, Birmingham, Alabama 35244.

4. **Definitions.** The capitalized terms used herein shall have the meaning stated in the Condominium Ownership Act of Alabama, and as follows:

4.1 **"Act"** means the Condominium Ownership Act of Alabama, Code of Alabama 1975, §§ 35-8-1, et seq., as amended.

4.2 **"Articles"** means the articles of incorporation of the Association, recorded in the Office of the Judge of Probate of Shelby County, Alabama.

4.3 **"Assessment"** means a proportionate share of the funds required for the payment of the Common Expenses which from time to time may be levied against each Unit Owner by the Board.

4.4 **"Association"** means The Gables Condominium Association, Inc., an Alabama not-for-profit corporation and its successors and assigns, said Association being the legal entity responsible for the administration and management of the Condominium Property.

4.5 **"Board"** means the Board of Directors of the Association.

4.6 **"Building(s)"** means any one or more of the buildings of the Condominium.

4.7 **"Bylaws"** means the duly adopted Bylaws of the Association.

4.8 **"Common Elements"** means the parts of the Condominium Property set forth and defined in Section 10.1 of this Declaration and the Plans in which all of the Unit Owners have an undivided interest.

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4.9 **"Common Expenses"** means the expenses arising out of the ownership of the Common Elements, including expenses incurred in the maintenance, administration, improvement and repair of the Common Elements, whether incurred or estimated by the Board, for which the Unit Owners are liable to the Association in accordance with the Condominium Documents.

4.10 **"Common Surplus"** means the excess of all receipts of the Association over the amount of the Common Expenses.

4.11 **"Condominium"** means The Gables, A Condominium, and consists of the Condominium Property submitted to the condominium form of ownership by this Declaration.

4.12 **"Condominium Documents"** means the Declaration, Bylaws, Articles, Plans and all exhibits attached thereto as the same may be amended from time to time.

4.13 **"Condominium Property" or "Property"** means all property covered by the Declaration, and includes the Land and all improvements now existing or hereafter placed thereon, all easements, rights, interests and appurtenances thereto, and all personal property now or hereafter used in connection therewith, and shall include the Subsequent Phase Land and Improvements thereon in the event Developer elects to submit all or any portion of the same to condominium ownership under this Declaration.

4.14 **"Declaration"** means this Declaration as it may be amended from time to time.

4.15 **"Developer"** means Riverchase Properties, an Alabama general partnership, and its successors and assigns.

4.16 **"Development Period"** means the period commencing with the date of the construction of the Improvements and ending with the date of the completion of construction of all of the Improvements.

4.17 **"Improvements"** means the 38 residential Units and other Improvements described in the Plans. The term "Improvements" shall also mean any residential units and improvements on the Subsequent Phase Land in the event that Developer elects to submit all or any portion of the Subsequent Phase Land to condominium ownership under this Declaration.

4.18 **"Land"** means the real estate included in Phase I of the Condominium as described in Exhibit A-1 to this Declaration, subject to all easements, rights of way and other

restrictions set forth in Exhibit A-1 or herein reserved. The term "Land" shall also mean the Subsequent Phase Land described in Exhibit A-2 to this Declaration, subject to all easements, rights-of-way and other restrictions set forth in Exhibit A-2 or herein reserved, in the event that Developer elects to submit all or any portion of the Subsequent Phase Land to condominium ownership under this Declaration. The Subsequent Phase Land described in Exhibit A-2 is not submitted at this time to condominium ownership, and may only be submitted to condominium ownership by amendment(s) to this Declaration, properly executed and recorded by Developer.

4.19 **"Member"** means a member of the Association, membership in which is confined to persons holding fee ownership in a Unit.

4.20 **"Plans"** means the site plan, building plans, floor plans and sections prepared by Coulter, Gay, Salmon & Martin Engineering Company, Inc., Engineers, and by Edward Bailey & Associates, Inc., Architects, which depict the location, layout, numbers and dimensions of the Units and the Common Elements, identified as The Gables, A Condominium, as the same may be amended as hereinafter provided for. A copy of the Plans is attached hereto as Exhibit B.

4.21 **"Private Element(s)"** means a part or parts of the Condominium Property intended for exclusive ownership and possession by a Unit Owner, including any portions of the Condominium Property which, although they may not be included within the definition of the boundaries of a Unit as defined in this Declaration, are assigned for exclusive ownership and possession by a Unit Owner in this Declaration and the Plans.

4.22 **"Rules and Regulations"** means the Rules and Regulations of the Association adopted in accordance with the terms of the Condominium Documents.

4.23 **"Unit"** means the Private Elements of the Condominium Property included within the boundaries of a Unit as defined in this Declaration, together with the Private Elements appurtenant to a Unit, if not included within the definition of the boundaries of a Unit, and the undivided interest in the Common Elements which are assigned thereto in this Declaration, together with the interests, easements and other rights appurtenant to a Unit as provided for under § 35-8-5 of the Act.

4.24 **"Unit Owner" or "Owner"** means the owner of record title to a fee interest in a Unit, and shall include Developer so long as Developer is the Owner of any Unit unless otherwise herein specified.

Whenever the context permits hereunder the use of the plural shall include the singular, the use of the singular shall include the plural, and the use of any gender (including neuter) shall be deemed to include all genders (including neuter), as the context requires.

5. Description of Improvements and Identification of Units.

5.1 Description of Residential Buildings. Developer has commenced and shall proceed with the construction on Phase I of the Condominium Property of four (4) residential Buildings all constructed primarily of wood frame and brick veneer, on poured concrete footings with stud walls and brick and wood veneer, with composition shingle roofs, and containing a total of thirty-eight (38) Units, as follows:

(a) Building No. 1: A 2-3/story building (two stories in front and three stories in back) containing ten (10) two-bedroom/two-bath type "C" Units as described in the Plans containing approximately nine hundred and sixty-three (963) square feet each.

(b) Building No. 2: A 2-3/story building (two stories in front and three stories in back) containing ten (10) two-bedroom/two-bath type "D" Units as described in the Plans, with fireplaces, containing approximately one thousand one hundred and thirteen (1,113) square feet each.

(c) Building No. 3: A 2-3/story building (two stories in front and three stories in back) containing ten (10) one-bedroom/one and one-half/bath type "B" Units as described in the Plans, with fireplaces, containing approximately eight hundred and ninety-three (893) square feet each.

(d) Building No. 4: A 2-story building containing eight (8) one-bedroom/one-bath type "A" Units as described in the Plans, containing approximately eight hundred and sixteen (816) square feet each.

Each residential Building is supplied with centrally metered water and sewer, and individually metered electricity, and individually controlled air conditioning and heating for each Unit.

The decks or balconies abutting each Unit are Private Elements appurtenant to those Units which they abut, the use and ownership of which is restricted to the Units to which they are appurtenant. The areas, structures, mechanical and other systems, rooms and spaces which are not within the boundaries of a Unit (including the Private Elements appurtenant to a Unit) are Common Elements and shall be used, occupied, dealt with and managed as provided for in the Act and hereafter in this Declaration.

5.2 Description of Other Improvements.

In addition to the four (4) residential Buildings Developer has commenced and shall proceed with the construction of the following improvements on Phase I of the Condominium Property:

(a) A clubhouse, consisting of a party room with kitchen, two offices, laundry room, rest rooms, fireplace and patio deck containing approximately two thousand (2,000) square feet, and fully furnished.

(b) Two (2) tennis courts, with a two color all weather asphalt surface, together with lighting and fencing.

(c) A swimming pool twenty-two (22) feet by fifty (50) feet at its longest dimension, together with a pool deck and fencing.

Other Common Element Improvements shall include a guard house, central garbage station, postal station, parking, drives and landscaping, all of the foregoing Improvements being more particularly described in the Plans.

5.3 Identification of Units. The Units and all other Improvements to be constructed on Phase I of the Condominium Property are described in detail in the Plans attached hereto as Exhibit B. Each Unit is assigned a number or letter or a combination thereof which is indicated on the Plans so that no Unit bears the same identification as any other Unit, and is described as to number, Building, location, dimensions and other data necessary for its proper identification. The Plans have been prepared in such a manner as to permit the identification and location of the Private Elements and the Common Elements as well as the Units.

6. Development; Administration During Development Period; Power to Amend by Developer, Amendment Procedure; Limitations.

6.1 Development. The Improvements upon the Condominium Property have been or shall be constructed by the Developer substantially in accordance with the Plans. Upon completion of the residential buildings to be constructed and prior to the first conveyance of any Unit contained therein, there shall be filed for record this Declaration in the Probate Office of Shelby County, Alabama, and there shall be filed simultaneously therewith in said Probate Office a revised or supplemental set of Plans, certified by a licensed or registered engineer and/or architect, which shall fully depict the layout, location, dimensions and designating numbers of each Unit in said buildings, as built.

6.2 Administration During Development Period. Anything herein to the contrary notwithstanding, except as specifically limited herein or by the provisions of the Act during the Development Period, Developer, exclusively, shall have, enjoy and exercise all the rights, powers, privileges, prerogatives, duties and obligations elsewhere herein or in the Bylaws conferred upon or granted to the Association, its directors, or the members thereof, and shall manage and administer the Association.

6.3 Power to Amend by Developer During Development Period. The administrative authority retained in Section 6.2 hereof to Developer during the Development Period includes the power to amend this Declaration, any of the Plans prepared and/or filed for record in connection with the Condominium Property, the Articles, Bylaws of the Association, and the Rules and Regulations, or any one or more of said items at any time and from time to time, as the same may be necessary to correct errors or to insure conformity of Private and Common Elements, as built, to the Declaration, the Plans and the Bylaws; and each Unit Owner and all holders of liens of record on any Unit by acceptance of a deed to or mortgage of any Unit consent to such amendments by Developer; provided, however, that no such amendment which would materially affect the size, layout or construction specifications with respect to any Unit theretofore sold shall be made without the prior consent of such Unit Owner and the record lienholder thereof, if any; and provided, further, that no such amendment which would change the method of computing the undivided interest assigned to each Unit in the Common Elements, or materially and adversely affect the development of the Common Elements as contemplated in this Declaration and the Plans as now or hereafter prepared and/or recorded in connection with the development, shall be made without the prior consent of both the Owners and the record lienholders of all Units theretofore sold (as used in this Section and elsewhere in this Declaration and the Condominium Documents the use of the terms "sold" with respect to a Unit means that fee title and possession of the Unit shall have passed from the seller to the purchaser). If any amendment falls within either of the provisions of the preceding sentence, and a person has contracted for, but not closed, the purchase of a Unit, such prospective purchaser shall be given notice thereof (prior to closing) and the opportunity to rescind (prior to closing) such contract of purchase, and in the event of any such rescission there shall be returned to such person all earnest money theretofore paid by him, without interest, and the contract of purchase and sale shall thereupon be and become null and void, and the parties thereto shall have no further rights or liabilities thereunder.

6.4 Power to Amend by Developer Generally. Developer reserves the right at any time, whether within or without the Development Period, to amend this Declaration, any of the Plans prepared and/or filed for record in connection with the Condominium Property, the Articles and Bylaws of the Association and the Rules and Regulations, or any one or more of said items, as may be necessary or appropriate in connection with any of the following:

(a) To change the interior design and arrangement of Units and to alter the boundary between the Units so long as Developer owns the Units so altered.

(b) So long as Developer owns any two Units with a common vertical or horizontal boundary Developer shall have the right to alter the Common Elements which constitute the boundary between such Units to permit such Units to be owned and occupied by a single Unit Owner; provided, however, that although such Units may be joined so as to permit the joint occupancy thereof, for all purposes hereunder the Owner of such connected Units shall be deemed to be the Owner of both of the two Units so connected, and not the Owner of a single Unit, and the computation of the Common Expenses and Surplus apportioned to each such Unit, and the voting rights appurtenant thereto, shall be unaffected thereby.

(c) To correct errors or misspellings in the Declaration or to make other changes not inconsistent with the terms of the Condominium Documents.

6.5 Amendment Procedure. Any authorized alteration of Unit plans as provided for in Sections 6.3 and 6.4 above shall not require an amendment to this Declaration. Any amendment to the Declaration, Plans, Articles, Bylaws or Rules and Regulations contemplated by Sections 6.3 and 6.4 need to be signed and acknowledged only by Developer, and need not be approved by the Association, the Unit Owners, or lienors or mortgagees of the Units. Authorized amendments by the Developer under Sections 6.3 and 6.4 shall be effective when recorded in the public records of Shelby County, Alabama.

7. Amendment by Owners and Board. This Declaration may be amended by the Owners and Board in the following manner:

7.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

7.2 Resolution. A resolution to adopt a proposed amendment may be proposed by either the Board or by the

Members of the Association, and after being proposed and approved by one of such bodies, it must then be approved by the other to become effective. Directors and Members not present at the meeting considering the amendment may express their approval or disapproval thereof in writing, provided such approval or disapproval is delivered to the secretary of the Association at or prior to the meeting. Such approvals must be by not less than a majority of the directors, and by not less than a two-third (2/3) majority of the votes of the Members of the Association.

7.3 Recording. A copy of each amendment shall be certified by the president and secretary of the Association as having been duly adopted and shall be effective when recorded in the Probate Office of Shelby County, Alabama.

7.4 Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by a majority of the directors and by all of the Members required to take such action if such Members were present and voting, such signatures to be acknowledged in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Probate Office of Shelby County, Alabama.

7.5 Proviso. Notwithstanding any contrary provision contained in this Declaration, without the prior written approval of the Owner and the holder of any first mortgage lien on any Unit affected, and the prior written approval of at least two-thirds (2/3rds) of all of the Unit Owners other than Developer, no amendment of this Declaration shall be effective which shall: (a) seek to abandon or terminate the Condominium, (b) change the pro rata interest or obligations of any Unit Owner with respect to the Common Elements, Common Expenses or Common Surplus, or alter the voting rights appurtenant to any Unit, (c) change the procedure for levying Assessments or allocating the distribution of hazard insurance proceeds or condemnation awards, (d) partition or subdivide any Unit, (e) seek to abandon, partition, subdivide, encumber, sell or transfer any of the Common Elements (except for easements and rights-of-way for access and utilities serving the Condominium Property, including the Subsequent Phase Land), (f) seek to apply hazard insurance proceeds for losses to any of the Condominium Property for other than repair, replacement or reconstruction of such Condominium Property, or (g) prejudice the rights or priorities of any holder of any first mortgage lien on any Unit.

8. Sale or Lease by Developer; Developer's Units, Rights and Privileges, Amendment.

8.1 Sale, Mortgage or Lease. Developer is empowered to sell, mortgage and/or lease any Units owned by Developer to any person or persons without restriction.

8.2 Developer's Use of Units and the Condominium Property. Developer shall have the right to transact on the Condominium Property any business necessary or related to the sale or lease of Units, including, but not limited to, the right to maintain model Units, have signs, maintain an office, and use the Common Elements and to show Units to prospective purchasers and lessees. The sales office, signs and other items used in connection with the sale or leasing of Units shall not be considered a part of the Common Elements and shall remain the property of the Developer. Until the Developer has completed and sold all Units, neither the Unit Owners nor the Association nor their use of the Condominium Property shall interfere with the completion of the Improvements and the sale or lease of Units. Except as provided in this Section, the Developer shall be subject to the same restrictions and entitled to enjoy the same privileges as any other Unit Owner with respect to the use of each Unit owned by Developer.

8.3 Association Restrictions. So long as the Developer holds any Units for sale in the ordinary course of business, none of the following actions may be taken by the Association, either through act of its Board of Directors or its membership, without Developer's approval in writing:

1. Assessment of the Developer as a Unit Owner for capital improvements, and

2. Any action by the Association that would be detrimental to the sale of Units by the Developer; provided, however, an increase in Assessments for a Common Expense without discrimination against the Developer shall not be deemed to be detrimental to the sales of Units for the purpose of this paragraph.

8.4 Appointment of Alternate Developer(s). For the purpose of this Section and the powers, rights and authorities granted to the Developer in this Section and elsewhere in this Declaration, the Developer shall be deemed to mean not only Riverchase Properties, as defined in Section 4.15 hereof, but also any of its partners as designated by it by an instrument in writing to be considered as "Developer" for the purposes set forth herein. The term "Developer" shall also include for all purposes contained in the Declaration and its exhibits any successor or alternate developer appointed by Riverchase Properties as a successor or alternate developer by an instrument in writing specifically setting forth that such a successor or alternate is to have the rights, duties, obligations and responsibilities in whole or in part of the Developer hereunder, together with Riverchase Properties, provided that such instrument in writing shall be executed by such successor or alternate developer indicating its consent to be so treated as the "Developer."

8.5 Amendment. This Section shall not be amended without the written consent of the Developer and of any successor or alternate developer designated in accordance with the provisions of Section 8.3 above. The provisions of Section 7 of this Declaration to the contrary notwithstanding, no provision of this Declaration or of the Bylaws of the Association granting or reserving to the Developer any rights, powers, authorities, usages or dispensations may be modified or amended in any way which will impair or restrict those rights, powers and authorities or special dispensations without the written approval of the Developer, so long as the Developer or any successor or alternate developer shall own any Units.

9. Easements.

9.1 General. The Land submitted to condominium ownership under the Act by this Declaration is subject to conditions, limitations, restrictions, dedications, reservations of record, taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for utility service, for the United States Post Office authorities, easements for ingress and egress for pedestrian and vehicular purposes, and easements for utility service and drainage now existing or hereafter granted by the Developer for the benefit of such persons as the Developer designates, and Developer shall have the right to grant such additional easements of like character as hereinafter provided for and to designate the beneficiaries thereof until Developer relinquishes such right in the manner provided for in Section 9.5 of this Declaration, and thereafter the Association shall be empowered to grant such easements on behalf of its Members. During the period of time that the Developer has the right to grant the foregoing easements, which shall be until Developer relinquishes such right in the manner provided for in Section 9.5 of this Declaration, the consent and approval of the Association and its Members shall not be required. The right to grant the foregoing easements shall be subject to said easements not structurally weakening the Buildings and Improvements upon the Condominium Property nor unreasonably interfering with the enjoyment of the Condominium Property by the Association's Members.

9.2 Grant. Developer hereby reserves for and grants to the Association for the benefit of its Members, their guests and lessees, the following easements, rights and privileges:

- (a) An easement in common with others for ingress and egress, by vehicle or on foot, in, to, upon, over and under all roads, walks and passageways located on the Condominium Property.

(b) An easement for the placement and maintenance of all roadways and utilities, including sewer, gas, electricity and telephone lines, pipes, sewers and conduits, in and through the Condominium Property, including right of access thereto, such easements being in common with and subject to the terms and conditions of all easements and rights of way heretofore granted by Developer to companies furnishing utilities to the Condominium Property.

(c) An easement in common with the Owner of each Unit served through other Units for the conduits, ducts, plumbing, wiring and other facilities and systems furnishing utility services to the Unit served, including the right of access thereto for the purpose of maintenance, repair and replacement.

9.3 Encroachments. An easement is reserved for encroachments as is more particularly described in Section 12 of this Declaration.

9.4 Covenants Running With the Land. An easement, whether heretofore or hereafter created under and pursuant to this Declaration, shall constitute a covenant running with the Land of the Condominium and notwithstanding any other provisions of this Declaration may not be substantially amended or revoked in such a way as to unreasonably interfere with the proper and intended use and purpose thereof, and the same shall survive the termination of the Condominium. The Unit Owners of this Condominium do hereby designate the Developer or the Association, whichever shall have the authority to act under this Section 9 at such time, as their lawful attorney in fact to execute any and all instruments on their behalf for the purposes of creating all such easements as are contemplated by the provisions hereof.

9.5 Future Easements. The Developer retains the right and shall at all times have the right to declare and create, modify and amend from time to time without joinder and consent of any Unit Owner or of the Association, easements upon the Condominium Property for public utility purposes and for peaceful ingress and egress to prevent abutting properties from being landlocked or otherwise denied reasonable access to and from the public ways, and for the purpose of providing cross access, parking and utility easements between the Condominium Property and the Subsequent Phase Land described in Exhibit A-2 to this Declaration; provided, however, that at the time of the creation of such easements and at the time of the modification or amendment of any such easements, such easements and such modifications

and amendments shall not be inconsistent with the peaceful and lawful use and enjoyment of the Condominium Property by the Owners thereof. The Developer may, by an instrument in writing, relinquish the power and authority herein reserved to create, modify and amend easements, by filing in the public records of Shelby County, Alabama, a written instrument to that effect, from and after recording of which the Developer and its successors and assigns as Developer shall no longer have the powers and authorities reserved or granted in this paragraph.

10. Common Elements.

The Common Elements shall include the common areas and facilities located substantially as shown on the Plans. Such common areas and facilities will include the following, unless specifically included within a Unit:

- (a) The Land described in Exhibit A-1.
- (b) The foundations and footings, exterior walls, roofs, girders, beams, supports, stairs and stairways, decks, patios, entry walks and entry porches of any Building.
- (c) The recreation facilities, including tennis courts, a pool and a clubhouse.
- (d) The yards, streets, walkways, parking areas, recreational areas, and landscaping.
- (e) The mechanical systems and installations providing service to any Buildings, or to any Unit, such as electrical power, gas, light, hot and cold water, heating and air conditioning, sanitary and storm sewer facilities, and including all lines, pipes, ducts, flues, chutes, conduits, cables, wires and other apparatus and installations in connection therewith.
- (f) All maintenance facilities, storage areas, pumps, outdoor lighting and the like.
- (g) All easements, rights, or appurtenances affecting or relating to the use of the Condominium Property unless specifically included in any Unit.
- (h) All of the Condominium Property not included within a Unit.

There are no limited common elements in the Condominium Property.

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11. Units. Each Unit shall include as Private Elements the part of the Building containing the Unit which lies within the boundaries of the Unit, which boundaries shall be determined in the following manner:

11.1 Horizontal Boundaries. The upper and lower boundaries of each Unit shall be the following boundaries extended to an intersection with the perimeter boundaries:

(a) The upper boundary of each Unit shall be the horizontal plane established by the unfinished undersurface of the dry wall (sheet-rock) which serves as the ceiling of the Units.

(b) The lower boundary of each Unit shall be the horizontal plane established by the unfinished upper surface of either the structural slab or framed floor which serves as the Unit's floor, excluding any floor covering such as carpeting or vinyl, asbestos or ceramic tile.

11.2 Perimeter Boundaries. The perimeter boundary of each Unit shall be the vertical planes established by the interior unfinished surface of the gypsum board which serves as the exterior walls bounding the Unit extended to the intersections with the upper and lower horizontal boundaries.

11.3 Balcony. Where a deck or balcony is appurtenant to a Unit, the Unit shall include the interior space bounded thereby as identified in the Plans. The use of the deck or balcony space by all present and future Unit Owners, and the tenants and occupants of the Units, is hereby made expressly subject to the Rules and Regulations of the Association as they may be from time to time amended.

11.4 Equipment. Each Unit shall include all interior lighting fixtures, bathroom fixtures and cabinets, air conditioning and heating equipment, hot water heater, oven and range with microwave, garbage disposal, refrigerator, dishwasher, sink and all other kitchen fixtures, including cabinets.

12. Encroachment. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements as a result of the construction of any Building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any Building, a valid easement for the encroachment and for the maintenance of the same, so long as the Building stands, shall exist. In the event any Building, any Unit, any adjoining Unit, or any adjoining Common Elements, shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements due to such

construction and maintenance thereof shall exist so long as the Building shall stand.

13. Units Subject to Declaration, Bylaws and Rules and Regulations.

All present and future owners, tenants and occupants of the Units shall be subject to, and shall comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into of occupancy of any Unit shall constitute an agreement that the provisions of the Condominium Documents as they may be amended from time to time, are accepted and ratified by such Owner, tenant, or occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof. Failure of a Unit Owner or resident of the Condominium to comply with the terms of said documents or regulations shall entitle the Association and/or other Unit Owners to the following relief in addition to the remedies provided by the Act and the Condominium Documents.

A. Each Unit Owner shall pay to the Association the amount of any increase in its insurance premiums occasioned by the use, misuse, occupancy or abandonment of his Unit or its appurtenances by said Owner or any occupant of the Unit.

B. In any proceeding arising out of an alleged failure of any Unit Owner or occupant of a Unit to comply with the Act, the Condominium Documents or the Rules and Regulations the prevailing party shall be entitled to recover the costs of the proceeding and a reasonable attorney's fee.

C. The failure of the Developer, the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, the Condominium Documents or the Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

14. Exclusive Ownership; Undivided Interest in Common Elements.

Each Unit Owner shall have exclusive ownership and possession of his Unit. Each Unit Owner shall have an undivided interest in the Common Elements and share in the Common Expenses and Common Surplus in the percentage expressed in Exhibit C to this Declaration, which percentage of undivided interest of each Unit Owner shall have a permanent character and shall not be altered without the consent of all Unit Owners expressed in an amended Declaration, duly recorded; provided, however, that phase development may dilute each Unit Owner's ownership of the Common Elements and share of the Common Expenses and Common Surplus (an explanation of such effect of phase development is contained in Section 39 of this Declaration). The percentage of undivided interest in the Common Elements and share of the Common Expenses and Common Surplus shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly

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mentioned or described in the conveyance or other instrument. Each Unit Owner may use the Common Elements, without hindering or encroaching upon the lawful rights of the other Owners.

15. Enforcement. Failure of any Unit Owner, tenant or occupant of any Unit to comply strictly with the provisions of the Condominium Documents and the Rules and Regulations shall be grounds for an action to recover any sums due, or damages, or injunctive relief, or the imposition of a fine, or any or all of them. In any such action or proceeding the Association shall be entitled to recover the costs of the action or proceeding and a reasonable attorneys' fee. The amount of any fine, damages, and any sums necessary to remove any unauthorized addition or alteration and to restore the property to good condition and repair shall constitute an Assessment against the Unit Owner and the Unit. Such actions or proceedings may be maintained by the Association on its own behalf or on behalf of the Unit Owners aggrieved. In any case of flagrant or repeated violation by a Unit Owner, tenant or occupant of any Unit, he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of the Condominium Documents and the Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved Unit Owner for such relief. The failure of the Association or any Unit Owner to take any action or to exercise any remedy hereunder shall not constitute a waiver of the right to do so thereafter.

16. Maintenance.

16.1 Association Maintenance. The Association, as a Common Expense, shall maintain, repair and replace if necessary the following:

(a) all portions of the Common Elements not the responsibility of a Unit Owner under the provisions of Section 16.2 hereof.

(b) all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained within a Unit but which service part or parts of the Condominium other than the Unit within which they are contained and which are not the responsibility of a Unit Owner under Section 16.2 hereof.

The Association may enter into a contract with any firm, person or corporation, or may join with other entities in contracting for the maintenance and repair of the Condominium Property and other type properties, and may delegate to such agent all or any portion of the powers and duties of the Association, except such as are specifically required by the Condominium Document to have the approval of the Members of the Association; provided, however, that any such contract

shall be for a term not to exceed one year, and shall provide that it may be terminated by either party, without cause or payment of any fee, upon not more than 90 days prior written notice.

16.2 Unit Owner's Maintenance. Each Unit Owner shall maintain his Unit and the interior thereof in good tenable condition and repair, and shall repair, maintain and replace if necessary the following:

(a) the fixtures and equipment in his Unit, including all appliances; drains, plumbing fixtures and connections, sinks, and plumbing within the Unit; electric panels, wiring, outlets, and electric fixtures within the Unit; interior doors, windows, screening and glass, including glass or screening between the Unit and any patio or deck adjacent to such Unit; all exterior doors, except the painting of the exterior faces of exterior doors which shall be a responsibility of the Association; and all wall coverings and carpeting within a Unit.

(b) The plumbing, heating, ventilation, air conditioning and electrical systems serving only that Unit, whether located within or without the boundary of that Unit, including the heater and air conditioning compressor, hot water heaters, fuse boxes, wiring, fireplace flues and all other plumbing, electrical, gas or mechanical systems. In the event that any such system or a portion thereof is within the Common Elements or is within another Unit or requires access to another Unit the repair, maintenance or replacement thereof shall be performed by the Association, or by a licensed plumber or electrician approved by the Association, and if performed by the Association, the cost thereof shall constitute an Assessment against the Unit Owner responsible therefor.

16.3 Unit Owner's Covenants. Each Unit Owner agrees as follows:

(a) To perform all maintenance, repairs and replacements which are his obligation under Section 16.2 hereof.

(b) To pay for all of his utilities, including electricity, gas, and telephone used within the Unit and all taxes levied against his Unit.

(c) Not to make, or cause to be made, any repairs to any plumbing, heating, ventilation or air conditioning systems located outside his Unit but required to be maintained by him under Section 16.2(b) hereof except by licensed plumbers or electricians authorized to do such work by the Association or its delegate.

(d) Not to make any addition or alteration to his Unit or to the Common Elements or do any act that would impair the structural soundness or safety of any part of the Condominium Property. Structural alterations within a Unit may be made only with the written consent of the Association.

(e) Not to make any alterations, additions, improvements, decoration, repair, replacement or change to the Common Elements, or to any outside or exterior portion of his Unit or the Building in which his Unit is located, specifically including, but not limited to, screening or enclosing private decks or balconies, installing other exterior doors, or affixing outshutters to windows, without the prior written consent of the Association. If consent is granted, the Unit Owner shall use only a licensed contractor who shall comply with all Rules and Regulations with respect to the work which may be adopted by the Association. The Unit Owner shall be liable for all damages to another Unit and to the Common Elements caused by any contractor employed by such Unit Owner or by the subcontractors or employees of such contractor, whether said damages are caused by negligence, accident, or otherwise.

(f) To allow the Association, its delegates, agents, or employees at all reasonable times to enter into any Unit for the purpose of maintaining, inspecting, repairing, or replacing Common Elements; or for repairing, maintaining or replacing any plumbing, heating, ventilation or air conditioning system located within such Unit but serving other parts of the Condominium Property; or in order to determine, in case of emergency, the circumstances threatening Units or Common Elements and to correct the same; or, to determine compliance with the provisions of the Condominium Documents.

(g) To promptly report to the Association any defects or needed repairs for which the Association is responsible.

16.4 Facade. The Association shall determine the exterior color scheme of the Buildings, and shall be responsible for the maintenance thereof except as may be otherwise provided for herein, and no Owner shall paint any exterior surface or add or replace anything thereon or affix anything thereto, without written consent of the Association.

16.5 Repairs. The Association shall be responsible for the maintenance, repair and replacement of the Common Elements, except as otherwise provided for in Section 16.2; provided, that if any repairs or replacements are made necessary because of abuse or negligent use thereof by a Unit Owner the cost of such repair or replacement may be assessed against such Unit Owner.

17. Sales Price. Developer reserves the right, so long as it is the Owner of any unsold Unit, to change the price of such Unit; however, no change in the price for such Unit will vary the percentage interest in the Common Elements appurtenant to such Unit.

18. Assessments. The Association shall have the power to fix and determine from time to time the sum or sums necessary and adequate to provide for the Common Expenses and such other sums as are provided for in the Condominium Documents. The making and collection of Assessments against Unit Owners shall be pursuant to the Condominium Documents and subject to Section 38 of the Declaration with respect to Developer's obligations, and subject to the following provisions:

18.1 Share of Common Expenses. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, and shall share in the Common Surplus, such share being the same as his percentage of ownership in the Common Elements. Common Expenses shall include, but not be limited to, costs and expenses of operation; maintenance and management; property taxes and assessments against the Condominium Property (until such time as such taxes and assessments are made against the Units individually and thereafter only as to said taxes and assessments, if any, as may be assessed against the Condominium as a whole); operating expenses of the Condominium Property and the Association; property repairs and replacement (but only as to the Common Elements, except for emergency repairs or replacements to Private Elements deemed necessary to protect the Common Elements); charges for utilities and water used in common for the benefit of the Condominium; cleaning and janitorial services for the Common Elements; expenses and liabilities incurred by the Association in and about the enforcement of its rights and duties against the Members or others;

accounting, legal or other professional fees incurred for services performed on behalf of the Association; Association expenses and the cost of any agreements between the Association and others for the maintenance and repair of the Condominium Property as provided for in Sections 16.1 and 19D hereof; and the creation of reasonable contingency or reserve requirements for the protection of the Members and the Condominium Property (i.e., reserves for replacements, maintenance, repairs, and operating reserve to cover deficiencies in collections).

18.2 Interest, Application of Payments. Assessments and installments thereon paid on or before thirty (30) days after the date when due shall not bear interest, but all sums not paid on or before thirty (30) days after the date when due shall bear interest at the rate of fifteen percent (15%) per annum from the date when due until paid, or if said rate of interest is prohibited by law, then at the highest legal rate permitted. All payments shall be applied first to interest, and then to principal in the order the assessments became due.

18.3 Late Charges. At the discretion of the Association a late charge penalty of Twenty-Five Dollars (\$25.00) may be assessed for each payment which is delinquent for fifteen (15) days or more.

18.4 Liens for Assessments. Each Unit Owner shall be liable for the cost of repairs, maintenance and replacements as set forth in Section 16.2 of this Declaration, for special Assessments authorized under this Declaration or elsewhere under the Condominium Documents, and for his proportionate share of the Common Expenses, together with interest and late charges on any unpaid Assessment, for which the Association shall have a lien against such Condominium Unit, and all personal property located within such Unit, except that such lien shall be subordinate to prior bona fide liens of record. Reasonable attorney's fees incurred by the Association incident to the collection of such Assessments or the enforcement of such lien, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be advanced by the Association in order to preserve and protect its lien, shall also be payable by the Unit Owner and secured by such lien. The Association may take such action as it deems necessary to collect Assessments either by personal action against the record owner of the Condominium Unit against which such Assessment has been made, or by enforcing and foreclosing said lien, or by exercising both of such remedies. The Association may settle and compromise any Assessment if it is deemed to be in its best interest to do so. The lien of an Assessment shall be effective as and in the manner provided

for by the Act, and shall have the priorities established by the Act. The Association shall be entitled to bid at any sale held in connection with the foreclosure of an Assessment lien, and may apply as a cash credit against its bid all sums secured by the lien enforced.

18.5 Notices to First Mortgagees. A first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the Owner of the Unit subject to such mortgage of any obligation under the Condominium Documents which shall not have been cured within sixty (60) days.

18.6 First Mortgages. If the holder of a first lien or other purchaser of a Condominium Unit at foreclosure sale obtains title to a Unit as a result of foreclosure of the first lien, or if the holder of such first mortgage accepts a deed to said Unit in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for any Assessments levied prior to its acquisition of title and such unpaid Assessment shall be deemed to be a Common Expense collectible from all of the Unit Owners, excluding such acquirer, his successors and assigns.

18.7 Other Purchasers. Except as provided in Section 18.6 above, no person who acquires an interest in a Condominium Unit, including persons acquiring title by operation of law and purchasers at judicial sales, shall be entitled to occupy the Unit or use the Common Elements until all unpaid Assessments due and owing by the former Unit Owner(s) have been paid. Upon any voluntary conveyance of a Unit, the grantor and grantee of such Unit shall be jointly and severally liable for all unpaid Assessments pertaining to such Unit duly made by the Association and accrued up to the date of such conveyance. The Association shall have the right to assign its claim and lien rights for the recovery of any unpaid Assessments to the Developer, Unit Owner(s), or any third party.

18.8 Certificate. Any Unit Owner, or any purchaser of a Unit prior to the completion of a voluntary sale, or the holder of a mortgage or other lien on any Unit, may obtain from the Association a certificate showing the amount of any unpaid Assessment pertaining to such Unit which shall be provided by the Association within ten (10) days of the request therefor. Any person other than the Unit Owner at the time such certificate is issued who relies upon the same shall be entitled to rely thereon and his liability for such unpaid Assessment shall be limited to the amount set forth in such certificate.

19. Governing Body - Condominium Association. The affairs of the Condominium shall be conducted by a corporation incorporated pursuant

to the provisions of the Alabama Nonprofit Corporation Act, §§ 10-3-1 et seq., Code of Alabama 1975, as amended. The name of the corporation to conduct the affairs of the Condominium shall be THE GABLES CONDOMINIUM ASSOCIATION, INC. The Bylaws of the Association are attached hereto as Exhibit D and made a part hereof, and a copy of the Articles of Incorporation of the Association is attached hereto as Exhibit E and made a part hereof.

All parties hereafter owning Units in the Condominium, which interest is evidenced by recordation of a proper instrument in the public records of Shelby County, Alabama, shall automatically be Members of the Association, and such membership shall automatically terminate when such persons have divested themselves of such interest. The Developer shall be deemed an Owner and voting Member of and for each unsold Condominium Unit. All the affairs, policies, regulations and properties of the Association shall be controlled and governed by the Board of Directors of the Association consisting of voting Members.

The Association shall have all of the powers and duties reasonably necessary to operate this Condominium in the manner as set forth in this Declaration, the Bylaws and Articles of Incorporation of the Association as the same may be amended. It shall also have all of the power and duties of an Association as set forth in the Act, as well as all powers and duties granted or imposed upon it by this Declaration, including:

A. The irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements therein, or for making emergency repairs therein which are necessary to prevent damage to the Common Elements or to other Unit or Units.

B. The power to make and collect Assessments and to lease, maintain, repair and replace the Common Elements.

C. The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners at all reasonable business hours.

D. The power to enter into contracts with others for a valuable consideration, including but not limited to, contracts for vending machines, security service, landscaping, maintenance, pest control, water treatment, and for the maintenance and management of the Condominium Property, including the normal maintenance and repairs of the Common Elements, and in connection therewith, to delegate the powers and rights herein contained, including that of making and collecting Assessments, perfecting liens for nonpayment, etc. The service and maintenance contracts referred to herein may delegate to the service company the duty and responsibility to maintain and preserve the landscaping, gardening, painting, repairing and replacement of the Common Elements but shall not relieve the Unit Owner from his personal responsibility to maintain and preserve the interior surface of the Condominium parcels and to paint, clean, decorate, maintain and repair the individual Unit.

E. The power to adopt reasonable Rules and Regulations for the maintenance and conservation of the Condominium Property and for the health, comfort, safety and welfare of the Unit Owners, all of whom shall be subject to such Rules and Regulations.

F. The power to file suit against Unit Owners and others to enforce the provisions of the Condominium Documents and the Rules and Regulations.

Developer has the right to retain control of the Association after a majority of the Units have been sold (refer to Article II, Section 1(c) of the Bylaws).

Amendments to the Articles shall be valid when adopted in accordance with their provisions and filed with the Judge of Probate of Shelby County, Alabama, or as otherwise required by applicable Alabama statutes, as amended from time to time. No amendment to the Articles or Bylaws shall be adopted which would affect or impair the validity or priority of any mortgage covering any Unit without the written approval of the mortgagee of record affected; change the rights and privileges of Developer without Developer's approval; or change any Unit or the share of Common Elements, Common Expenses, or Common Surpluses attributable to a Unit, nor the voting rights appurtenant to same, unless the record owner or owners thereof and all record owners of liens upon such Unit or Units shall join in the execution of such amendment.

20. Bylaws. The operation of the Condominium Property shall be governed by the Bylaws of the Association which are annexed to this Declaration as Exhibit D. Said Bylaws may be amended in the manner provided therein, subject to the restrictions provided for in Section 19 above.

21. Provisions for Casualty Insurance, Payment of Proceeds, Reconstruction, Insurance Trustee.

21.1 Purchase of Insurance. The Board of Directors of the Association shall keep the Condominium Property insured. The Condominium Property shall include the Buildings erected upon the Land, all fixtures and personal property appurtenant thereto owned or used by the Association or constituting part of the Common Elements, and all Units contained therein. The insurance shall insure the interest of the Association and all Unit Owners and their mortgagees as their interest may appear against loss or damage by fire and hazards covered by a standard coverage endorsement and such other risks of a similar or dissimilar nature as are customarily covered with respect to buildings similar in construction, location and use to the Buildings erected upon the Condominium Property, and including sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage, in an amount which shall be equal to the maximum insurance replacement value as deter-

mined no less than every two years by the insurance carrier if such insurance is reasonably available. The Association is authorized to obtain and accept a policy with a deductible clause if the Association cannot reasonably obtain coverage without such a clause. The Directors shall have no liability to the Association, the Members or any other person for the failure to obtain insurance without a deductible clause and/or for failure to obtain insurance in the full amount of the coverage required hereunder if, in good faith, a majority of their whole number shall have determined that such insurance is not reasonably available. Any casualty insurance policy purchased shall show the amount of insurance for the Buildings and for each portion of the Common Elements not contained in the Buildings.

21.2 Assured and Loss Payable. All casualty insurance policies purchased by the Association hereunder shall be for the benefit of the Association and all Unit Owners and their mortgagees as their interest may appear and shall provide that all proceeds covering casualty losses of Twenty-Five Thousand Dollars (\$25,000.00) or less shall be paid to the Association. Any sum in excess of \$25,000.00 shall be paid to an Insurance Trustee.

An Insurance Trustee shall be any bank or trust company or other corporate trustee authorized to and doing business in Shelby County, Alabama, designated by the Board of Directors of the Association and approved by a majority of the mortgagees of the Units in the Condominium (the term "majority" meaning the holders of debts secured by first mortgages, the unpaid balance of which is more than one-half (1/2) the unpaid balance of all first mortgages on all of the Units). Said trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for the payment of premiums or the sufficiency of premiums nor for the failure to collect any insurance proceeds. The Insurance Trustee shall be responsible only for monies which come into its possession and only for its willful misconduct, bad faith or gross negligence. The duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust pursuant to the terms of the Insurance Trust Agreement between the Association and the Insurance Trustee which shall not be inconsistent with any of the provisions herein set forth.

21.3 Payment of Premiums, Trustee's Expenses and Collection. The Board of Directors shall collect and pay the premiums for casualty insurance and all fees and expenses of the Insurance Trustee as a part of the Common Expenses for which Assessments are levied. Each Unit Owner shall pay and be responsible for casualty insurance premiums and all fees and expenses of the Insurance Trustee in the same manner as all other Assessments.

21.4 Mandatory Repair. Unless there occurs substantial damage or destruction to all or a substantial part of the Condominium Property as hereinafter defined, and subject to the provisions hereinafter set forth, the Association and the Unit Owners shall repair, replace and rebuild the damage caused by casualty loss, which shall be borne by the Unit Owners in proportion to their shares of the Common Elements as set forth in Exhibit C to this Declaration.

21.5 Determination of Damage and Use of Proceeds. Immediately after a casualty damage to any part of the Condominium Property, the Board of Directors shall obtain reliable and detailed estimates of the cost necessary to repair and replace the damaged property to a condition as good as the condition that existed prior to the casualty loss, provided that if a casualty causing damage is limited to a single Unit, then it shall be the responsibility of that Unit Owner to obtain estimates of the cost of replacement as aforesaid. If the net proceeds of insurance are insufficient to pay the estimated cost of reconstruction and repair, the board of directors of the Association shall promptly, upon determination of deficiency, levy a special Assessment against all Unit Owners for that portion of the deficiency related to Common Elements in accordance with each Unit's share of the Common Elements as set forth in Exhibit C to this Declaration, and against the individual Unit Owner(s) of the damaged Unit or Units for that portion of the deficiency related to individual damaged Units; provided, however, that if, in the opinion of the Board of Directors, it is impossible to accurately and adequately determine the portion of the deficiency relating to individual damaged Units, the Board of Directors shall levy the special Assessment for the total deficiency against each of the Unit Owners according to each Unit's share of the Common Expense as set forth in Exhibit C to this Declaration, except as provided below.

Unless there occurs substantial damage to or destruction of all or a substantial portion of the Condominium Property and the Unit Owners fail to elect to rebuild and repair as provided in Section 21.6 below, the Insurance Trustee or the Association, if applicable, shall disburse the net proceeds and the funds collected by the Board of Directors from the Assessment hereinabove set forth to repair and replace any damage or destruction of property, and shall pay any balance of insurance remaining to the Unit Owners, and the funds collected by the Board of Directors from the Assessments as hereinabove provided shall be held by the Insurance Trustee in trust for the uses and purposes herein provided. The Insurance Trustee shall have no obligation or duty to see that the repairs, reconstruction or replacements required hereunder are performed or accomplished, but such duties shall be those of the Association.

21.6 Total Destruction. As used in this Declaration, and in any other connection or context dealing with this Condominium, "substantial damage to or destruction of all or a substantial portion of the Condominium Property" shall mean "with respect to the entire Condominium, that two-thirds (2/3) or more of all Units are or have been rendered untenable by casualty loss or damage."

Should there occur substantial damage to or destruction of all or a substantial part of the Condominium Property with respect to the entire Condominium, the Condominium Property shall not be reconstructed unless two-thirds (2/3) of all the Unit Owners shall agree to reconstruct, in writing, within ninety (90) days after the casualty loss or damage occurs. Should reconstruction not be approved as aforesaid, the Insurance Trustee is authorized to pay proceeds of the insurance to the Unit Owners and mortgagees as their interest may appear, and the Condominium Property shall be removed from the provisions of the Act. The determination not to reconstruct after casualty shall be evidenced by a certificate signed by one of the officers of the Association stating that the ninety (90) day period has elapsed and that the Association has not received the necessary writing from two-thirds (2/3) of the Unit Owners.

21.7 Rights of Mortgagees. If any first mortgagee of any Unit shall require that the Association deposit sufficient monies to pay casualty insurance premiums in escrow, only one such escrow account shall be required. The Association shall not be required to fund this escrow account more frequently than once a month nor deposit therein from month to month an amount greater than one-twelfth (1/12) of the reasonably estimated casualty insurance premium next due. Any mortgagee in any mortgage which, in accordance with the provisions of the mortgage, shall have the right to demand insurance proceeds in the event of a casualty loss to the property secured by said mortgage, waives the right to such proceeds if the proceeds are used pursuant to this Declaration to repair, replace or restore the property subject to the mortgage lien. However, nothing herein shall be deemed a waiver by the mortgagee of its rights, if any, to require that any surplus proceeds over and above the amounts actually used for repair, replacement or reconstruction of the property subject to the mortgage be distributed to the mortgagee and the Unit Owner as their interest may appear. The owner and holder of any first mortgage on any Unit shall have the right to approve the plans and proposals for any repairs, reconstruction or replacements to the Unit or Units encumbered by its mortgage or mortgages and no such repairs, reconstruction or replacements shall be begun or undertaken without such approval, which approval shall not be unreasonably withheld.

21.8 Association as Agent. The Association is hereby irrevocably appointed as agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association and to execute releases thereof.

21.9 Unit Owners Insurance. Nothing herein shall prevent any Unit Owner from obtaining additional casualty insurance on his own Unit for his sole benefit.

22. Other Insurance.

22.1 The board of directors of the Association shall obtain liability insurance in such amounts as the board of directors may determine from time to time for the purpose of providing liability insurance coverage for the Common Elements of the Condominium. The board of directors shall collect and enforce payment of a share of the premium for such insurance from each Unit Owner as an Assessment in accordance with the provisions of this Declaration. Each individual Unit Owner shall be responsible for the purchasing of liability insurance for accidents occurring in his own Unit. In accordance with the provisions of the Act, the liability of a Unit Owner for Common Expenses shall be limited to amounts for which he is assessed from time to time in accordance with the Act, this Declaration and the Bylaws. The Owner of a Unit shall have no personal liability for any damages caused by the Association on or in connection with the use of the Common Elements, except to the extent that, and only if, the law mandates such personal liability.

22.2 A Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit to the same extent and degree that the owner of a house would be liable for an accident occurring within the house. If there shall become available to condominium associations a program of insurance which will not only insure the Association's liability and the liability of Unit Owners with respect to the Common Elements but also the liability of individual Unit Owners with respect to the interior of their Units, then the Association may obtain such liability insurance coverage protecting both the Association and the Unit Owners against all liabilities for damage to persons and property whether occurring within or without a Unit and the premium therefor shall be a Common Expense. If it shall appear that Condominium Unit Owners in such a program of insurance are entitled to elect additional coverages or excess coverage above those coverages elected by the Association for all Unit Owners, then the Association may require the individual Unit Owners selecting the excess coverage to pay the reasonable premium for such additional or excess coverage.

22.3 The Board of Directors of the Association shall obtain workers' compensation coverage as may be required by law and such other insurance, including but not limited to, fidelity bonds for officers and directors as the Board may from time to time deem necessary or advisable. Premiums for such insurance shall be a Common Expense. In addition, the Board of Directors may as they deem necessary and proper and to the extent such is available obtain flood insurance for the Condominium Property.

23. Condemnation. In the event of condemnation of all or a portion of the Condominium Property, the disposition of proceeds of the award shall be governed by the following provisions:

23.1 Entire Property. In the event of condemnation of the entire Condominium Property, the Association shall be entitled to receive the proceeds of the award which shall be distributed by the Association to the Unit Owners and their mortgagees, as their interests may appear, in proportion to their undivided interests in the Common Elements.

23.2 Partial Taking. In the event of condemnation of a portion of the Condominium Property, the Association shall be entitled to receive the proceeds of the award which shall be distributed in accordance with the findings of a panel of three arbitrators to be selected by the Board which shall proceed in accordance with the then existing rules of the American Arbitration Association to determine the portion of the award due to be distributed to each of the several Unit Owners and their mortgagees, as their interests may appear, by virtue of the Unit Owner's interest in the Units or portions thereof taken and the portion of the award allocable to the Common Elements taken by condemnation. The portion of the award allocable to the Common Elements shall be retained by the Association which shall treat the same as insurance proceeds and proceed under Section 21 hereof to reconstruct and restore the affected portion of the Condominium Property to a complete architectural unit if the Board determines that such is feasible. The panel of arbitrators shall also determine the percentage of undivided interest of the remaining Unit Owners in the Common Elements following the condemnation and each Unit Owner shall be deemed to have consented to the amendment of this Declaration in accordance with such findings and the continuation of the Condominium regime with respect to the Condominium Property remaining following condemnation. If it is determined not to be feasible to restore the Condominium Property to a complete architectural unit, the portion of the award allocable to the Common Elements shall be distributed to the Unit Owners and their mortgagees, as their interest may appear, in proportion to their undivided interests therein. The expense of the arbitration shall be paid by the Association, and shall constitute a Common Expense.

23.3 Priority. No Unit Owner or other party shall have a priority over any first mortgagee in connection with the distribution of any condemnation proceeds distributable with respect to a Unit subject to such first mortgage. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

24. Use Restriction. The use of the Condominium Property shall be in accordance with the following provisions:

24.1 Residences. The Condominium Property shall be used solely for residential purposes.

24.2 Nuisances. No nuisances shall be allowed upon the Condominium Property nor any use or practice which is the source of unreasonable annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by its residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist.

24.3 Lawful Use. No offensive or unlawful use shall be made of the Units or the Condominium Property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for the maintenance and repair of the Condominium Property concerned.

24.4 Leasing. Units may be leased by the Unit Owners; provided, however, that such lease and the rights of any tenant thereunder are hereby made expressly subject to the power of the Association to prescribe reasonable Rules and Regulations relating to the lease and rental of Units, and to enforce the same directly against such tenant or other occupant by the exercise of such remedies as the Board deems appropriate, including eviction.

24.5 Damages. The Unit Owner and the tenant or occupant of any Unit shall be jointly and severally liable for expenses incurred by the Association in any maintenance, repair or replacement rendered necessary by his act, negligence or carelessness or by that of any member of his family or his or their guests, employees or agents, and for all other expenses incurred by the Association in connection therewith, including attorney's fees incurred in exercising any remedy available to it hereunder.

24.6 Remedies. In the event of a breach of any of the covenants and use restrictions set forth in this Section 24 or elsewhere in the Condominium Documents the Association shall be entitled to those remedies provided for under Section 15 of this Declaration, or which may otherwise be available to it elsewhere under the terms of the Condominium Documents or the Act, including the right to recover the cost of any such action or proceeding, together with a reasonable attorneys' fee, and the Association shall have an Assessment against the Unit and the Unit Owner for all sums enforceable in the same manner as provided for in Section 18 hereof.

25. Escrow Account. The Board shall have the right to establish and maintain in a national or state bank, savings and loan association or credit union interest bearing accounts for such purposes as it may see fit from time to time. With the approval of the Association, any sums held by the Board on behalf of the Association may be invested and reinvested in such other accounts, securities or other investments as the Board may recommend, whether or not the same are approved trust investments under the laws of the State of Alabama or of any other state.

26. Percentage Interest, Voting Rights, Common Expenses and Common Surplus.

26.1 Percentage Interest. The percentage interest of the Owners in the Common Elements and share of the Common Expenses and Common Surplus is set forth in the Schedule made Exhibit C to this Declaration.

26.2 Voting Rights. The voting rights of the Owners with respect to matters arising out of the Common Elements shall be in the same proportion as their interest therein.

26.3 Common Expenses. The Common Expenses of the Condominium shall be shared by the Owners in the percentages set forth in Exhibit C to this Declaration.

26.4 Common Surplus. The Common Surplus of the Condominium shall be shared by the Owners in the percentages set forth in Exhibit C to this Declaration.

27. Notice of Lien or Suit.

27.1 Notice of Lien. A Unit Owner shall give notice to the Association of every lien upon his Unit, including taxes and special assessments, within five (5) days after the Unit Owner's receipt of notice thereof.

27.2 Notice of Suit. A Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Unit, such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

27.3 Failure to Comply. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sales.

28. Covenant Against Partition or Subdivision. There shall be no judicial or other partition, subdivision or sale for division of the Condominium Property or any part thereof, nor shall Unit Owners or any person acquiring any interest in the Condominium Property or any part thereof seek any such partition, subdivision or sale for division unless the Condominium Property has been removed from the provisions of the Act, in which event the provisions of Section 31 of this Declaration shall be operative.

29. Proportionate Changes in Common Expenses and Common Surplus. In the event any one or more of the Units are not rebuilt by reason of loss as a result of destruction, and therefore the number of Units is reduced, then the proportionate share of the Common Expenses and of the Common Surplus of each Unit shall be increased by adding to each remaining Unit their proportionate percentages of ownership out of the percentages of ownership of the Units so reduced.

30. Notices.

30.1 To Unit Owners. Whenever notices are required to be sent hereunder to Unit Owners, such notices may be delivered either personally or by mail, addressed to such Unit Owner's Unit address, unless the Unit Owner has, by written notice duly receipted for, specified a different address. Proof of such mailing or personal delivery by the Association may be given by the affidavit of the person mailing or personally delivering said notices.

30.2 To Association. Notices to the Association shall be delivered by mail to the secretary of the Association at the registered office of the Association or at the secretary's Unit or, in the event of the secretary's absence, then to the president of the Association at his Unit or, in his absence, to any member of the board of directors of the Association.

30.3 To Developer. Notices to the Developer shall be delivered by registered or certified mail at:

Riverchase Properties
1813 1st Avenue North
Birmingham, Alabama 35203

30.4 Effective Date. All notices shall be deemed and considered to have been given when delivered, or when deposited in the United States Mail, postage prepaid, and addressed as aforesaid. Any party may change his or its mailing address by written notice duly receipted for. Notices required to be given the personal representatives of a deceased Owner or devisee, when there is no personal representative, may be

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delivered either personally or by mail, to such party at his or its address appearing in the records of the Court wherein the estate of such deceased Owner is being administered.

31. Termination. The Condominium may be terminated in the following manner:

31.1 Agreement. The termination of the Condominium may be effected by the unanimous agreement of the Unit Owners and the holders of all liens of record affecting any of the Condominium Property, which agreement shall be evidenced by written instrument executed in the manner required for conveyance of land. The termination shall be effective when such instrument is recorded in the public records of Shelby County, Alabama.

31.2 Assessments. Any unpaid sums due the Association shall survive any termination of the Condominium and shall continue to be an obligation of the Association and the Unit Owners or either of them and shall continue to be a lien against the Condominium Unit, or the undivided interest of the Unit Owners in the Condominium Property, until paid.

31.3. Shares. After termination of the Condominium, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares upon the terms and conditions set forth in Section 31.4 below. Each Unit Owner's share with respect to the previous Common Elements shall be the same as the percentage of Common Elements appurtenant to his Condominium Unit prior to the termination. Each Unit Owner's share with respect to the previous Private Elements shall be the same as the percentage of Common Elements appurtenant to his Condominium Unit prior to termination.

31.4 Ownership Following Termination--Terms. After termination of the Condominium all decisions by the Unit Owners with respect to the sale, lease, encumbrance or other disposition of the Condominium Property shall be made by vote of a two-thirds (2/3) majority of the Unit Owners, with each Unit owned prior to termination of the Condominium entitling the Owner thereof, or his successors or assigns, to one vote. Any contract, deed, lease, mortgage or other instrument agreeing to make or evidencing or effecting a sale, lease, encumbrance or other disposition of all or any portion of the Condominium Property following termination of the Condominium shall be deemed a valid and sufficient contract or conveyance of such title or estate in the Condominium Property if executed by a two-thirds (2/3) majority of the Unit Owners, with each Unit owned prior to termination of the Condominium entitling the Owner thereof, or his successors and assigns, to one vote. For all purposes under this Section

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31.4 each Unit Owner, by executing the Agreement of Sale with respect to the purchase of his Unit, and by the acceptance of the deed to his Unit, agrees to designate and appoint the Owners of a two-thirds (2/3) majority of the Units prior to termination of the Condominium, or their successors and assigns, as his duly authorized attorneys-in-fact to execute any documents necessary to effect decisions on behalf of such Owner with respect to the sale, lease, encumbrance or other disposition of all or any portion of the Condominium Property following termination of the Condominium. Each Owner and his legal representatives, personal representatives, executors, administrators, successors, heirs and assigns shall be bound by any action taken pursuant to or approved by the Owners of a two-thirds (2/3) majority of the Units prior to the termination of the Condominium, or their successors and assigns, as though each and every Owner had joined in and approved such action, including specifically, but without limitation, the execution of any contract, deed, lease, mortgage or other instrument agreeing to make or evidencing or effecting a sale, lease, encumbrance or other disposition of all or any portion of the Condominium Property following the termination of the Condominium. This power of attorney is created pursuant to § 26-1-2 Code of Alabama 1975, and shall not be affected by the disability, incompetency or incapacity of any Owner, or the successors or assigns of any Owner, it being the intent of every Owner that the power of attorney herein provided for shall be exercisable by said attorneys-in-fact notwithstanding the subsequent disability, incompetency or incapacity of any Owner, or the successors or assigns of any Owner. The power of attorney herein provided for shall be deemed coupled with an interest, and shall be irrevocable.

32. Intervivos Transfers and Rights of Heirs and Devisees of Deceased Unit Owners. There shall be no restriction on the sale or transfer of Condominium Units.

There shall be no restriction on the rights of heirs or devisees of deceased Unit Owners from inheriting and thereafter using the Condominium Unit owned by the deceased Owner so long as all other provisions hereof have been complied with.

33. Warranties. Developer specifically disclaims any intent to have made any warranty or representation in connection with the Condominium Property or the Condominium Documents except as specifically set forth therein, or in any written warranty given by Developer to a Unit Owner in connection with the sale of a Unit, and no person shall have the right to rely upon any warranty or representation not so specifically made therein. All estimates of Common Expenses, taxes or other charges are made in good faith and Developer believes the same to be accurate, but no warranty or guaranty as to their accuracy is made or intended, nor may one be relied upon except where the same is specifically warranted or guaranteed. Developer has constructed or will construct the buildings and

improvements substantially in accordance with the Plans shown in Exhibit B, and those on file with the Architect and Engineer named in the Plans, and it is hereby agreed that this is the full extent of Developer's liability and responsibility.

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Unless Developer shall have given a separate express written warranty with respect thereto, Developer shall not be responsible for conditions resulting from condensation, or an expansion or contraction of materials, paint over walls, either interior or exterior, loss or injury caused in any way by the elements, the water tightness of windows or doors, defects which are the result of characteristics common to the materials used, damage due to ordinary wear and tear or abusive use, collection of water within the buildings or on any other portion of the Condominium Property, nor anything of any type or nature except such items as are specifically delineated and agreed to in writing between Developer and the individual Unit Owner, and it is understood and agreed that Developer shall have no responsibility whatsoever as to the matters provided for in this Section 33 to the Association or other third parties. Guaranties or warranties given by Developer's contractor and by any subcontractors, and warranties obtained from the manufacturer of appliances and equipment as specified by said manufacturers, contractors and subcontractors, will be assigned by Developer to the Association and may be enforced by either the Association or the Unit Owner. THE FOREGOING WARRANTIES ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW OR OTHERWISE, AND NO WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS OF ANY FIXTURES, EQUIPMENT, APPLIANCES OR PERSONAL PROPERTY, OR THE HEREIN DEFINED UNITS, LAND, CONDOMINIUM PROPERTY OR IMPROVEMENTS THEREON IS MADE BY DEVELOPER. FURTHERMORE, SAID WARRANTIES ARE GIVEN ONLY TO THE PURCHASER, AND NOT TO THE ASSOCIATION OR TO ANY THIRD PARTIES, AND SHALL NOT BE DEEMED TO RUN WITH THE UNITS, THE BUILDINGS OR THE LAND IN FAVOR OF SUBSEQUENT PURCHASERS OR OCCUPANTS OF THE UNITS.

34. Acceptance of Terms. The Association, by its execution of this Declaration, approves Section 33 above and all of the covenants, terms and conditions, duties and obligations of this Declaration and Exhibits attached hereto. The Unit Owners, by virtue of their acceptance of the deeds of conveyance as to their Units, and other parties, by virtue of their occupancy of Units, hereby approve Section 33 above and all of the terms and conditions, duties and obligations set forth herein and in the Condominium Documents.

35. Resident Manager's Unit. The Association is authorized to purchase one (1) Unit for the use of a resident manager(s) or Association employees. The mortgage payments, insurance premiums, property taxes, and all other expenses relating to said Units will be treated as a Common Expense so long as used for this purpose. The Board is further authorized to sell or lease any such resident manager's Unit, or to mortgage or otherwise encumber the same, and any proceeds derived therefrom shall constitute Common Surplus.

36. Pets. The Association shall have the right to establish in its Rules and Regulations, among other things, the terms and conditions upon which pets may be kept or maintained by Unit Owners in their Units or on the Common Elements.

37. Maintenance by Developer. The Association shall keep the Common Elements in a neat and attractive condition at all times. In the event the Association fails to so maintain the Common Elements, the Developer shall have the right, but not the obligation, to go upon the Common Elements and to cut and remove tall grass and weeds; to remove rubbish and trash; and to do any and all other things necessary or desirable to maintain the Common Elements in a neat and attractive condition, all at the sole expense of the Association. The reasonable expenses of Developer incurred pursuant hereto shall be paid by the Association to Developer upon demand and shall constitute Common Expenses.

38. Developer's Obligations. During the time in which Developer maintains control of the Association (reference Article II, Section 1(c) of the Bylaws) Developer shall be exempt from any regular or special assessments which would otherwise be required of Developer with respect to Units owned by it. However, during such period the Association shall collect from the Developer, and the Developer hereby agrees to pay to the Association, the entire amount of actual expenses required to be paid by the Association each month less the proceeds of all Assessments (reduced by the capital portion of such Assessments as provided for in Article 2(a) of the Bylaws) collected each month from all Unit Owners other than Developer. Additionally, during such period Developer shall pay to the Association each month the amount of the capital budget contribution provided for under Article 2(a) of the Bylaws, but such contribution shall be made only as to Units owned by Developer upon which a final certificate of occupancy shall have been obtained. From and after the time Developer relinquishes control of the Association the Developer's obligations under this Section shall cease, except with respect to completed Units owned by Developer, and the Association shall collect all Assessments in the manner provided for in Section 18 of this Declaration and elsewhere in the Condominium Documents.

39. Phased Development.

39.1 General Plan. Developer reserves the right to develop the Condominium Property in two (2) or more phases containing up to a total of one hundred and thirty-eight (138) Units. Phase I consists of the Land described in Exhibit A-1 to this Declaration and the Improvements thereon. Phase I shall be complete and ready for occupancy no later than December 31, 1984, and contains as Common Elements the entrance drive, guard house, clubhouse, tennis courts, and swimming pool, as well as parking, drives and landscaping as described in the Plans.

Any subsequent phase(s) shall consist of Improvements to be constructed on the Subsequent Phase Land, such Improvements

to consist of residential Buildings containing up to an aggregate of one hundred (100) Units. There may be one or more such subsequent phase Improvements constructed on the Subsequent Phase Land and submitted to condominium ownership under this Declaration. A site development plan for the development of the Subsequent Phase Land for a total of one hundred and thirty-eight (138) Units is incorporated in the Plans; provided, however, Developer reserves the right to make any changes in said site development plan that it sees fit, subject only to the condition that such Improvements contain no more than a total of one hundred (100) additional condominium Units, together with parking and drives to provide access to such additional Units.

39.2 Effect on Shares. Each Unit Owner's ownership interest in the Common Elements and share of the Common Surplus and Common Expenses as set forth in Section 14 and Exhibit C to this Declaration is subject to dilution if all or any portion of the Subsequent Phase Land and Improvements are submitted to condominium ownership under this Declaration, the extent of the dilution to depend upon the number of additional Units added to the Condominium. The maximum dilution shall be to decrease the fractional interest in the Common Elements and share in the Common Expenses and Common Surplus of each Unit Owner from one-thirty-eighth (1/38th) to one-one hundred and thirty-eighth (1/138th). In the event fewer Units are constructed and submitted to condominium ownership under this Declaration, the dilution shall be reduced to reflect the fraction the numerator of which shall be one (1) and the denominator of which shall be the total of Units constructed and submitted to condominium ownership under this Declaration.

39.3 Developer's Option. Any Improvements on the Subsequent Phase Land are to be constructed solely at Developer's option. No Land described in Exhibit A-2 or Improvements thereon as described in this Declaration or the Plans shall be required to be conveyed to the Association or submitted to condominium ownership under this Declaration unless Developer elects to do so by amendment to this Declaration.

39.4 Association. When Phase I of the Condominium is submitted to condominium ownership there shall be thirty-eight (38) members of the Association each having one vote. Upon submission of all Units to be constructed on the Subsequent Phase Land to condominium ownership under this Declaration there will be one hundred and thirty-eight (138) members each having one vote. In the event fewer than one hundred (100) Units are constructed on the Subsequent Phase Land and submitted to condominium ownership under this Declaration there will be proportionately fewer members of the Association, each having one vote.

40. Captions. The captions used in the Condominium Documents are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text of the Condominium Documents.

41. Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration or the Bylaws shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of George C. Wallace, Governor of Alabama, and Ronald Wilson Reagan, President of the United States.

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

43. Blanket Mortgage. The entire Condominium Property, or some or all of the Units included therein, may be subject to a single or blanket mortgage constituting a first lien thereon created by a recordable instrument duly executed by all of the Owners of the Units affected thereby, and any Unit included under the lien of such mortgage may be sold or conveyed subject thereto.

44. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of the Condominium Documents shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the said Developer, BHN Corporation, a corporation, and Southwood Park Estates, Inc., a corporation as tenants in common and general partners of Riverchase Properties, an Alabama general partnership, has caused this Declaration of Condominium to be executed as of the day and year first above written.

Attest:

Ed. Girdner
Secretary

Attest:

L.H. Nif
Secretary

Riverchase Properties, an Alabama
general partnership

By: Southwood Park Estates,
Inc., a corporation,
Partner

By: *Thomas W. Harris*
Its President

AND By: BHN Corporation,
a corporation, Partner

By: *Will C. Nuy*
Its President

STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Thomas W. Harris, Jr., whose name as President of Southwood Park Estates, Inc., a corporation, a partner in Riverchase Properties, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, which is duly authorized to execute said instrument on behalf of said general partnership.

GIVEN under my hand and official seal this 28th day of November, 1984.


Notary Public

STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that William C. Hulse, whose name as President of BHN Corporation, a corporation, a partner in Riverchase Properties, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, which is duly authorized to execute said instrument on behalf of said general partnership.

GIVEN under my hand and official seal this 27th day of November, 1984.


Notary Public

For a good and valuable consideration, the receipt whereof is hereby acknowledged, The Gables Condominium Association, Inc., an Alabama not-for-profit corporation, and its successors and assigns, for itself, and for and on behalf of its Members, hereby agrees to and accepts all of the terms and conditions of and the duties, responsibilities, obligations and burdens

imposed on it by the provisions of the foregoing Declaration and the other Condominium Documents.

THE GABLES CONDOMINIUM
ASSOCIATION, INC.

By: William C. Hulsey

Its President

ATTEST:

Frank A. Nif
Secretary

(Corporate Seal)

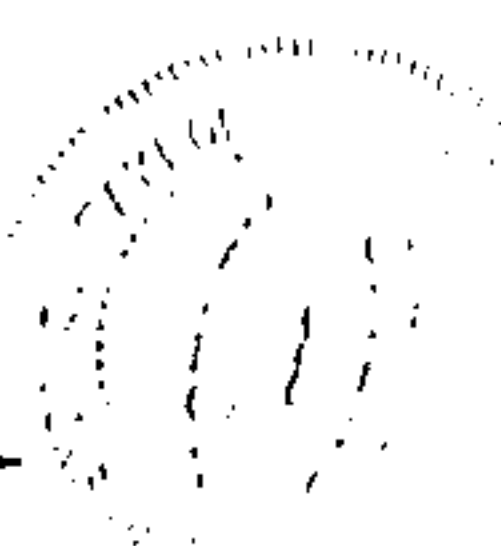
STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that William C. Hulsey, whose name as President of The Gables Condominium Association, Inc., an Alabama not-for-profit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this 27th day of November, 1984.

Brenda S. Taylor
Notary Public



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JOINDER OF MORTGAGEE

City Federal Savings and Loan Association, an Alabama corporation, the owner of a mortgage from BHN Corporation, a corporation, and Southwood Park Estates, Inc., a corporation, as tenants in common with and general partners of Riverchase Properties, an Alabama general partnership, to City Federal Savings and Loan Association, an Alabama corporation, dated April 12, 1984, and recorded in Real Volume 446, at Pages 936, et seq., in the Probate Office of Shelby County, Alabama, encumbering the property submitted to condominium ownership by the foregoing Declaration of Condominium, hereby joins in and ratifies the foregoing Declaration of Condominium and agrees that the lien of its mortgage shall be limited to all of the units at The Gables, a Condominium, according to the foregoing Declaration of Condominium, together with all of the appurtenances to the said units, including but not limited to the undivided shares of said units in the Common Elements.

This 28th day of November, 1984.

City Federal Savings and Loan
Association

By:

Shirley B. Woods
Its Vice President

STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Shirley B. Woods, whose name as Vice President of City Federal Savings and Loan Association, an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of

the instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this 28th day of November, 1984.

Katherine M. Jenkins
Notary Public



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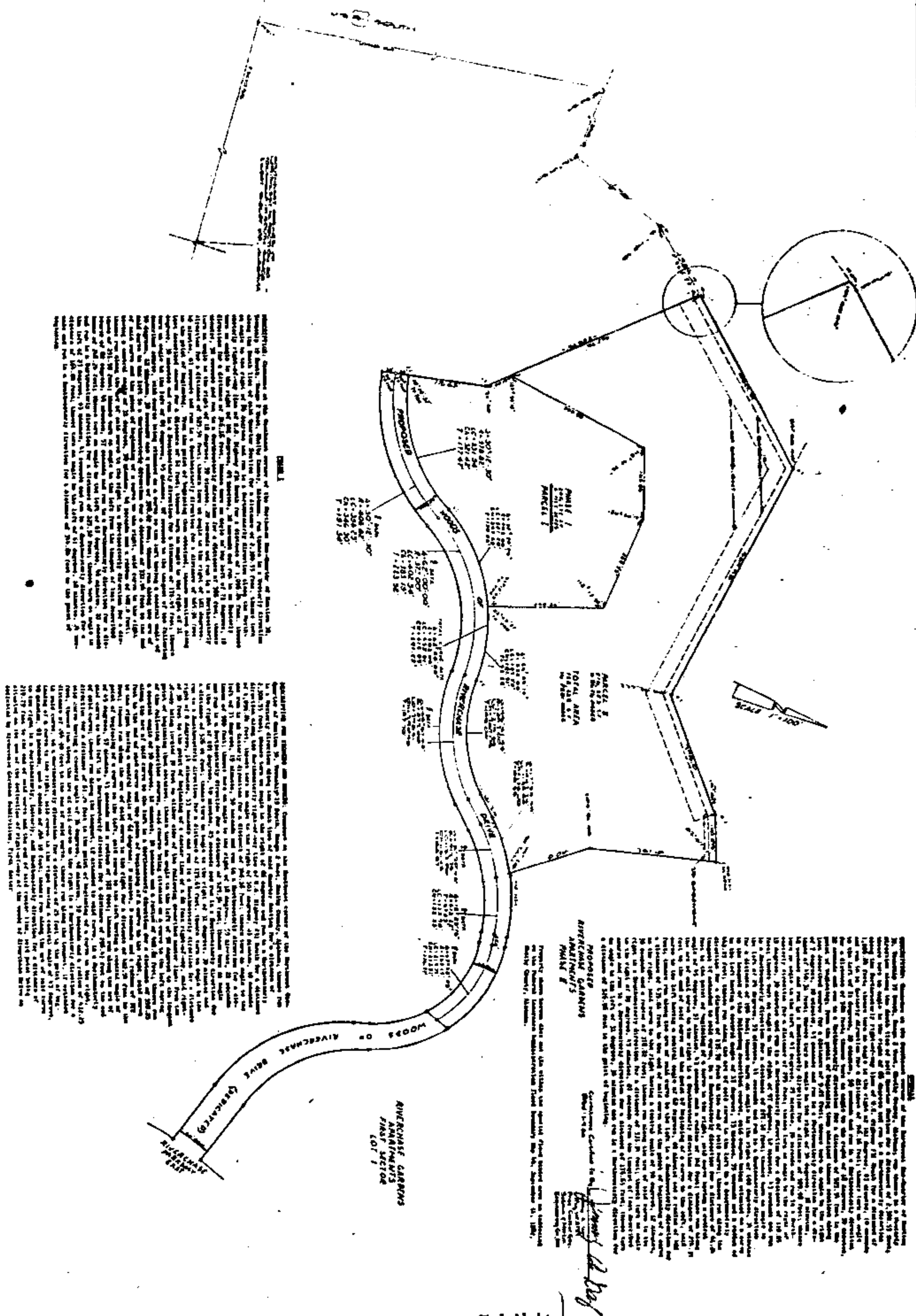
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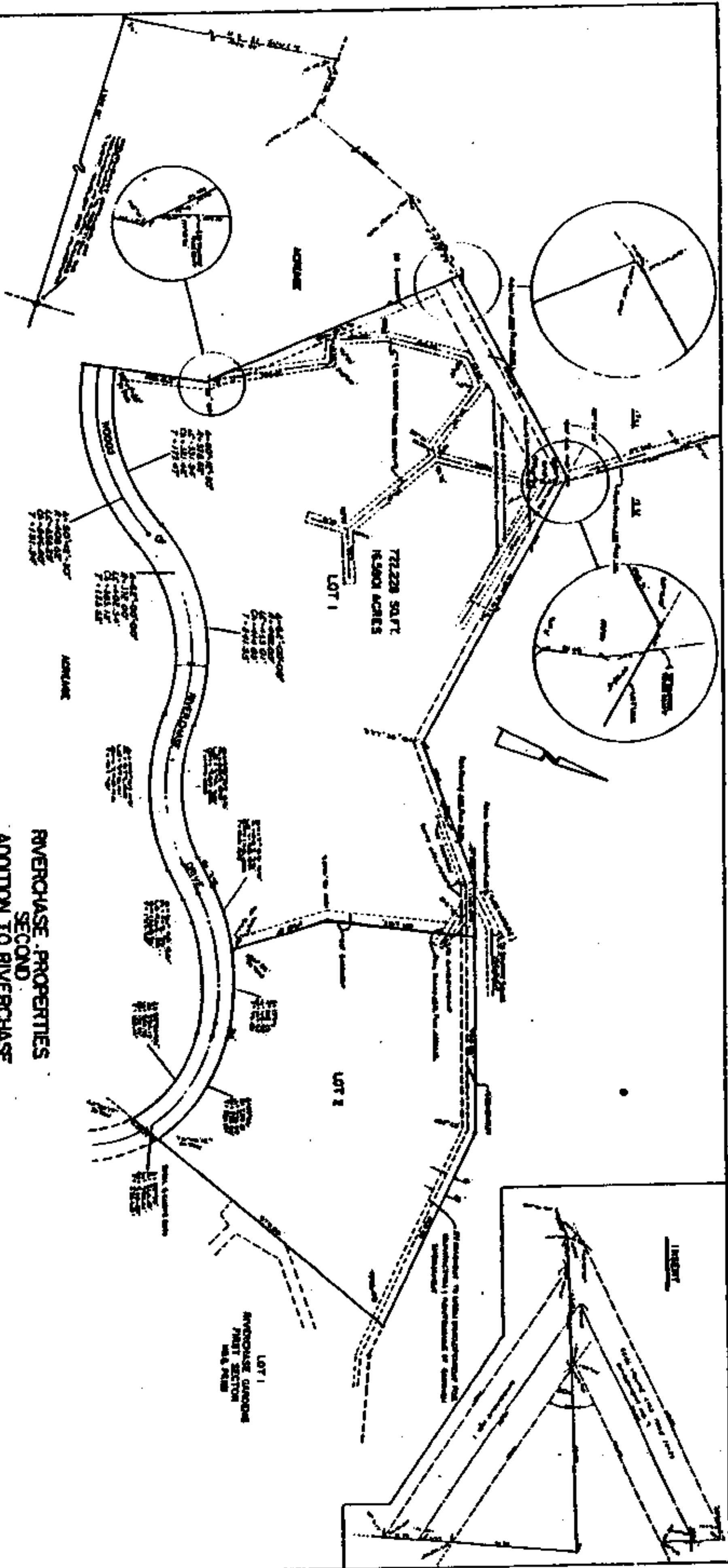
A part of Lot 1, according to Riverchase Properties, Second Addition to Riverchase as recorded in Map Book 9, Page 40 in the Office of the Judge of Probate, Shelby County, Alabama, being more particularly described as follows: Begin at the most Southerly and Westerly corner of said Lot 1, said point being situated on the Northwestern right-of-way line of Woods of Riverchase Drive; from the point of beginning thus obtained, thence run Northwesternly along the Westerly line of said Lot 1, 176.65 feet; thence turn an angle to the left of 31 degrees, 30 minutes and run in a Northwesternly direction 61.00 feet; thence turn an angle to the right of 52 degrees, 29 minutes, 45 seconds and run in a Northeasterly direction 344.86 feet; thence turn an angle to the right of 61 degrees, 18 minutes, 24 seconds and run in a Northeasterly direction 164.06 feet; thence turn an angle to the right of 23 degrees, 03 minutes, 41 seconds and run in an Easterly direction 225.52 feet; thence turn an angle to the right of 67 degrees, 46 minutes, 22 seconds and run in a Southeasterly direction 248.26 feet to a point on the Northwesternly right-of-way line of Woods of Riverchase Drive; thence turn an angle to the right of 82 degrees, 44 minutes, 57 seconds to the tangent of a curve to the left having a central angle of 35 degrees, 50 minutes, 46 seconds and a radius of 402.00 feet; thence run along the arc of said curve to the left in a Southwesterly direction along said Northwesternly right-of-way line of Woods of Riverchase Drive 251.50 feet to the end of said curve and the point of beginning of a curve to the right, having a central angle of 50 degrees, 12 minutes, 30 seconds and a radius of 378.82 feet; thence run along the arc of said curve to the right in a Southwesterly direction along said Northwesternly right-of-way line of Woods of Riverchase Drive 331.94 feet to the point of beginning.

EXHIBIT A-1

BOOK 010 PAGE 224

Lot 1, according to Riverchase Properties, Second Addition to Riverchase as recorded in Map Book 9, Page 40 in the Office of the Judge of Probate, Shelby County, Alabama, LESS AND EXCEPT A part of Lot 1, according to Riverchase Properties, Second Addition to Riverchase as recorded in Map Book 9, Page 40 in the Office of the Judge of Probate, Shelby County, Alabama, being more particularly described as follows: Begin at the most Southerly and Westerly corner of said Lot 1, said point being situated on the Northwesternly right-of-way line of Woods of Riverchase Drive; from the point of beginning thus obtained, thence run Northwesternly along the Westerly line of said Lot 1, 176.65 feet; thence turn an angle to the left of 31 degrees, 30 minutes and run in a Northwesternly direction 61.00 feet; thence turn an angle to the right of 52 degrees, 29 minutes, 45 seconds and run in a Northeasterly direction 344.86 feet; thence turn an angle to the right of 61 degrees, 18 minutes, 24 seconds and run in a Northeasterly direction 164.06 feet; thence turn an angle to the right of 23 degrees, 03 minutes, 41 seconds and run in an Easterly direction 225.52 feet; thence turn an angle to the right of 67 degrees, 46 minutes, 22 seconds and run in a Southeasterly direction 248.26 feet to a point on the Northwesternly right-of-way line of Woods of Riverchase Drive; thence turn an angle to the right of 82 degrees, 44 minutes, 57 seconds to the tangent of a curve to the left having a central angle of 35 degrees, 50 minutes, 46 seconds and a radius of 402.00 feet; thence run along the arc of said curve to the left in a Southwesterly direction along said Northwesternly right-of-way line of Woods of Riverchase Drive 251.50 feet to the end of said curve and the point of beginning of a curve to the right, having a central angle of 50 degrees, 12 minutes, 30 seconds and a radius of 378.82 feet; thence run along the arc of said curve to the right in a Southwesterly direction along said Northwesternly right-of-way line of Woods of Riverchase Drive 331.94 feet to the point of beginning.





**RIVERCHASE PROPERTIES
SECOND
ADDITION TO RIVERCHASE**

SITUATED IN THE NORTH 1/2 OF SECTION
30, TOWNSHIP 19 SOUTH, RANGE 2 WEST
SHELBY COUNTY, ALABAMA

COLTER, GAY SALMON & MARTIN ENG.
CO., INC.
HUNTSVILLE, ALABAMA

SCALE 1" = 400'

THE STATE OF ALABAMA, COUNTY OF SHELBY, do hereby certify that the foregoing is a true and correct copy of the original plat on file in the office of the County Clerk of said County, and that the same has been duly recorded.

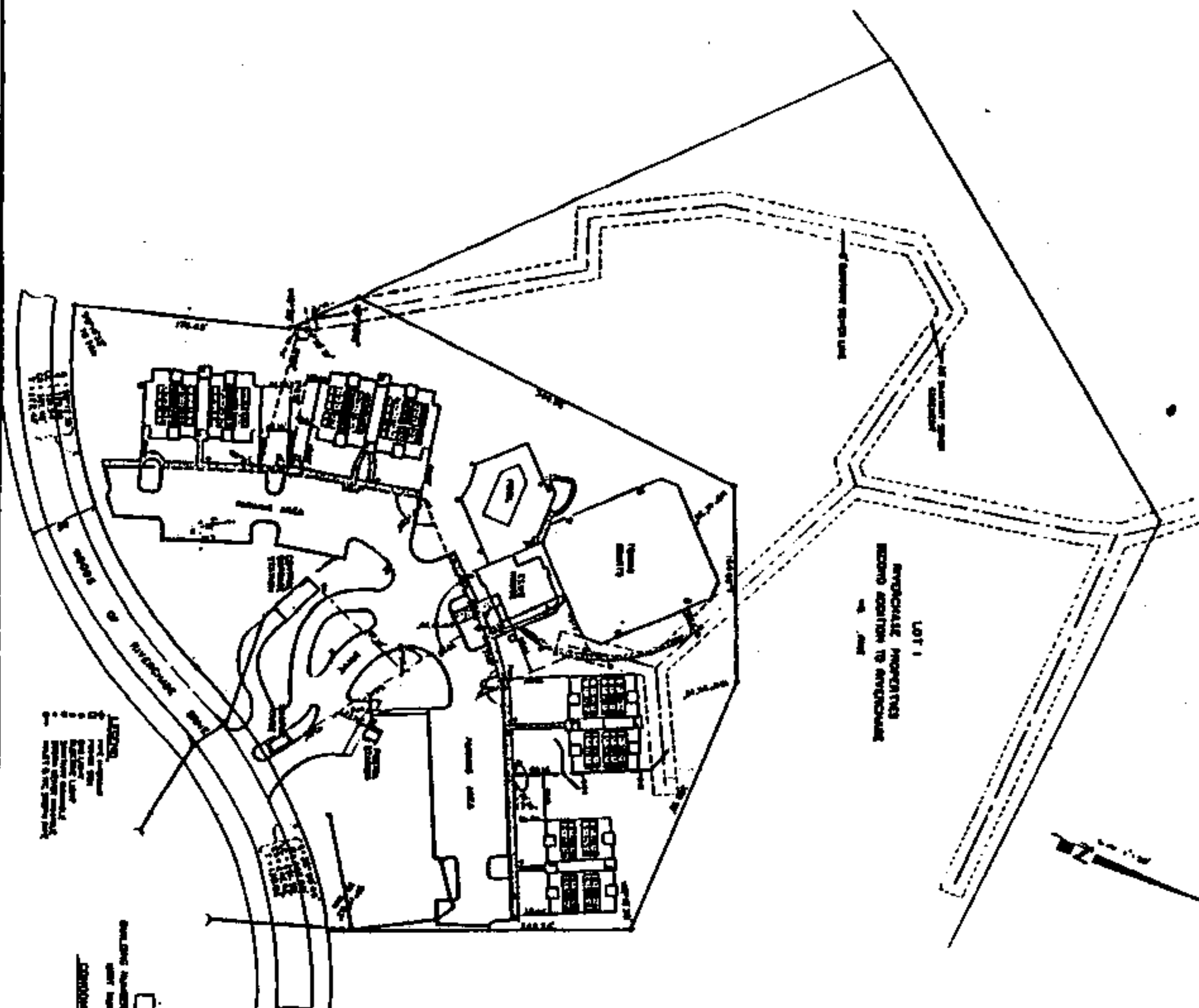
Witness my hand and the seal of said County, this 1st day of May, 1968.

County Clerk

County Clerk

Gay Salmon & Martin Eng. Co., Inc.

Gay Salmon & Martin Eng. Co., Inc.

[illegible][illegible]



S-5

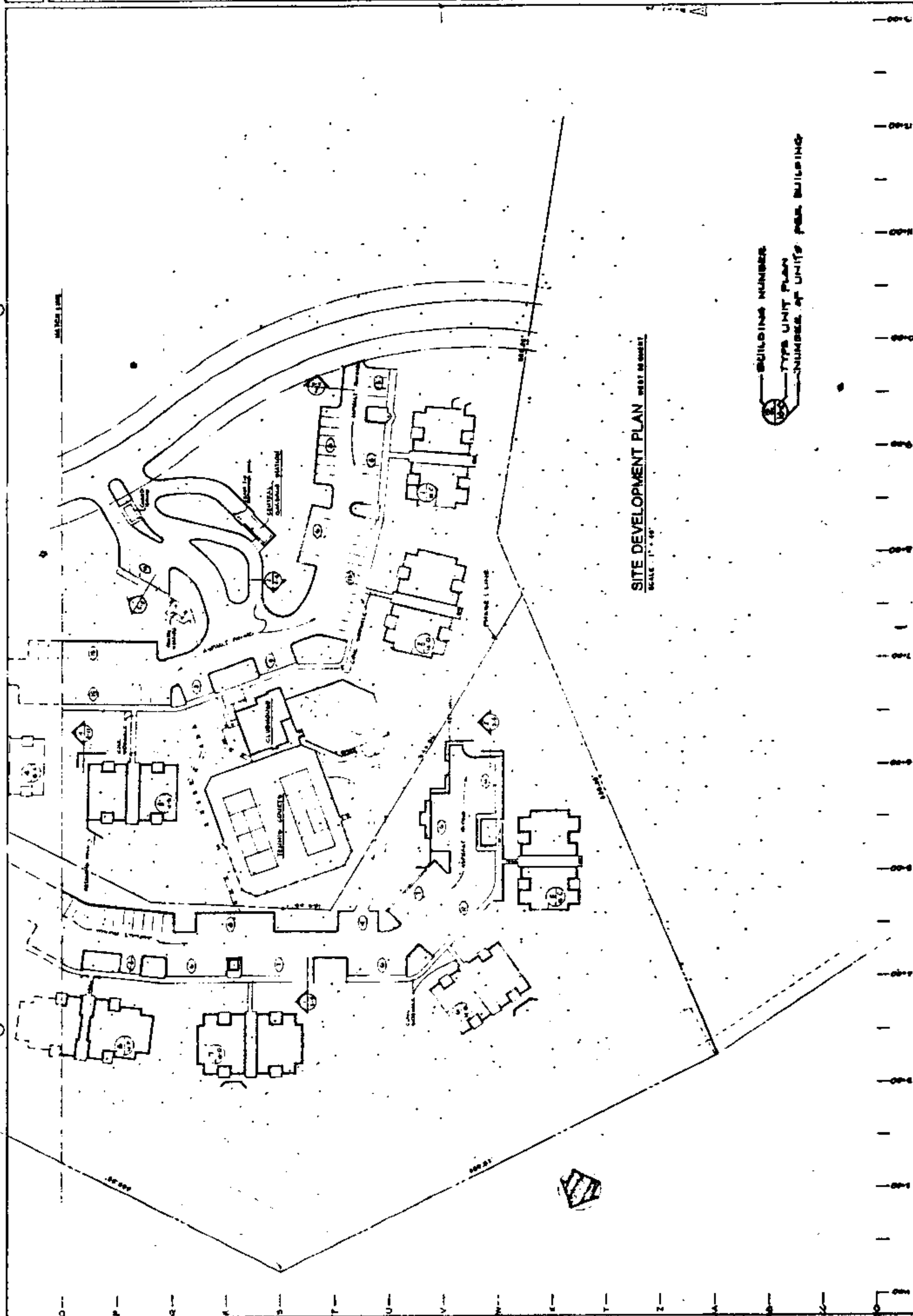
THE GABLES

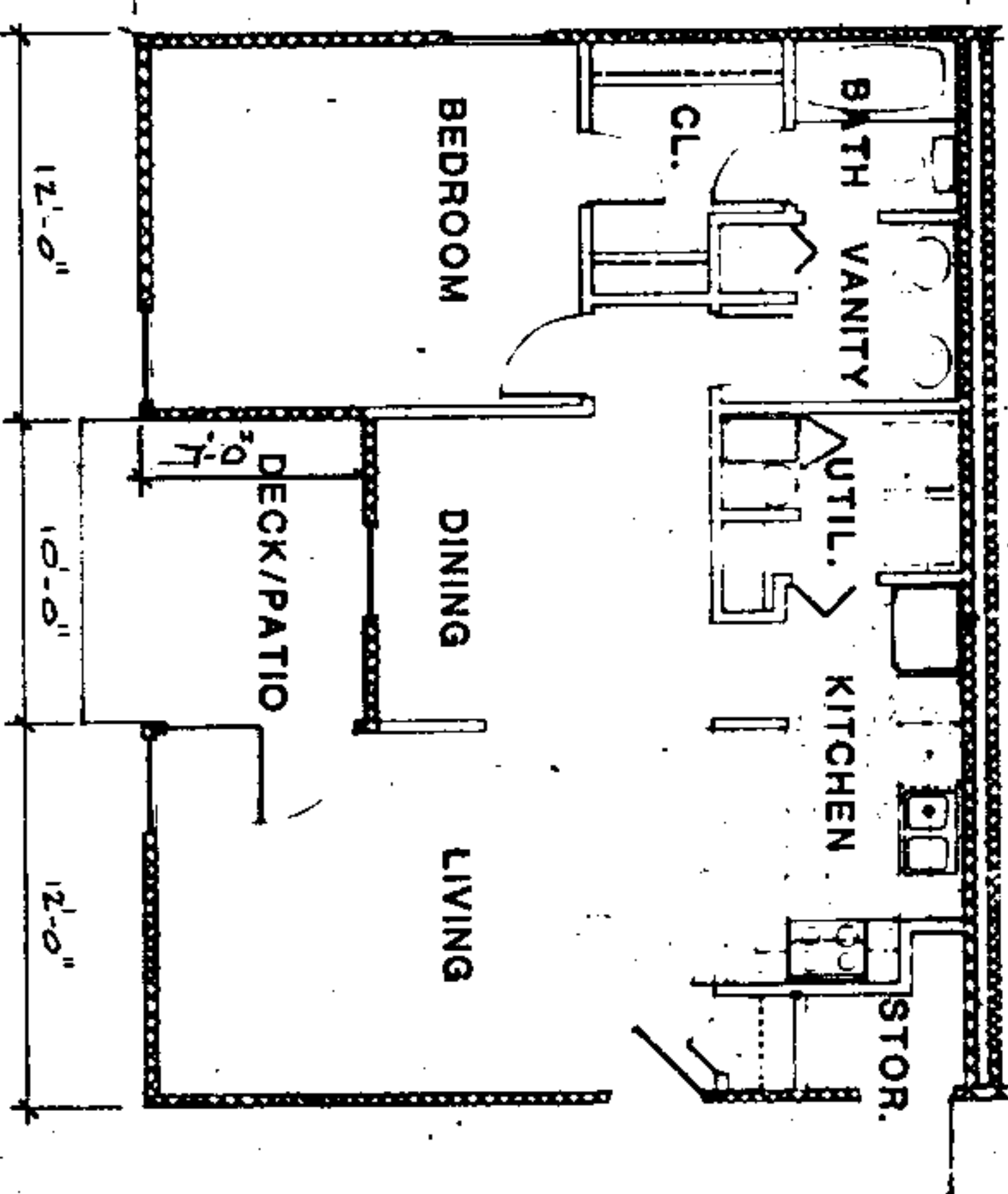
SITE DEVELOPMENT

EDWARD BAILEY & ASSOCIATES, INC. ARCHITECTS
MEMBER AMERICAN INSTITUTE OF ARCHITECTS

BUILDING NUMBER
TYPE UNIT PLAN
NUMBER OF UNITS PER BUILDING

SITE DEVELOPMENT PLAN WEST MOUNT
SCALE 1" = 40'

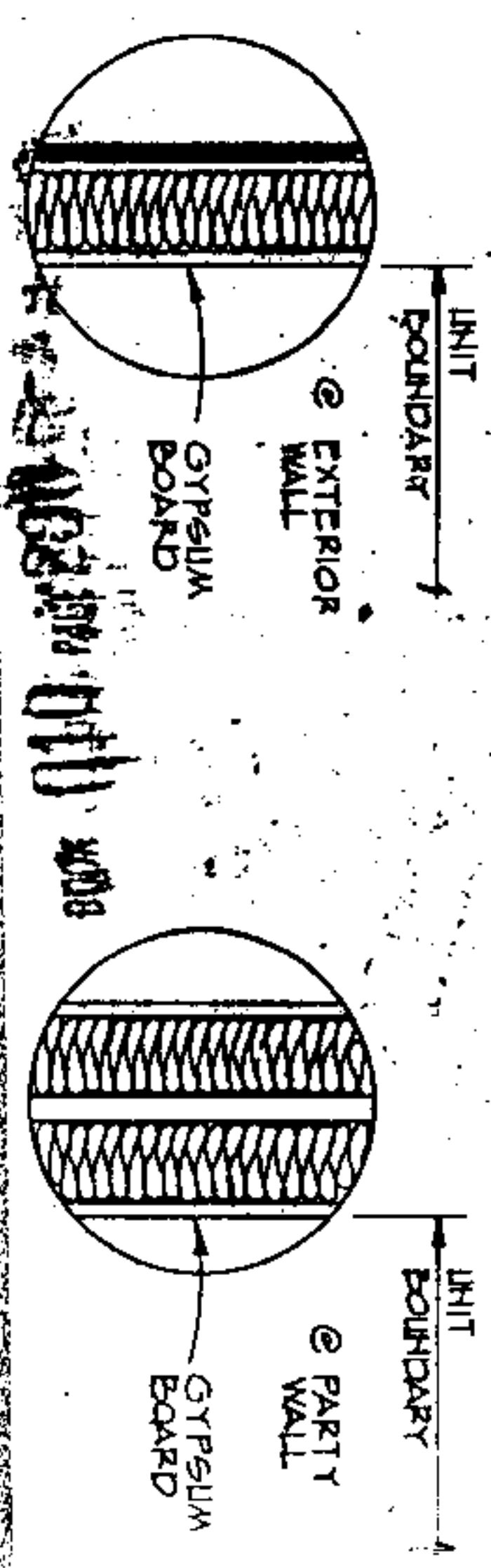


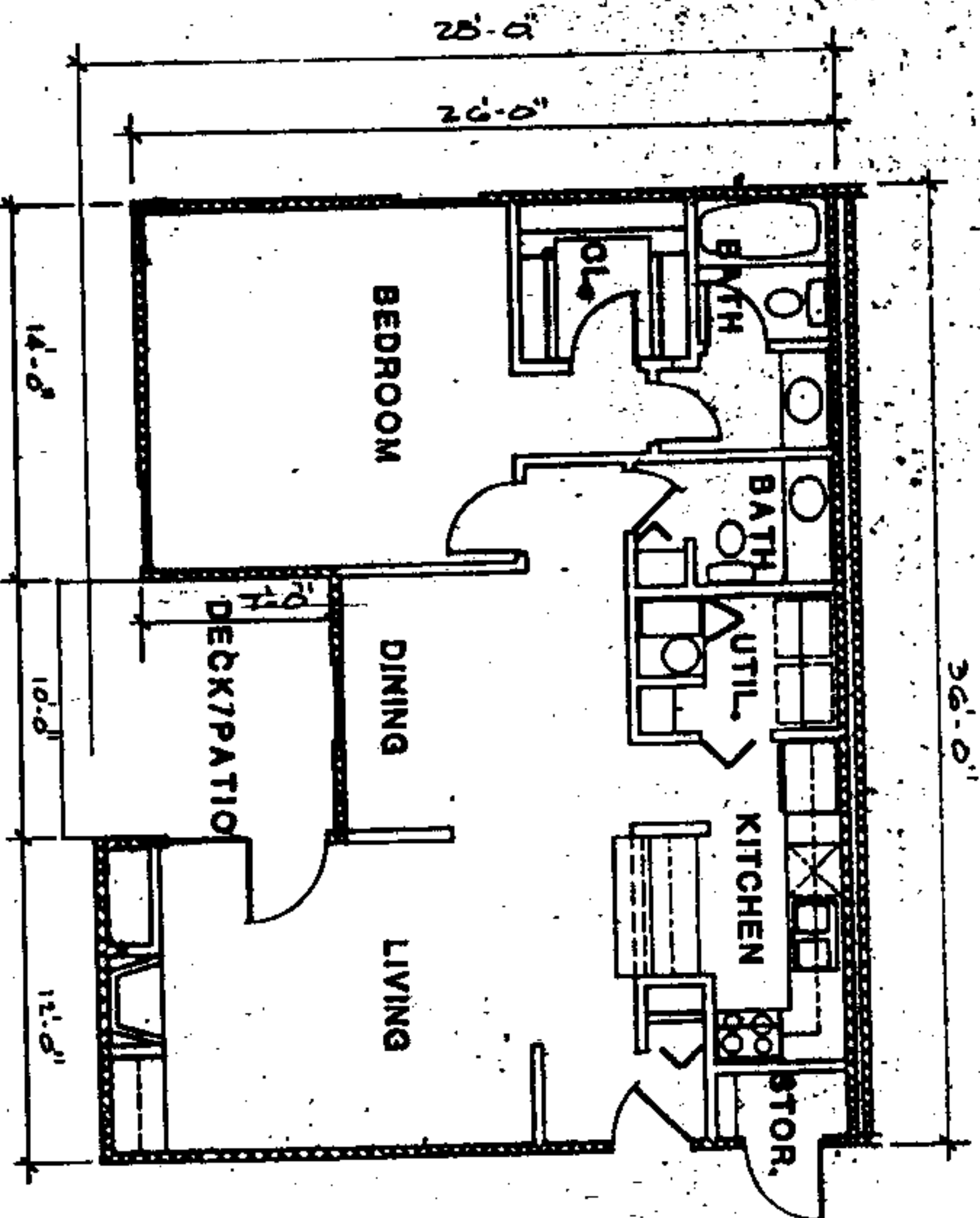


FLOOR PLAN -
UNIT TYPE A
THE GABLES

This is a true and correct description of built conditions based on my field observation and construction documents.

Lawrence T. Ciolek
Edward Bailey & Associates, Inc. Architects
Lawrence L. Corley, Reg. #1376



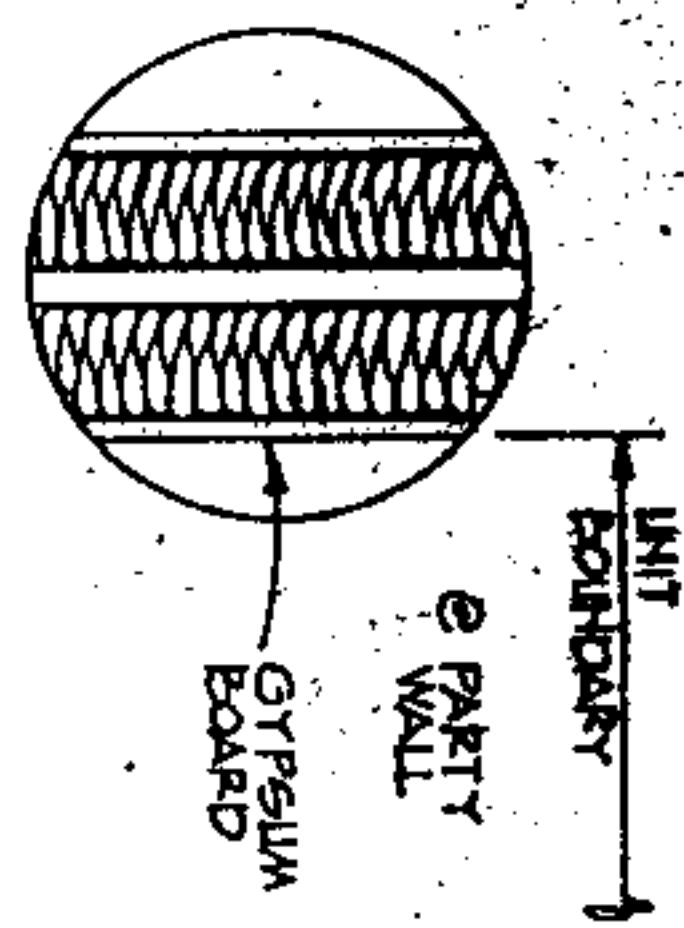
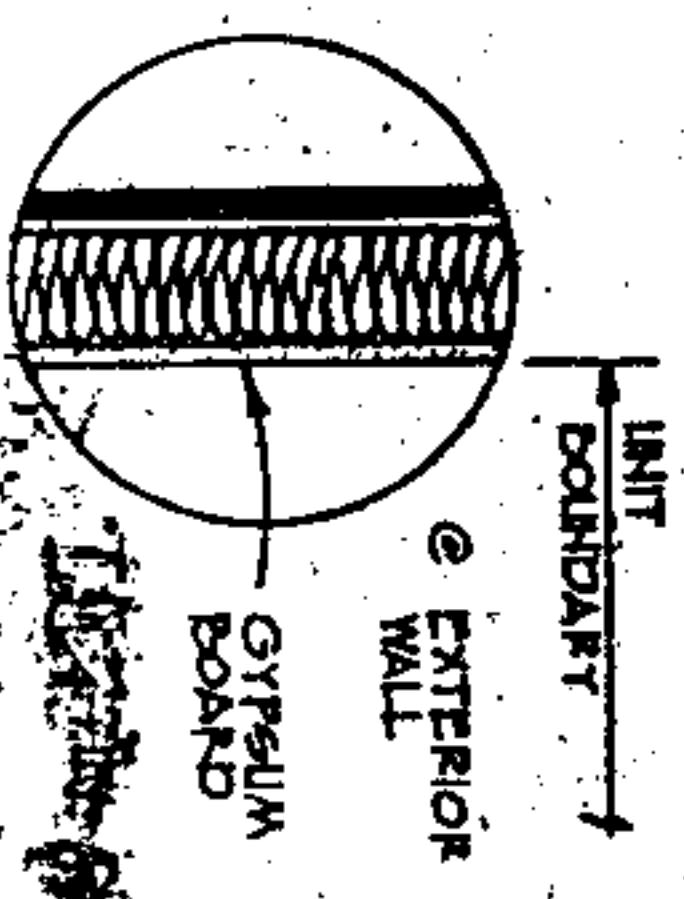


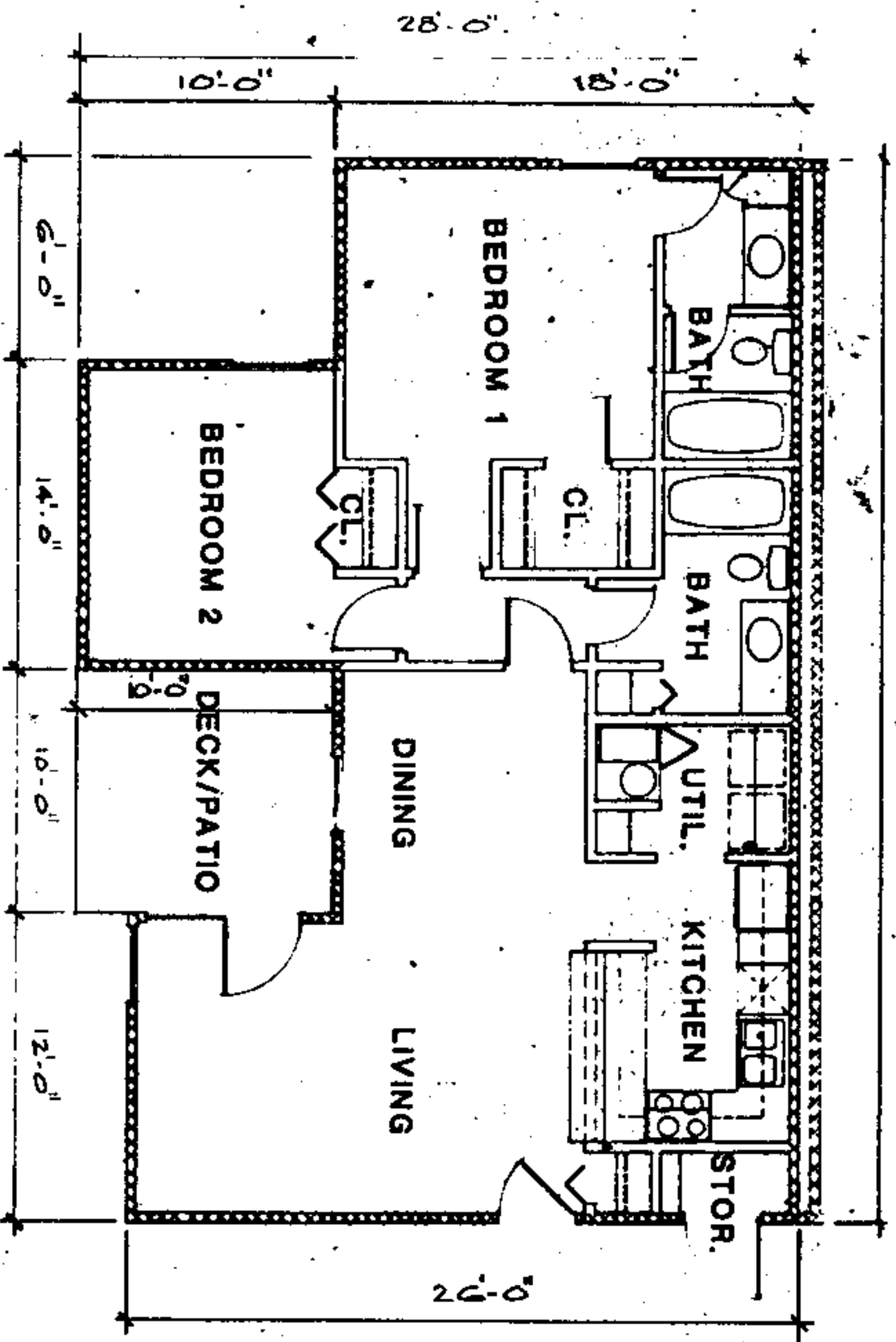
**FLOOR PLAN -
UNIT TYPE B**

THE GABLES

This is a true and correct description of built conditions based on my field observation and construction documents.

Lawrence T. Corley
 Edward, Bailey & Associates, Inc. - Architects
 Lawrence L. Corley, Reg. #1376



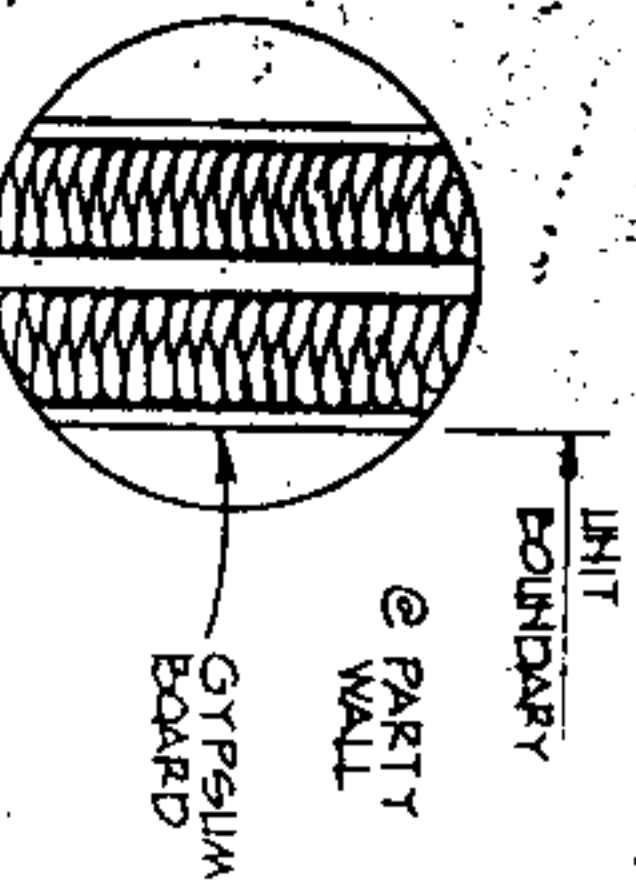
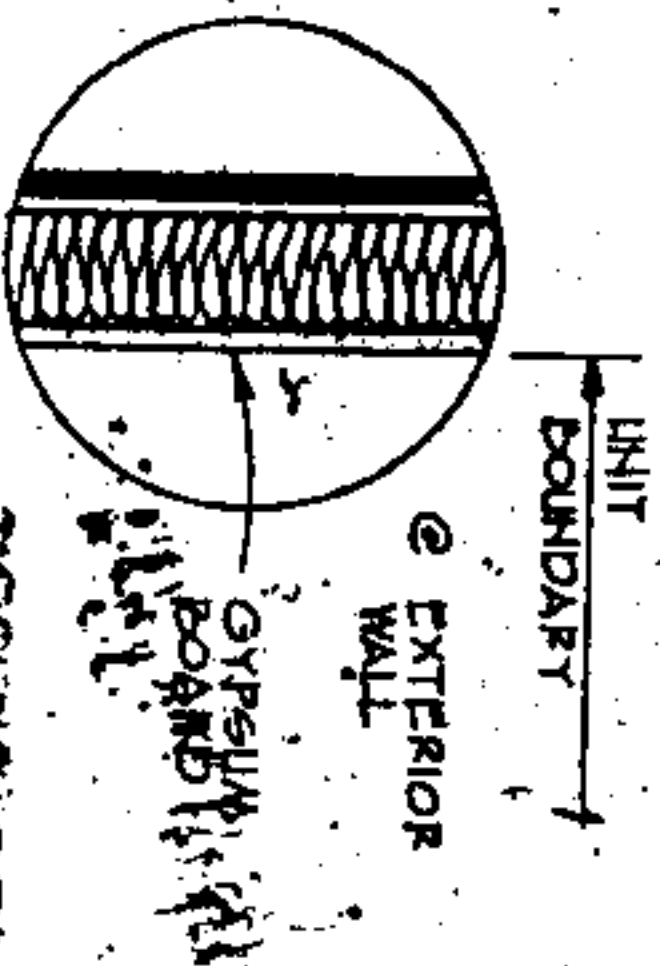


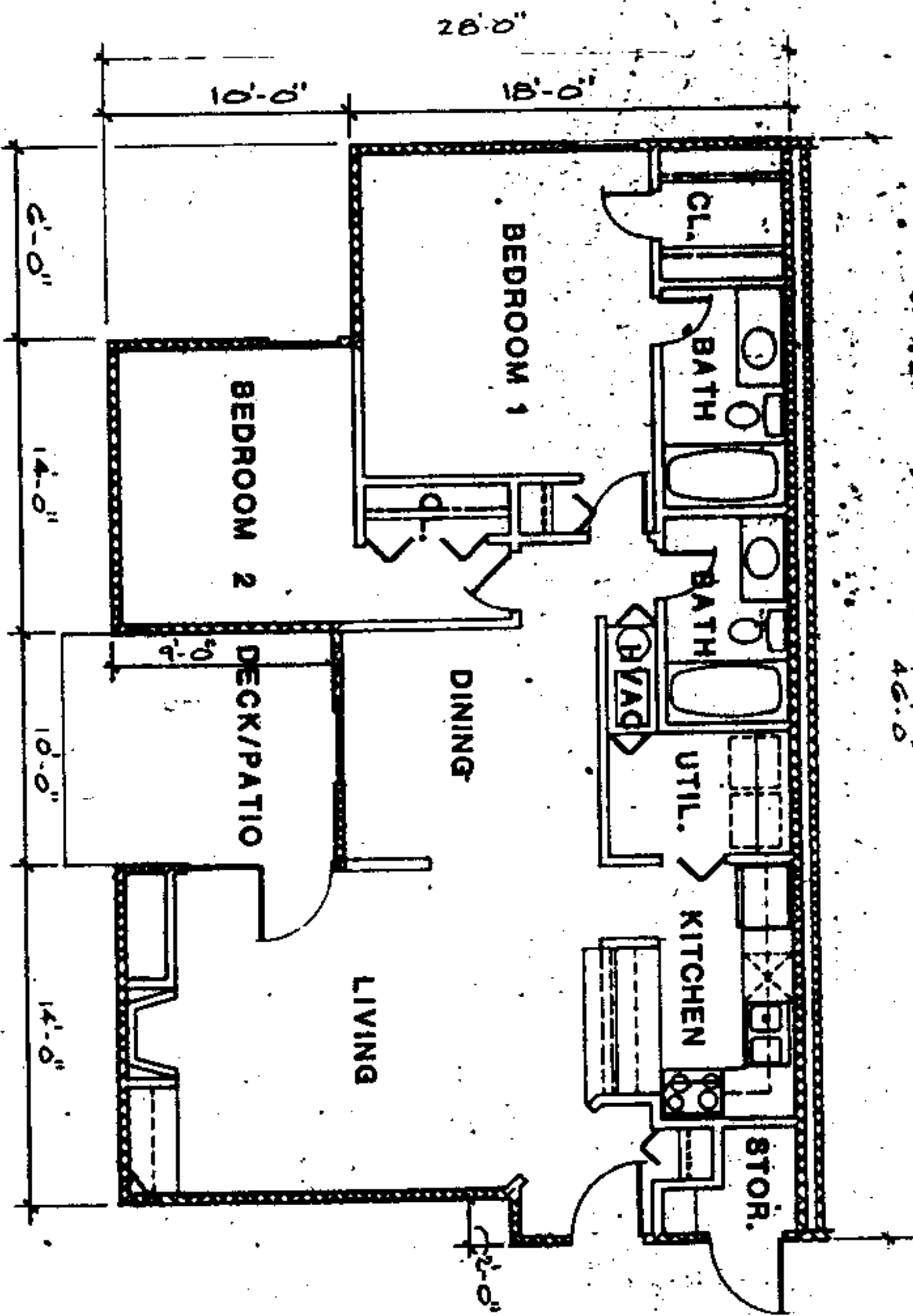
FLOOR PLAN - UNIT TYPE C

THE CABLES

This is a true and correct description of built conditions based on my field observation and construction documents.

Lawrence T. Corley
Edward Bailey & Associates, Inc. - Architects
Lawrence L. Corley, Reg. #1376



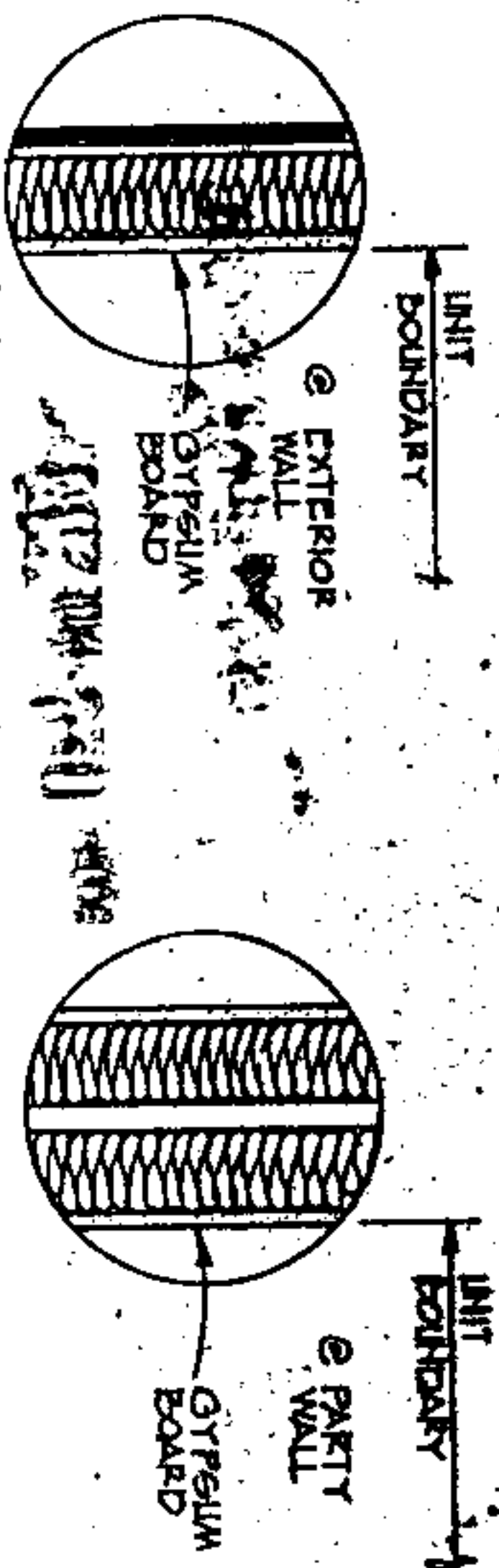


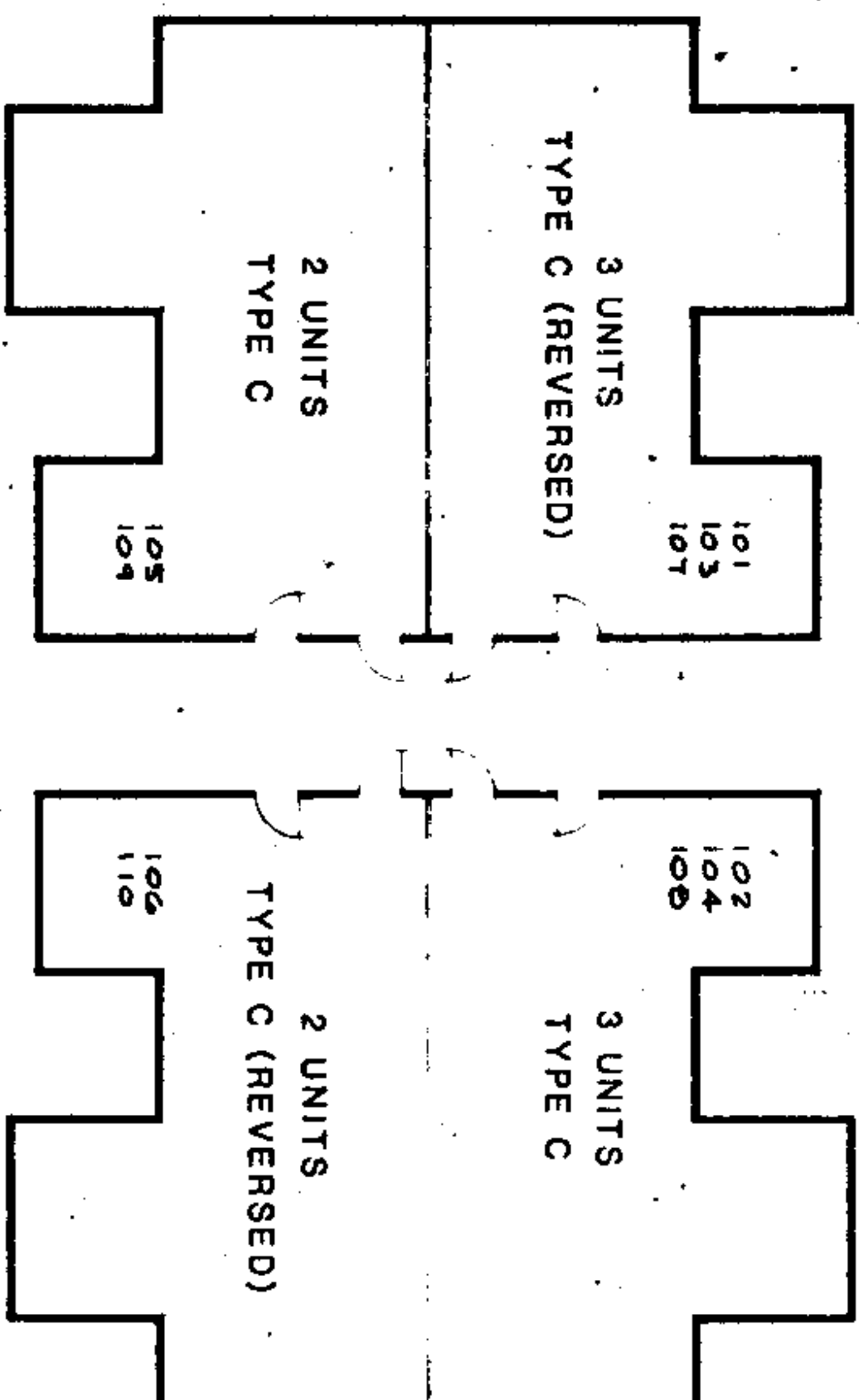
FLOOR PLAN - UNIT TYPE D

THE GABLES

This is a true and correct description
of built conditions based on my field
observation and construction documents.

Lawrence P. Corley
Edward Bailey & Associates, Inc. Architects
Lawrence L. Corley, Reg. #1376





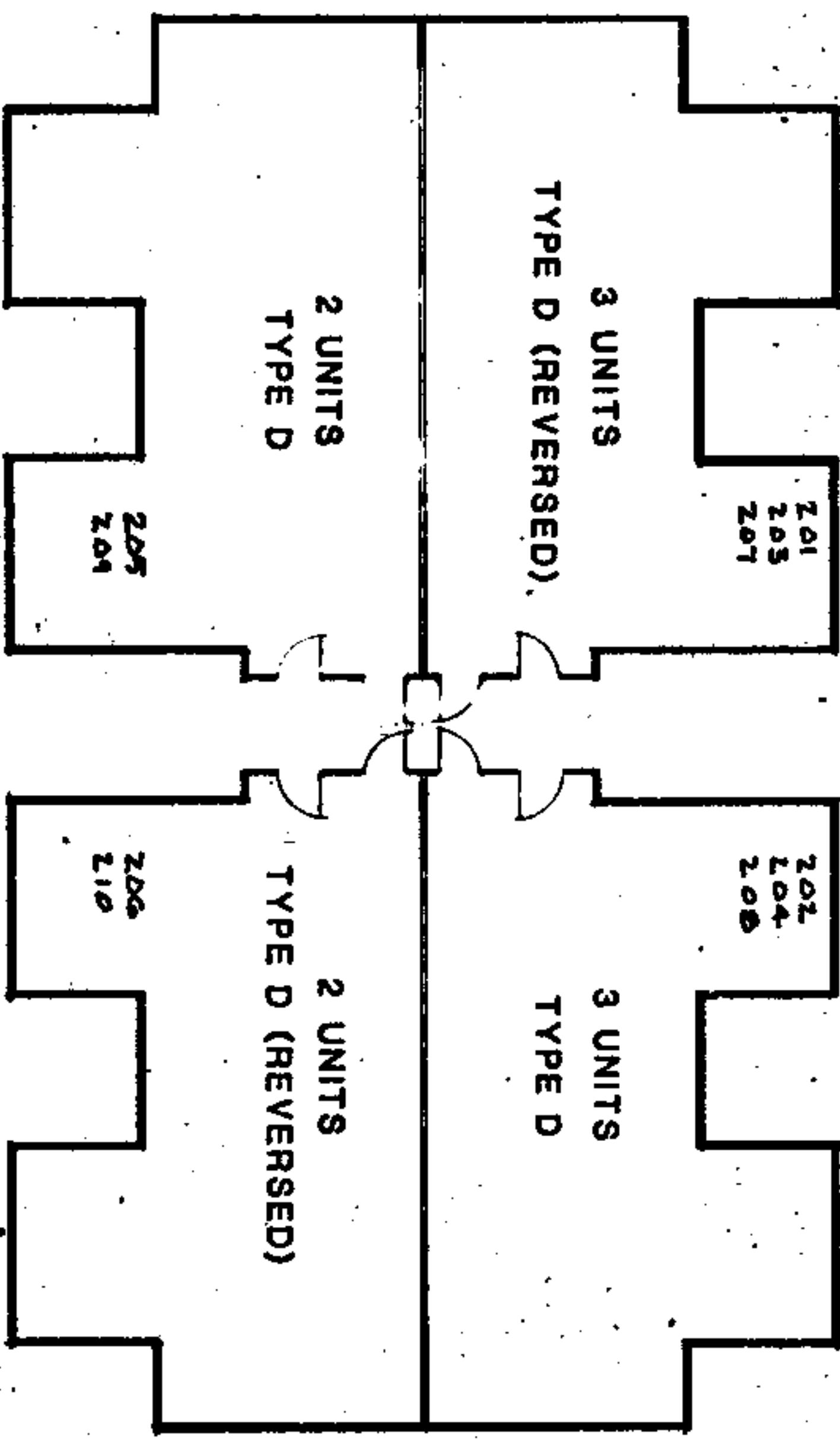
BUILDING TYPE 1 FLOOR PLAN

THE GABLES

This is a true and correct description
of built conditions based on my field
observation and construction documents.

Lawrence T. Corley
Edward Bailey & Associates, Inc. Architects
Lawrence L. Corley, Reg. #1376

2025 JUN 10



BUILDING TYPE 2 FLOOR PLAN

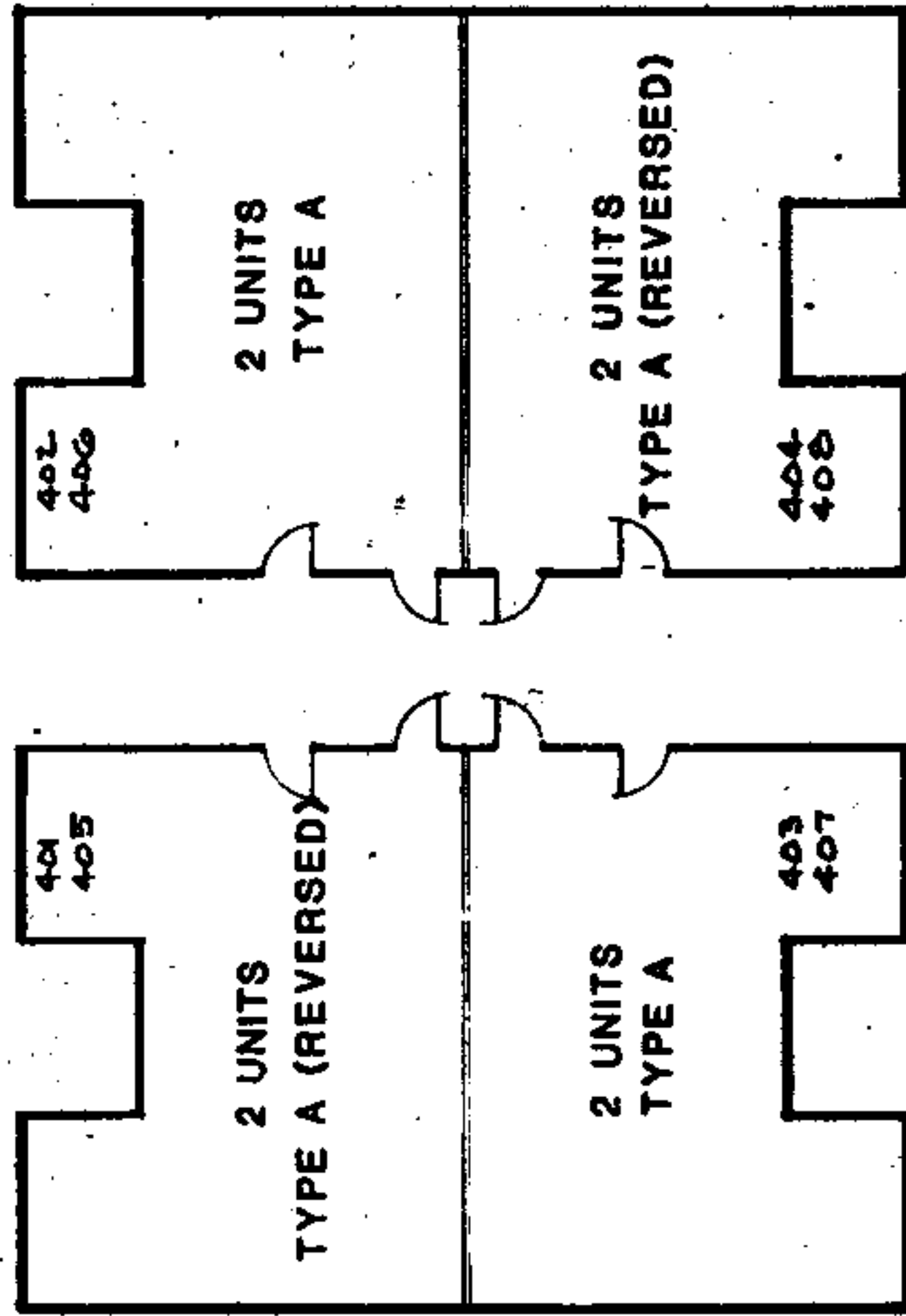
THE GABLES

This is a true and correct description
of built conditions based on my field
observation and construction documents.

Lawrence T. Corley

Edward Bailey & Associates, Inc. Architects
Lawrence L. Corley, Reg. #1376

2025 10/11/2024



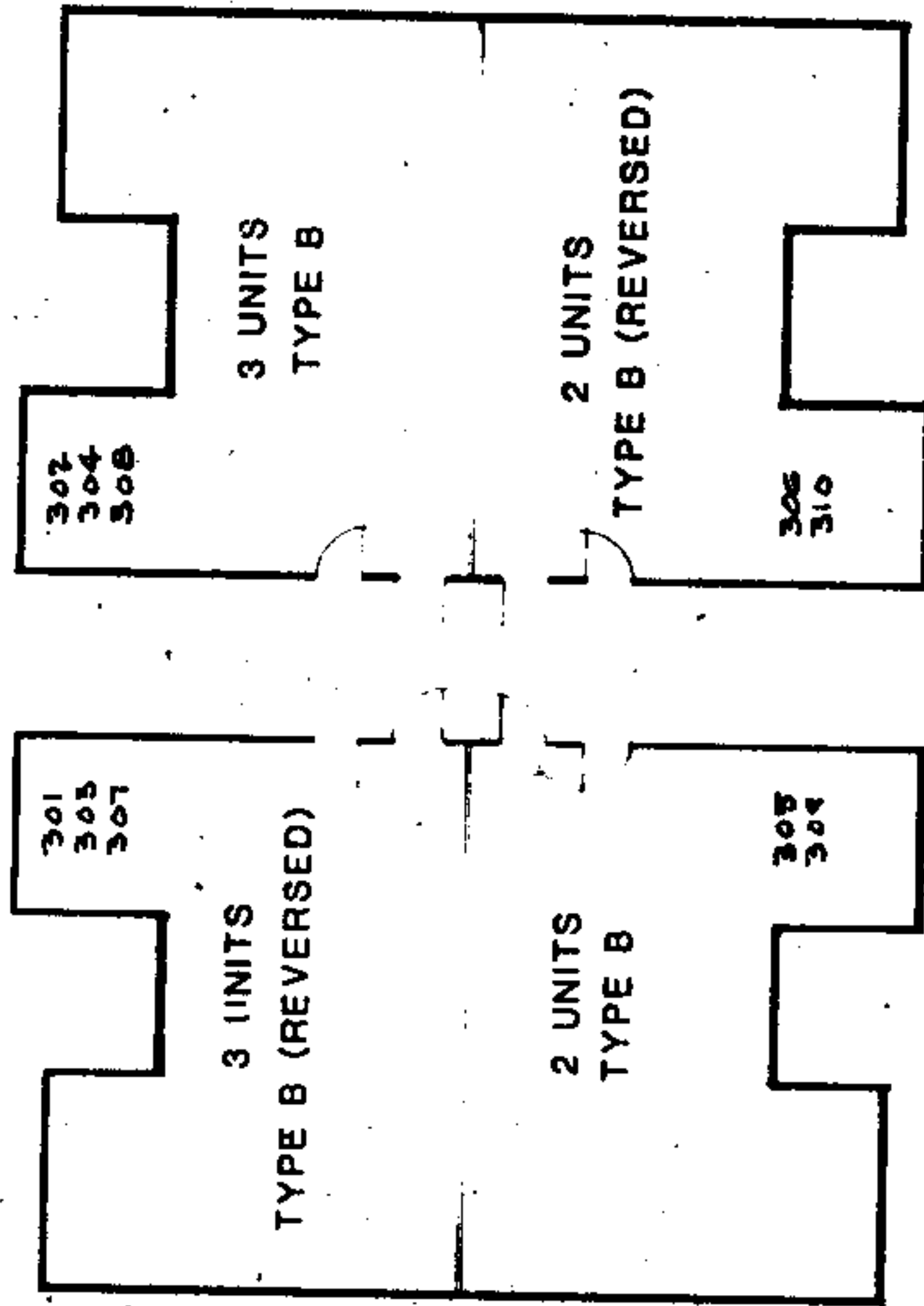
BUILDING TYPE 4 FLOOR PLAN THE GABLES

This is a true and correct description
of built conditions based on my field
observation and construction documents.

Lawrence L. Corley

Edward Bailey & Associates, Inc. - Architects
Lawrence L. Corley, Reg. #1376

1002 1004 1010 1008



BUILDING TYPE 3 FLOOR PLAN

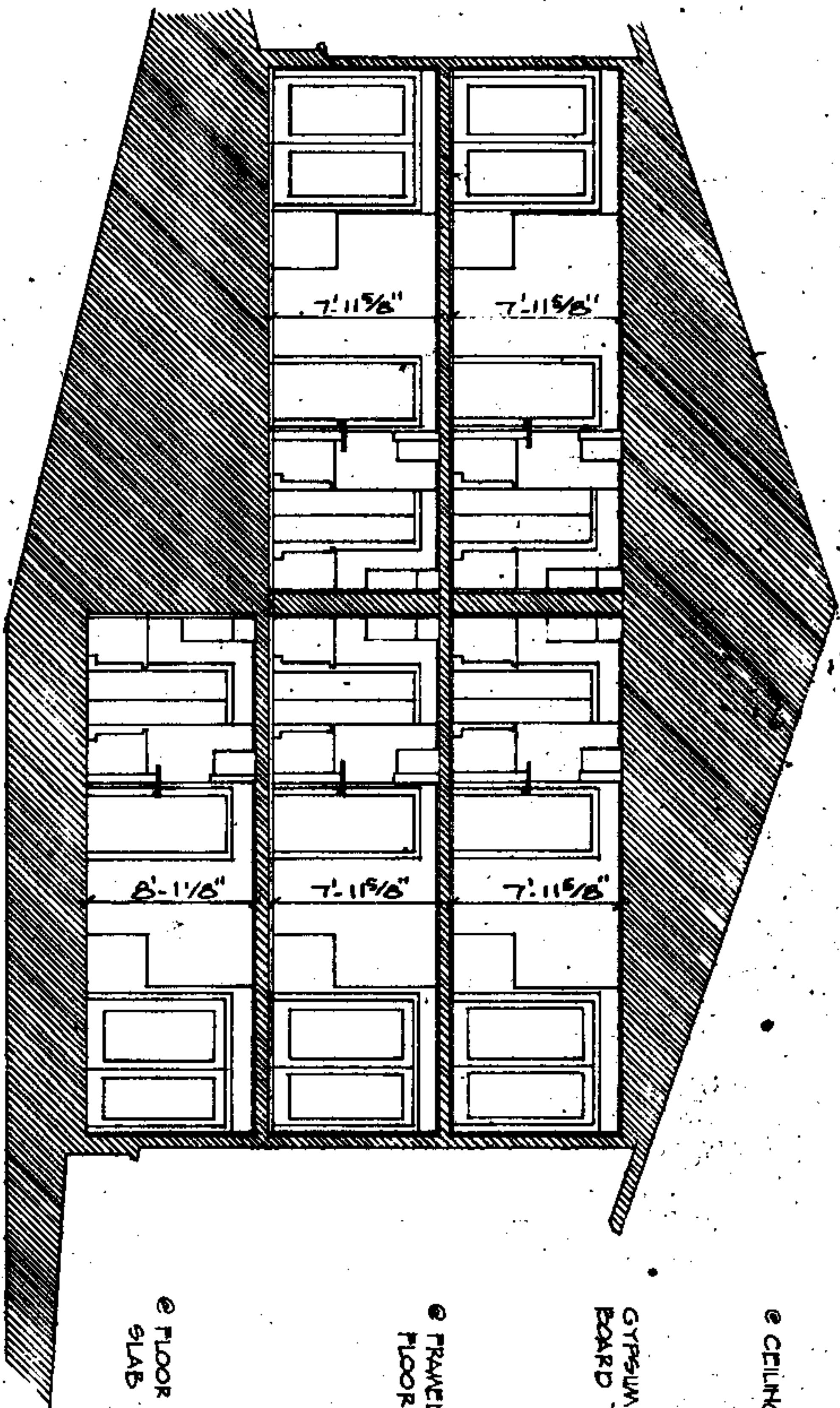
This is a true and correct description
of built conditions based on my field
observation and construction documents.

THE GABLES

Lawrence J. Corley

Edward Bailey & Associates, Inc., Architects
Lawrence J. Corley, Reg. #1376

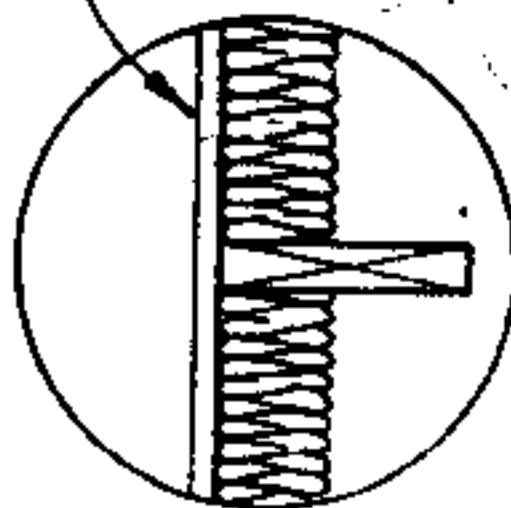
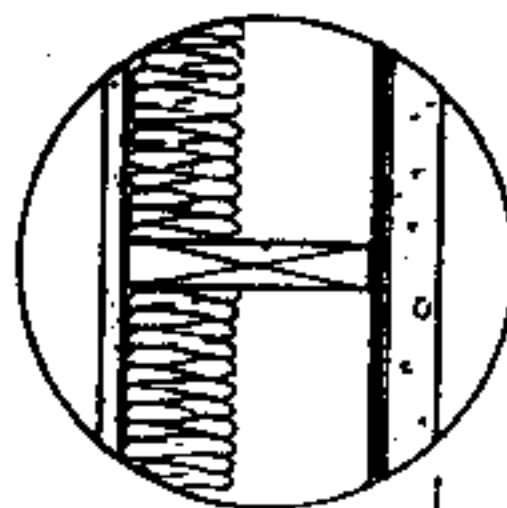
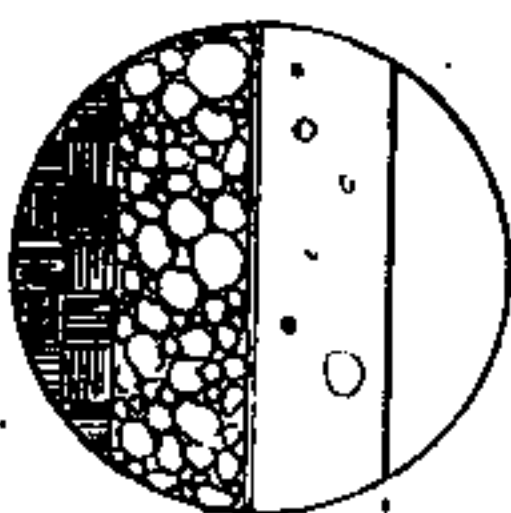
NO. 100-100000-100



② FLOOR
SLAB

② FRAMED
FLOOR

② CEILING
GYPSUM
BOARD



UNIT
BOUNDARY

UNIT
BOUNDARY

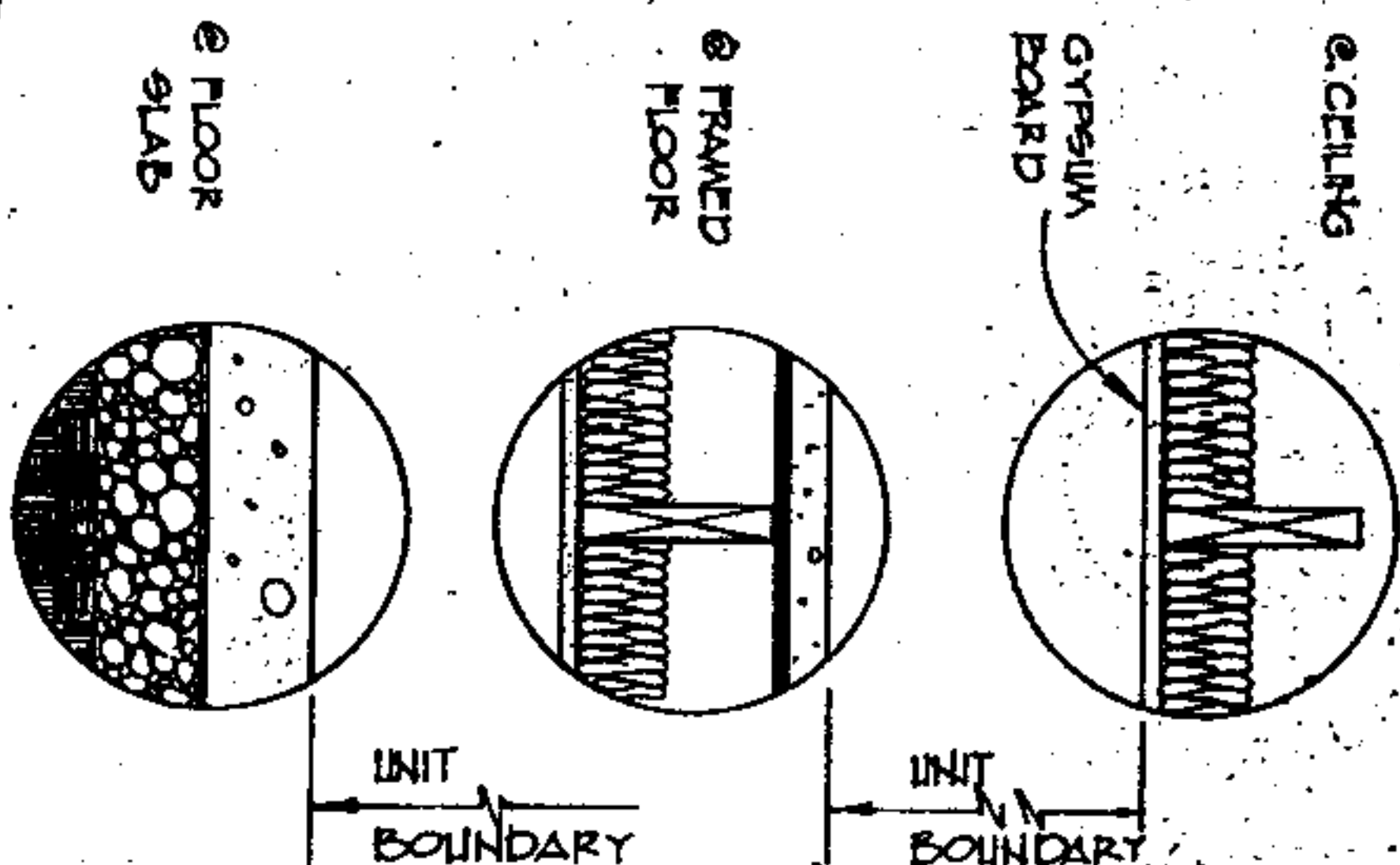
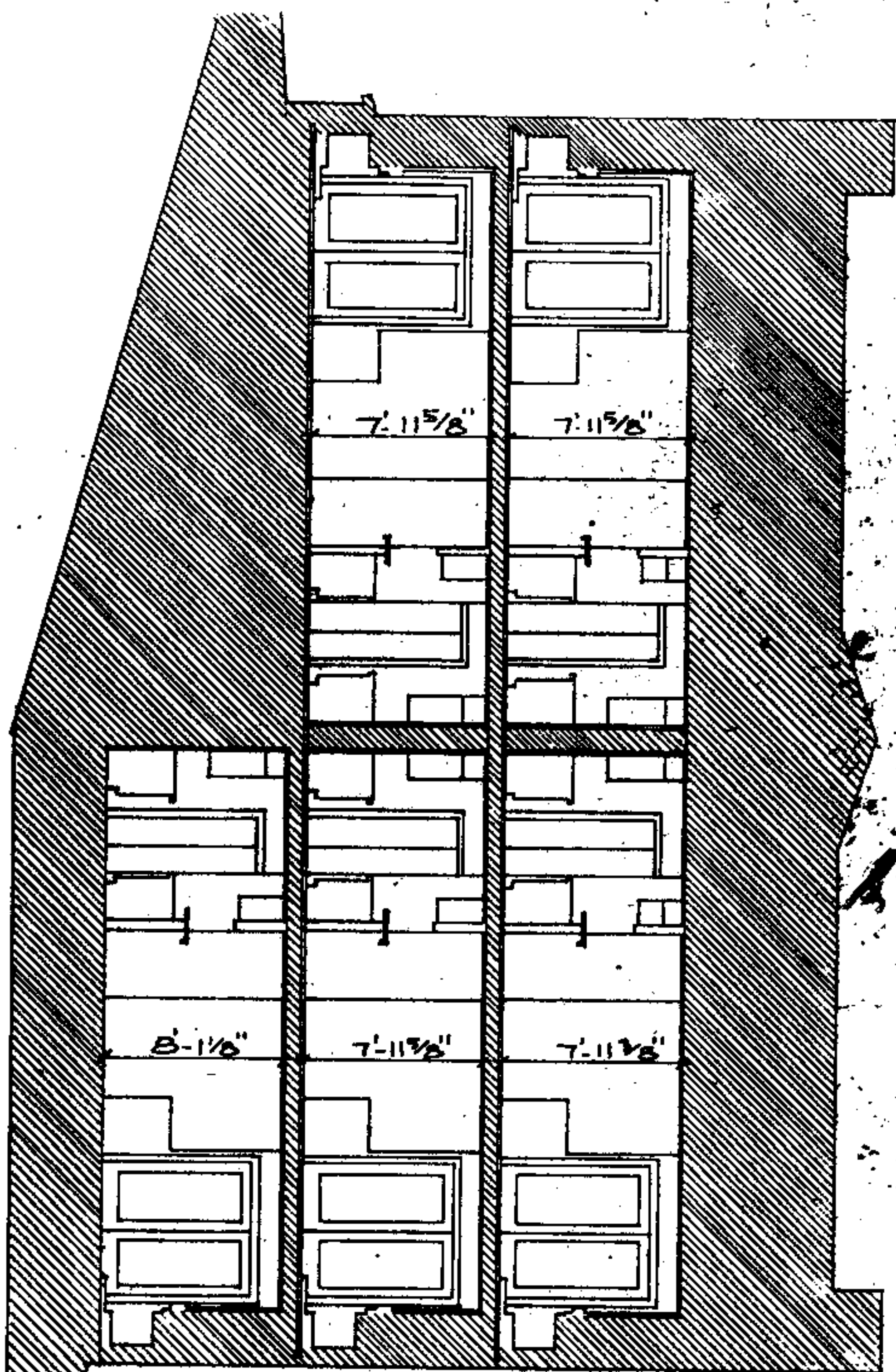
TYPICAL BUILDING CROSS-SECTION AT UNITS TYPE C (UNIT TYPE A SIM.)

This is a true and correct description
of built conditions based on my field
observation and construction documents.

THE GABLES

Lawrence H. Cady
Edward Bitley & Associates, Inc. Architects
Lawrence L. Corbin, R.S. #1376

DEC 1977



TYPICAL BUILDING CROSS-SECTION AT UNITS TYPE B & D

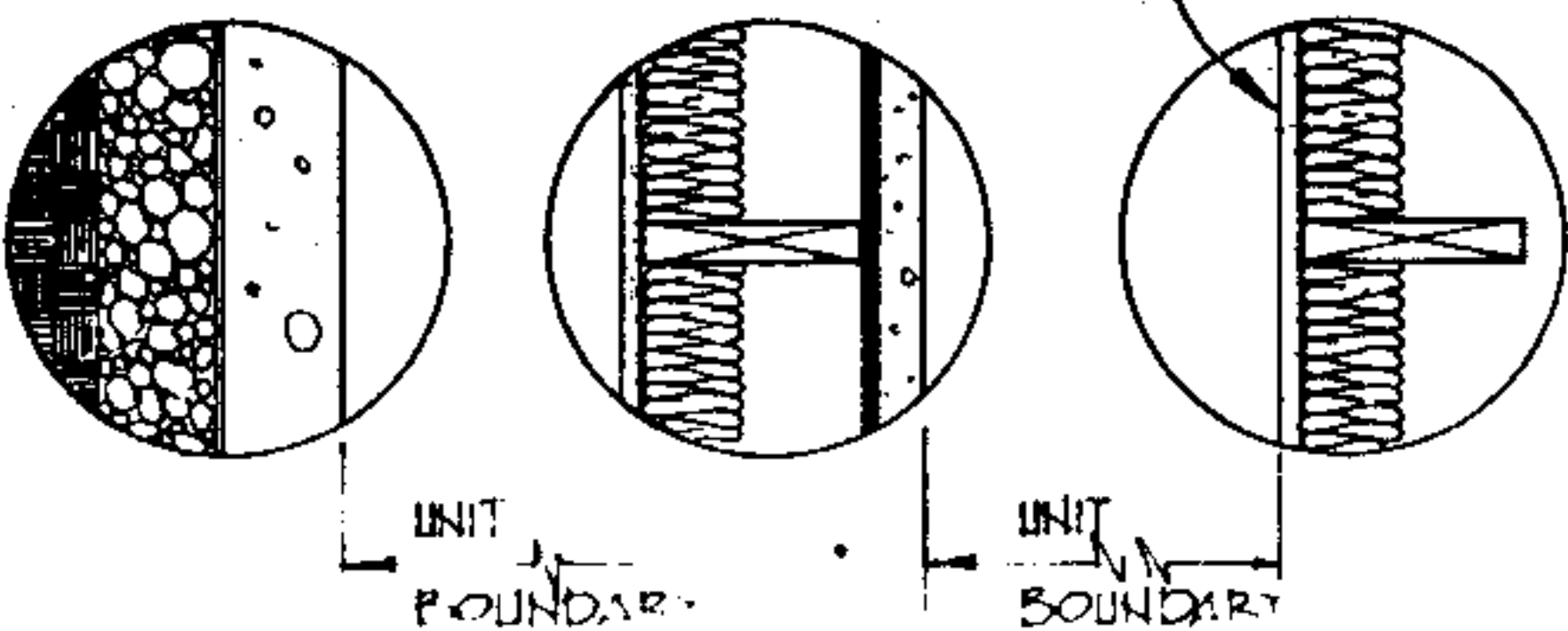
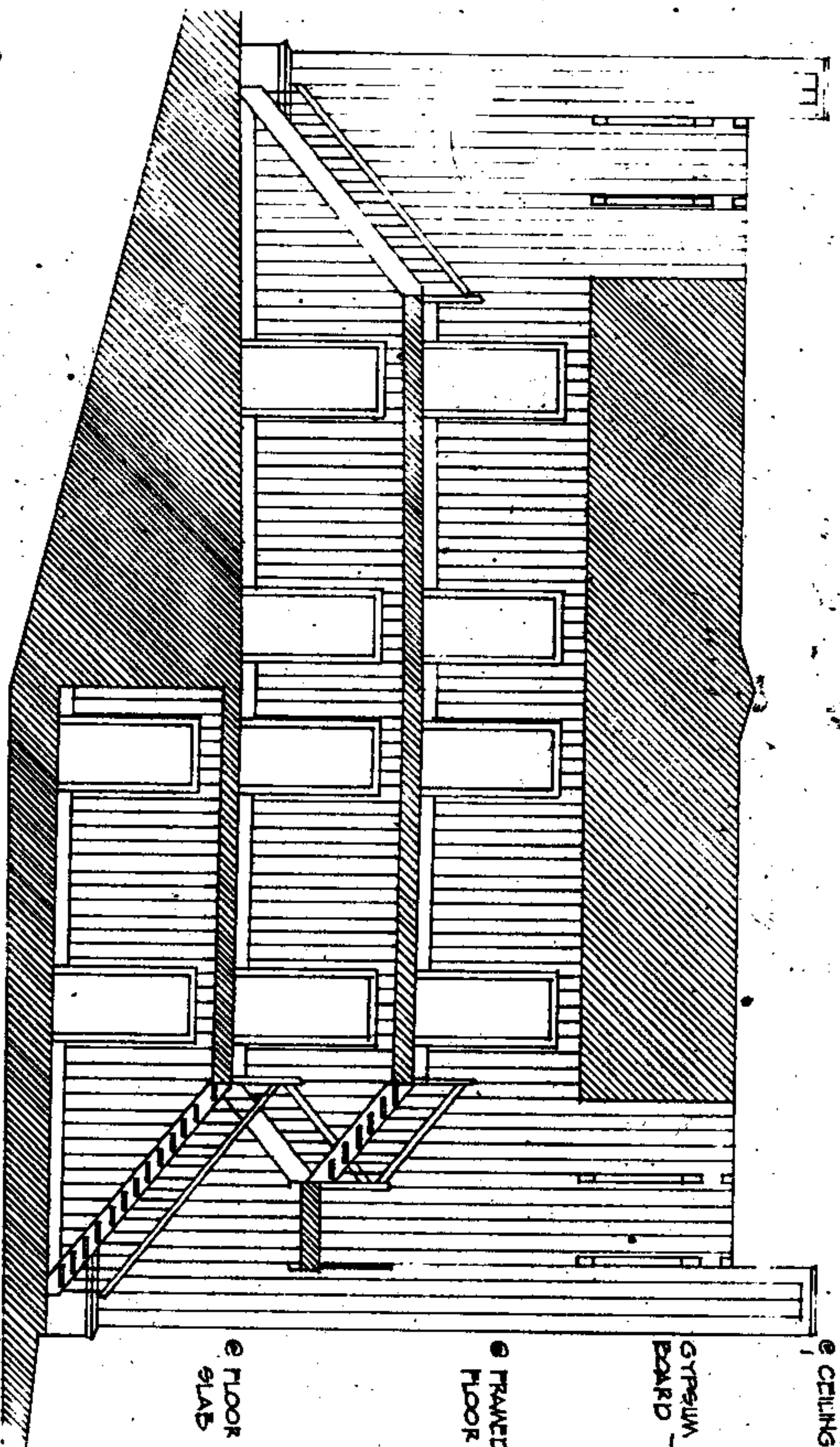
This is a true and correct description
of built conditions based on my field
observation and construction documents.

Lawrence T. Cady

Edward Bailey & Associates, Inc., Architects
Lawrence L. Corley, R.G. #1376

THE GABLES

SEE THE GABLES ON



TYPICAL BUILDING CROSS-SECTION **AT BREEZEWAY (BUILDING 4 SIMILAR)**

THE GABLES

This is a true and correct description of built conditions based on my field observation and construction documents.

Lawrence T. Corley

Edward Bailey & Associates, Inc. Architects
 Lawrence L. Corley, Reg. #1376

07/21/04

SCHEDULE C TO
DECLARATION OF CONDOMINIUM OF
THE GABLES, A CONDOMINIUM

<u>Building No.</u>	<u>Unit Number</u> <u>(Address: "Gables Drive")</u>	<u>Floor</u> <u>Level</u>	<u>Unit</u> <u>Type</u>	<u>Front/</u> <u>Rear</u>	<u>The Fractional</u> <u>Undivided Interest In</u> <u>Common Elements of</u> <u>Each Unit Is 1/38th</u> <u>Or Approximately:*</u>
1	101	Terrace	C	Rear	.02632
1	102	Terrace	C	Rear	.02632
1	103	Middle	C	Rear	.02632
1	104	Middle	C	Rear	.02632
1	105	Middle	C	Front	.02632
1	106	Middle	C	Front	.02632
1	107	Top	C	Rear	.02632
1	108	Top	C	Rear	.02632
1	109	Top	C	Front	.02632
1	110	Top	C	Front	.02632
2	201	Terrace	D	Rear	.02632
2	202	Terrace	D	Rear	.02632
2	203	Middle	D	Rear	.02632
2	204	Middle	D	Rear	.02632
2	205	Middle	D	Front	.02632
2	206	Middle	D	Front	.02632
2	207	Top	D	Rear	.02632
2	208	Top	D	Rear	.02632
2	209	Top	D	Front	.02632
2	210	Top	D	Front	.02632
3	301	Terrace	B	Rear	.02632
3	302	Terrace	B	Rear	.02632
3	303	Walk-In	B	Rear	.02632
3	304	Walk-In	B	Rear	.02632
3	305	Walk-In	B	Front	.02632
3	306	Walk-In	B	Front	.02632
3	307	Top	B	Rear	.02632
3	308	Top	B	Rear	.02632
3	309	Top	B	Front	.02632

Exhibit C

142 3RD 010 MOB

<u>Building No.</u>		<u>Unit Number</u> (Address: "Gables Drive")	<u>Floor Level</u>	<u>Unit Type</u>	<u>Front/Rear</u>	<u>The Fractional Undivided Interest In Common Elements of Each Unit Is 1/38th Or Approximately:*</u>
3		310	Top	B	Front	.02632
4		401	Walk-In	A	Rear	.02632
4		402	Walk-In	A	Rear	.02632
4		403	Walk-In	A	Front	.02632
4		404	Walk-In	A	Front	.02632
4		405	Top	A	Rear	.02632
4		406	Top	A	Rear	.02632
4		407	Top	A	Front	.02632
4		408	Top	A	Front	.02632

* The Fractional Undivided Interest in the Common Elements of Each Unit is subject to dilution if all or any portion of the Subsequent Phase Land and Improvements are submitted to condominium ownership under the Declaration, the extent of the dilution to depend upon the number of additional Units added to the Condominium. The maximum dilution shall be to decrease the fractional interest in the Common Elements and share in the Common Expenses and Common Surplus of each Unit Owner from 1/38th to 1/138th. In the event fewer Units are constructed and submitted to condominium ownership under the Declaration, the dilution shall be reduced to reflect the fraction the numerator of which shall be one (1) and the denominator of which shall be the total of Units constructed and submitted to condominium ownership under the Declaration.

This instrument was prepared by:
Jerome K. Lanning
1100 Park Place Tower
Birmingham, Alabama 35203

BYLAWS
OF
THE GABLES CONDOMINIUM ASSOCIATION, INC.

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**BYLAWS
OF
THE GABLES CONDOMINIUM ASSOCIATION, INC.**

These Bylaws of The Gables Condominium, a condominium ("Condominium") are promulgated pursuant to the Condominium Ownership Act of Alabama, §§ 35-8-1, et seq., Code of Alabama 1975, as amended ("Act") for the purposes of governing The Gables Condominium Association, Inc., a not-for-profit corporation, organized under the provisions of the Alabama Nonprofit Corporation Act, §§ 10-3-1, et seq., Code of Alabama 1975, as amended, as an association of members of the Condominium ("Association").

The terms used herein shall have the same meaning attributed to them in the Declaration of Condominium of The Gables Condominium filed in the Office of the Judge of Probate of Shelby County, Alabama, at Real Volume _____, Page _____, et seq., ("Declaration"), to which a copy of these Bylaws is made Exhibit D, and the Act. The provisions of these Bylaws are applicable to the Property of the Condominium and the use and occupancy thereof, and all easements, rights or appurtenances thereto, and all personal property now or hereafter used in connection therewith.

All present and future Owners, mortgagees, lessees and occupants of the Units in the Condominium and their employees, and any other person who may use the facilities of the Property in any manner are subject to these Bylaws, the Declaration of the Condominium, the Rules and Regulations and all covenants, agreements, restrictions and easements of record ("title conditions"). The acceptance of a deed or the occupancy of a Unit shall constitute an agreement that these Bylaws and the title conditions, as they may be hereafter amended, are accepted and ratified, and will be complied with.

The address of the office of the Association shall be 100 Gables Drive, Birmingham, Alabama 35244.

The fiscal year of the Association shall be the calendar year.

ARTICLE I

Membership and Membership Meetings

Section 1. Qualifications. The Members of the Association shall consist of all of the record Owners of fee title to any Unit in the Condominium.

Section 2. Change of Membership. Membership in the Condominium shall be established by the recording in the public records of Shelby County, Alabama, of a deed or other instrument establishing a record title to a Unit in the Condominium, and the delivery to the Association of a certified copy of such instrument, the Owner designated by such instrument

thereby becoming a Member of the Association. The membership of the prior Owner shall be thereby terminated.

Section 3. Voting Rights. The vote for a Unit shall be cast by the Owner thereof, or by his proxy designated in the manner hereinafter provided for. Voting shall be on a proportion basis and the number of votes to which the Owner is entitled is proportional to the undivided interest in the Common Elements of the Condominium. The number of votes to which an Owner is entitled is provided in the Declaration.

Section 4. Designation of Voting Representative. In the event a Unit is owned by one (1) person, his right to vote shall be established by the record title to his Unit. If a Unit is owned by more than one (1) person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record Owners of the Unit and filed with the secretary of the Association. If a Unit is owned by a corporation, partnership, trust, or other legal entity, the officer or agent thereof entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the duly authorized representative of the board of directors or other governing body of such entity and filed with the secretary of the Association. If such a certificate is not filed with the secretary of the Association for a Unit owned by more than one (1) person, or by a corporation, partnership, trust or other legal entity, in advance of any meeting the membership or vote of the Unit concerned shall not be considered in determining the requirement for a quorum nor for any purpose requiring the approval of the person entitled to cast the vote for the Unit. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned is effected. A certificate designating the person entitled to cast the vote of a Unit may be revoked by any Owner thereof.

Section 5. Annual Meetings. Annual meetings of Members shall be held at the office of the Association, at such time and date in the month of December of each year as the Board shall designate. The annual meeting shall be held for the purpose of electing directors and of transacting any other business authorized to be transacted by the Members.

Section 6. Special Meetings. Special meetings of the Members may be called by the Board, the president of the Association, or by Members of the Association holding twenty percent (20%) of the votes entitled to be cast at meetings of the Members of the Association, for the purpose of considering and acting upon any matters of interest to the Association and its Members, and taking any other action not inconsistent with these Bylaws and the Articles of Incorporation.

Section 7. Notice of Meetings. Notice of all meetings of the Members stating the date, time, place and object for which the meeting is called shall be mailed to each Member not less than ten (10) nor more than thirty (30) days prior to the date of such meeting. Such notice shall be deemed to be delivered when deposited in the United States Mail and addressed to the Member at his address as it appears on the records of the Association, postage prepaid. Notice of meetings may be waived either before or after meetings.

Section 8. Voting in Person or by Proxy. A Member may vote in person or by proxy executed in writing by the Member or his duly authorized attorney-in-fact. No proxy shall be valid except for the particular meeting designated therein, and no proxy shall be honored unless filed with the secretary of the Association before the appointed time of the meeting.

Section 9. Quorum. At a meeting of the Members, a quorum shall consist of persons entitled to cast a majority of the votes of the entire membership. As used in these Bylaws, the term "majority" means fifty percent (50%) of the votes in accordance with the percentages established by the Declaration of this Condominium.

Section 10. Vote Required to Transact Business. When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide the questions brought before the meeting, unless the question is one upon which, by express provision of the Act, or the Condominium Documents, a different number is required, in which case the express provision shall govern and control the decision in question.

Section 11. Consents. Any action which may be taken by a vote of the Members may also be taken by written consent to such action signed by the Members required to take such action if such Members were present and voting.

Section 12. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

Section 13. The Order of Business. The order of business at annual meetings of Members and, as far as practical, at all other meetings shall be:

- (a) Call to order,
- (b) Calling of the roll and certifying of proxies,
- (c) Proof of notice of meeting or waiver of notice,
- (d) Reading and disposal of any unapproved minutes,
- (e) Reports of officers,
- (f) Reports of committees,
- (g) Election of directors,
- (h) Unfinished business,
- (i) New business, and
- (j) Adjournment.

ARTICLE II

Board of Directors

Section 1. Control of Developer. Subject to the specific requirements of this Section, Developer shall have the right to appoint and remove all of the directors despite any provision to the contrary contained in the

Declaration, these Bylaws, or the Articles of the Association. The directors appointed by the Developer under this Section need not be Unit Owners. The initial directors are set forth in the Articles of the Association and shall serve until their successors are elected and qualified. This right to appoint and remove directors may be relinquished voluntarily by Developer at any time, either in whole or in part, or it shall be relinquished as follows:

(a) Not later than the time nineteen (19) Units shall have been sold the Association shall call a special meeting to be held at which the Unit Owners other than Developer shall elect one of the directors. The director so elected shall not be subject to removal by Developer acting alone, and shall serve for a term of two (2) years.

(b) Not later than the time twenty-three (23) Units shall have been sold the Association shall call a special meeting to be held at which the Unit Owners other than Developer shall elect one additional director. The director so elected shall not be subject to removal by Developer acting alone, and shall serve for a term of two (2) years.

(c) Upon the happening of the first of (i) the sale of twenty-eight (28) Units, or (ii) December 31, 1985, the provisions of this Section 1 of Article II shall thereupon terminate, and all subsequent elections shall be held in accordance with the balance of the provisions of this Article II.

As used in this Section 1 of Article II and elsewhere in the Condominium Documents the use of the term "sold" with respect to a Unit means that fee title and possession of the Unit shall have passed from the seller to the purchaser.

Section 2. Members. The board of directors of the Association shall consist of five (5) persons who shall be Unit Owners. Three (3) of the directors shall serve for a two (2) year term, and two (2) of the directors shall serve for a one (1) year term. Each person on the board of directors shall hold office until his successor shall be elected and qualified by the Members, including Developer so long as Developer is a Unit Owner. The word "director" as sometimes used herein shall mean a person elected to and serving on the board of directors of the Association.

Section 3. Removal. Any director may be removed for cause by the vote of the holders of a majority of the voting rights present in person or represented by written proxy at any annual or special meeting of the Members of the Association at which a quorum is present.

Section 4. Vacancies. Any vacancy occurring in the board of directors, including vacancies occurring from the removal of a director, may be filled by majority vote of the remaining members of the board of directors at any annual or special meeting.

Section 5. Annual Meeting. The annual meeting of the board of directors shall be held at the office of the Association at such time and date

in the month of December of each year as the Board shall designate. Notice of the place and hour of each such meeting shall be given to each director at least five (5) days prior to each such meeting. Such notice may be given either in writing or by telephone.

Section 5. Special Meetings. Special meetings of the board of directors for any purpose may be called by the president or upon the written request of any two (2) directors, upon at least five (5) days notice to each director and shall be held at such place or places as may be determined by the directors, or as shall be stated in the call of meeting. Such notice may be given either in writing or by telephone.

Section 7. Waiver of Notice. Any director may waive notice of a meeting either before or after the meeting, and such waiver shall be deemed equivalent to the giving of such notice.

Section 8. Quorum. A quorum shall consist of the directors entitled to cast a majority of the vote of the entire board of directors. The acts of the board of directors approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the board of directors. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

Section 9. Powers and Duties. The board of directors shall have the following powers and duties:

- (a) To elect the officers of the Association as hereinafter provided.
- (b) To administer the affairs of the Association and the Property of the Condominium.
- (c) To estimate the amount of the annual budget and to make and collect Assessments against Unit Owners to defray the costs, expenses, and losses of the Condominium.
- (d) To use the proceeds of Assessments in the exercise of its powers and duties.
- (e) To maintain, repair, replace, and operate the Condominium Property.
- (f) To purchase insurance upon the Property, and insurance for the protection of the Association and its Members, and the members of the board of directors and officers of the Association.
- (g) To reconstruct improvements after casualty and to further improve the Property.

(h) To make and amend reasonable Rules and Regulations respecting the use of the Property and the operation of the Condominium.

(i) To enforce by legal means the provisions of the Alabama Condominium Ownership Act, the Declaration, the Articles of Incorporation, these Bylaws, and the Rules and Regulations for the use of the Property.

(j) To contract for the management of the Property of the Condominium and to delegate to such managing agent all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the board of directors or the membership of the Association.

(k) To contract for the management or operation of portions of the Common Elements of the Condominium susceptible to separate management or operation, and to lease such portions.

(l) To retain attorneys and accountants.

(m) To employ personnel to perform the services required for proper operation of the Condominium.

(n) To purchase a Unit of the Condominium for the purposes authorized in the Declaration.

(o) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Members as expressed by resolution duly adopted at any annual or special meeting of the Members.

(p) To exercise all other powers and duties of the board of directors of an association referred to in the Alabama Condominium Ownership Act, and all powers and duties of the board of directors of a corporation organized under the Alabama Nonprofit Corporation Act, and all powers and duties of the board of directors referred to in the Declaration or these Bylaws, and any other powers and duties consistent with Alabama law.

Section 10. Compensation. No director shall be compensated for his services as such. This provision shall not prohibit a director from receiving compensation as an employee of the Association, nor preclude the contracting with a director for the management of the Condominium for which such director or directors may receive compensation.

Section 11. Managing Agent. The board of directors shall be authorized to employ the services of a manager or managing agent, who may either be a director, officer or employee of the Association, or an independent person or firm qualified to manage the Property and the affairs

of the Condominium under the supervision of the board of directors. The compensation paid to any such manager or managing agent shall be in the amount established from time to time by the board of directors.

Section 12. Insurance. The Board shall obtain and maintain at all times as a Common Expense insurance as required under the Declaration and herein. The shares and disposition of the proceeds of insurance shall be as set forth in the Declaration.

(a) The Board shall obtain and maintain a master multi-peril type policy on the Condominium Property providing as a minimum fire and extended hazard insurance coverage and all other coverages in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than 100% of the insurable value (based on replacement costs, excluding the Land, and foundation, excavation and other items normally excluded from coverage) such insurable value to be established by the Board annually. The name of the insured under the policy must be stated in form and substance similar to the following: "The Gables Condominium Association, Inc." Each such policy must contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to The Gables Condominium Association, Inc., for the use and benefit of the Unit Owners and any mortgagees of Units as their interest may appear. The Board shall utilize every reasonable effort to secure such a master policy or policies that will provide as follows:

(i) That the Property insured shall mean all of the Common Elements and Units comprising the Condominium Property as defined in the Declaration, including all bathroom and kitchen cabinet work and fixtures, and all appliances, inlaid carpeting and wall coverings originally installed within a Unit by the Developer, together with all mechanical systems and installations providing service to any building and other items comprising Common Elements as more particularly described in Section 10 of the Declaration. The Property insured shall not include furniture, furnishings, appliances and other personal property supplied or installed by the Unit Owners, unless the same constitute like kind replacements for Property originally installed within the Unit by the Developer, or improvements and betterments made by any Unit Owner within his Unit.

(ii) That the insurer waives his rights of subrogation of any claims against the

Association and its directors, officers, the managing agent, the individual Owners and their respective household members, agents, employees and tenants, and of any defenses based upon co-insurance or on invalidity arising from the acts of the insured.

(iii) That the master policy on the Condominium cannot be cancelled, invalidated, or suspended on account of the conduct of any director, officer or employee of the Association or the managing agent without a prior written demand in writing delivered to the Association and to all mortgagees of Units to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(iv) That any "no other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation.

(v) That until the expiration of thirty (30) days after the insurer gives notice in writing to the mortgagee of any Unit and to the servicer of any such mortgage, the mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner or such Unit, the other Unit Owners, the Board, or any of their agents, employees, or household members, nor cancelled for nonpayment of premiums.

(vi) That the master policy may not be cancelled or substantially modified without at least sixty (60) days' prior notice in writing to the Board of Directors and all mortgagees of Units.

(vii) An agreed value endorsement.

(viii) That the deductible amount per occurrence shall not exceed One Thousand Dollars (\$1,000.00).

(ix) That coverage shall not be prejudiced by (a) any act or neglect of the Owners not within the control of the Association, or (b) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which it has no control.

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All policies of insurance shall be written with a company licensed to do business in the State of Alabama and holding a financial rating by Best's Insurance Reports of Class VI or better, if available and, if not available, the best rating available, and the company shall provide insurance certificates to each Owner and each mortgagee of a Unit. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.

No Unit Owner shall obtain an individual insurance policy covering any portion of the Condominium Property other than improvements and betterments made by such Owner within his Unit at his expense and personal property belonging to such Owner, without the prior written approval of the Board.

(b) In addition to the insurance required hereinabove, the Board shall obtain as a Common Expense:

(i) Workmen's compensation insurance if and to the extent necessary to meet the requirements of law.

(ii) Public liability insurance with respect to the Common Elements. Such insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of agents of the Association or other Unit Owners. Coverage shall be for at least \$1,000,000 per occurrence for personal injury and/or property damage arising out of a single occurrence, and including protection against water damage liability, liability for nonowned and hired automobiles, liability for property of others, and such other risks as are customarily covered in other projects.

(iii) Officers' and directors' liability insurance in such amounts as the Board may determine. Such insurance shall contain a cross liability endorsement.

(iv) Fidelity bonds covering dishonest acts of officers, directors, employees and other persons who handle or are responsible for handling Association funds naming the Association as named insured. Such bonds shall be in an amount equal to at least one hundred fifty percent (150%) of the Association's estimated annual operating budget and reserves on hand as of the beginning of the fiscal year, shall contain waivers of any defense based upon the exclusion

of persons serving without compensation, and shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the holders and servicers of any first mortgage on a Unit.

(v) Such other insurance as the Board of Directors may determine to be necessary.

Insurance carried by the Association as a Common Expense shall not include public liability insurance for individual Owners for liability arising within the Unit.

Section 13. Indemnification. The Association and the Unit Owners shall indemnify and hold harmless each of the officers of the Association and the members of its board of directors against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer or director in connection with any action, suit or other proceeding (including settlement of any such action, suit or proceeding if approved by the then board of directors) to which he may be made a party by reason of being or having been an officer or director, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misfeasance or malfeasance. 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, if obtainable, officers' and directors' liability insurance to fund this obligation and the insurance shall be written as provided in Section 12 of this Article II.

ARTICLE III

Officers

Section 1. Election. At each annual meeting, the board of directors shall elect the following officers of the Association:

(a) A president, who shall be a director and who shall preside over the meetings of the board of directors and of the Members, and who shall be the chief executive officer of the Association.

(b) A vice-president, who shall, in the absence or disability of the president, perform the duties and exercise the powers of the president.

(c) A secretary, who shall keep the minutes of all meetings of the board of directors and of the Members, and the minute book wherein resolutions enacted at such meetings shall be recorded, and who shall, in general, perform all the duties incident to the office of secretary.

(d) A treasurer, who shall keep the financial records and books of the account.

(e) Such additional officers as the board of directors shall see fit to elect.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officer of a not-for-profit corporation; provided that the board of directors may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the board of directors may see fit.

Section 3. Term. Each officer shall hold office for the term of one (1) year and until his successor shall have been elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the board of directors at special meetings thereof. Any officer may be removed at any time by a majority vote of the board of directors at a special meeting thereof.

Section 5. Compensation. The compensation of all officers shall be fixed by the board of directors. This provision shall not preclude the board of directors from employing a director as an employee of the Association nor preclude the contracting with a director for the management of the Condominium. The officers shall receive no compensation for their services, unless otherwise expressly provided in a resolution duly adopted by the board of directors.

ARTICLE IV

Responsibility for Maintenance and Repair

The responsibility for maintenance and repair of the Property shall be as set forth in the Declaration.

ARTICLE V

Assessments

Section 1. Accounting Records. The board of directors shall provide for the maintenance of accounting records for the Association, such

records to be maintained in accordance with generally accepted accounting principles, and such records shall include all records provided for in the Alabama Condominium Ownership Act and the Condominium Documents.

Section 2. Annual Budget. The board of directors shall cause to be prepared an estimated annual budget for each fiscal year of the Association, which budget shall take into account both the capital budget and the operating budget for the ensuing year, which together shall constitute the Common Expenses constituting an Assessment against each Unit and Unit Owner as provided for in the Condominium Documents. The capital and operating budgets shall be established as follows:

(a) Capital Budget: The board of directors shall cause to be prepared an estimated capital budget for each fiscal year of the Association. Such budget shall take into account the number and nature of the replacement assets comprising the Condominium Property, the expected life of each such asset, the expected repair and/or replacement cost, and all other information required to establish the capital repair and replacement reserve Fund provided for in the Declaration for the ensuing year. The board shall set the required capital contribution, if any, in an amount sufficient to meet the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing, by equal annual assessments over the period of the budget. The capital contribution required shall be as fixed by the board and shall constitute a component of the annual Assessment for the Common Expenses of the Association. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

(b) Operating Budget. The board of directors shall cause to be prepared an estimated operating budget for each fiscal year of the Association. Such budget shall take into account the estimated expenses and cash requirements for the year, including salaries, wages, payroll taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power and other expenses (as distinguished from individual mortgage payments, real estate taxes, and individual expenses for utility services billed or charged to the separate Unit Owners on an individual or separate basis rather than a common basis). The operating budget shall also take into account the estimated net available cash income for the year from the operation or use of the Common Elements, and shall also provide for amounts required to make up for any deficit in any prior year and a general reserve for contingencies for the year. To the extent that the Assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account.

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Section 3. Assessments. The estimated annual budget for each fiscal year shall be approved by the board of directors, and copies thereof shall be furnished by the board to each Unit Owner not later than ninety (90) days after the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget each Unit Owner shall pay, as his respective monthly Assessment for the Common Expenses, one-twelfth (1/12) of his share of Common Expenses for such year as shown by the annual budget. The Assessments of the Common Expenses shall be as set forth in the Declaration. The board of directors may cause to be sent to each Unit Owner on or before the first day of each month a statement of the monthly Assessment of such Unit Owner for such month, but the failure to send or to receive such monthly statement shall not relieve any Unit Owner of his obligation to pay his monthly Assessments on or before the first day of each month. If the board of directors shall not approve an estimated annual budget or shall fail to determine new monthly Assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his monthly Assessment as last determined. Each Unit Owner shall pay his monthly Assessment on or before the first day of each month to the manager or managing agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of his obligation to pay his Assessment by abandoning or not using his Unit or the Common Elements. In the event of any failure by a Unit Owner to pay his monthly Assessment in a timely manner as herein provided for the Board may accelerate all remaining monthly Assessments due for the balance of the term covered by the annual budget, and the same shall thereupon become immediately due and payable.

Section 4. Proration of Assessments. For the first fiscal year, the annual budget shall be as approved by the first board of directors. If such first year, or any succeeding year, shall be less than a full year, then the monthly Assessment for each Unit Owner for the Common Expenses shall be proportional to the number of months and days in such period covered by such budget. Commencing with the date of closing of his Unit by each Unit Owner, he shall pay his Assessment for the following month or fraction of a month, which Assessment shall be in proportion to his ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which Assessment shall be as computed by the board of directors.

Section 5. Annual Statements. Within ninety (90) days after the end of each year covered by an annual budget, or as soon thereafter as shall be practicable, the board of directors shall cause to be furnished to each Unit Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the board may deem desirable.

Section 6. Accounts. The board of directors shall cause to be kept a separate account record for each Unit Owner showing the Assessments charged to and paid by such Unit Owner, and the status of his account from time to time. Upon ten (10) days notice to the board of directors any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid Assessments or other charges due and owing for such Unit Owner. A Unit Owner shall make no more than one such request per month.

Section 7. Supplemental Budget and Assessments. If during the course of any year, it shall appear to the board of directors that the monthly Assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental Assessment shall be made to each Unit Owner for his proportionate share of each supplemental budget.

Section 8. Payment of Assessments. It shall be the duty of every Unit Owner to pay his proportionate share of the Common Expenses assessed in the manner herein provided. If any Unit Owner shall fail or refuse to make any such payments when due, the Association and the board of directors shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Alabama Condominium Ownership Act, the Declaration or these Bylaws, or otherwise available at law or in equity, for the collection of all unpaid Assessments.

Section 9. Records. The board of directors shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the expenses incurred, and such records and the vouchers authorizing the payments of such expenses shall be available for examination by the Unit Owners or their authorized representatives at convenient hours of week days. Such payment vouchers may be approved in such manner as the board of directors shall determine.

Section 10. Liens. The board of directors may cause the Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the board, may constitute a lien against the Property, the Common Elements, or any Unit or Private Element in the Condominium, and the Association shall thereupon have a lien in such amount, together with the amount of any costs and attorney's fees incurred in connection therewith, on each Unit responsible for the payment thereof in accordance with the provisions of the Alabama Condominium Ownership Act, and the board of directors shall thereupon perfect any such lien by recording an appropriate claim of lien prepared and filed for record in accordance with the provisions of said Act.

ARTICLE VI

Mortgages

Section 1. Notice to Board of Directors. A Unit Owner who mortgages his unit shall notify the secretary of the Association who shall maintain a record of such information.

Section 2. Notice of Unpaid Common Charges. The board of directors, whenever so requested in writing by a mortgagee of a Unit, shall

promptly report any then unpaid Assessments due from, or any other default by, the owner of a mortgaged Unit as provided for in the Declaration.

Section 3. Examination of Books. The holder of a mortgage on any Unit shall have the same rights to examine the books and records of the Association afforded a Unit Owner pursuant to Section 9 of Article V of these Bylaws.

Section 4. Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any holder of a mortgage on a Unit, or the insurer, or guarantor of such mortgage, will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Property or the Unit securing its mortgage.

(b) Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds the mortgage.

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action that requires the consent of the holder of such mortgage or the consent of a specified percentage of mortgage holders.

ARTICLE VII

Use and Occupancy Restrictions

The use of the Units and the Condominium Property shall be in accordance with the terms of the Declaration, and the Rules and Regulations from time to time established by the Board.

ARTICLE VIII

Rules and Regulations

Section 1. Authority and Enforcement. The Board of Directors shall have the authority to make and to enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Units and the Common Elements, provided that copies of all such Rules and Regulations be furnished to all Owners. The Board shall have the power to impose reasonable fines which shall constitute a lien upon the Unit and to suspend an Owner's right to use the Common Elements and to vote for violation of any duty imposed under the Declaration, these Bylaws or any Rules and Regulations duly adopted hereunder.

Section 2. Procedure. The Board shall not impose a fine, suspend voting, or infringe upon any other rights of a Member or other occupant for violation of rules unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation, and (iii) a time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.

(b) Notice. Within twelve months of such demand, if the violation continues past the period allowed in the demand for abatement, without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice of a hearing to be held by the Board in session. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statement, evidence and witnesses on his or her behalf; and (iv) the proposed sanction to be imposed.

(c) Hearing. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

ARTICLE IX

Miscellaneous

Section 1. Seal. The seal of the Association shall be circular in form and shall contain the name of the Association and the year of its creation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 2. Fiscal Year. The fiscal year of the Association shall be that period of twelve (12) months ending on the last day of December of each year.

Section 3. Bank Accounts. The board of directors may, from time to time, by resolution authorize the maintenance of one or more deposit accounts by the Association. All checks, drafts, or other orders for the payment of money issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall be determined from time to time by resolution of the board of directors.

Section 4. Notice. Whenever any notice or demand is required to be given by these Bylaws the same shall be given in the manner provided for in the Declaration.

Section 5. Waiver of Notice. Whenever any notice whatever is required to be given under the provisions of any law, or under the provisions of the Articles of Incorporation, these Bylaws or the Declaration, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto.

Section 6. Conflict. In the event of any conflict between the provisions of these Bylaws and the Declaration of the Condominium, the Declaration shall govern.

ARTICLE X

Amendments

These Bylaws may be amended or modified from time to time by the vote of a majority of the board of directors, any amendment to be set forth in writing, signed by the Secretary of the board of directors and recorded in the Shelby County Probate Office. Upon recording each such amendment shall be effective.

The foregoing were adopted as the Bylaws of The Gables Condominium Association, Inc., an Alabama not-for-profit corporation, at the first meeting of the board of directors on November 27, 1984.

Irvin A. Nix

Secretary

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1984 NOV 29 PM 3:35

Thomas A. Henderson, Jr.
JUDGE OF PROBATE

RECORDING FEES

Recording Fee	\$ <u>215.00</u>
Index Fee	<u>1.00</u>
TOTAL	\$ <u>216.00</u>