

**DECLARATION OF EDENTON,  
A CONDOMINIUM**

This Declaration is made and entered into this 20 day of April, 2007, by CAHABA BEACH INVESTMENTS, LLC, an Alabama limited liability company, hereinafter referred to as the "Declarant," for itself, and for its successors, grantees, and assigns, for the purpose of creating a condominium and establishing certain easements, covenants, and restrictions to run with the land.

**RECITALS**

1. Declarant is the owner of certain real estate located in the County of Shelby, State of Alabama, hereinafter referred to as the "Parcel," and more particularly described on **Exhibit A** attached hereto. *Map book 38 Page 77*

2. The Declarant intends to and does hereby submit the Parcel together with all buildings, structures, improvements, and other permanent fixtures thereon, and all rights and privileges belonging or in any way pertaining thereto, to the provisions of the Alabama Uniform Condominium Act of 1991 (the "Act"), Section 35-8A-101, *et seq.*, *Code of Alabama* (1975), as amended.

3. The Declarant further desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Parcel or any part thereof, a condominium form of ownership; and intends that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring an interest in the Parcel shall hold that interest subject to certain rights, easements, and privileges in the Parcel, and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance of the property, as hereinafter set forth.

4. A nonprofit corporation known as the Edenton Residential Condominium Association, Inc., has been formed for the purpose of operating and maintaining the Condominium.

5. The Declarant intends to establish a Condominium on the Parcel pursuant to the provisions of the Act. The Condominium shall be known as the Edenton, A Condominium.

6. The first phase development of the Condominium will consist of two (2) separate buildings, containing an aggregate of six (6) units, together with any improvements, parking spaces, common elements, limited common areas, together with access and appurtenant facilities, all as more particularly described herein. In the future, Declarant may construct up to forty five (45) additional Buildings which will contain up to one hundred eighty seven (187) additional units, thereby making the aggregate number of units in the Condominium to be one hundred ninety-three (193).

7. The Condominium will be created by the recording of this Declaration, which may be amended by the Declarant without requiring the approval or consent of any of the Unit Owners as herein provided.



NOW, THEREFORE, the Declarant, as the owner and developer of the Parcel, for the purposes above set forth, declares as follows:

## **ARTICLE I**

### **Definitions**

As used in this Declaration and in the Exhibits attached hereto the following terms shall have the meanings set forth below and the singular shall include the plural and vice versa:

1.01 “Act” means the Alabama Uniform Condominium Act of 1991, Section 35-8A-101, *et seq.*, *Code of Alabama*, 1975, as amended.

1.02 “Allocated Interest” shall mean the undivided interest in the Common Elements allocated to each Unit, which shall be determined in accordance with the provisions of Section 3.03(d) below. The Allocated Interest appurtenant to each Unit is set forth on **Exhibit D** attached hereto and incorporated herein by reference, which **Exhibit D** is subject to change from time to time to the extent Declarant exercises any of the Development Rights.

1.03 “Articles” means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Shelby County, Alabama.

1.04 “Assessment” means a proportionate share of the funds required for the payment of the Common Expenses and Limited Common Expenses, which from time to time may be levied against each Unit Owner.

1.05 “Association” means Edenton Residential Condominium Association, Inc., an Alabama nonprofit corporation incorporated by Articles of Incorporation recorded in the Office of the Judge of Probate of Shelby County, Alabama, and its successors, that is the entity responsible for the administration and management of the Condominium.

1.06 “Board” or “Board of Directors” means the Board of Directors of the Association.

1.07 “Building” or “Buildings” means all structures or structural improvements located on the Parcel and forming part of the Condominium.

1.08 “Bylaws” means the duly adopted Bylaws of the Association, a copy of which is attached hereto as **Exhibit B**.

1.09 “Common Elements” means any part of the Condominium Property, except the Units, as set forth and defined in Section 5.01 of this Declaration, in which all of the Unit Owners have an undivided interest.

1.10 “Common Expenses” means the expenses arising out of the ownership of the Common Elements, including any applicable Limited Common Elements and including expenses incurred in the maintenance, administration, improvement, and repair of the Common Elements and any applicable Limited Common Elements, whether incurred or estimated by the Board, for

which the Unit Owners are liable to the Association in accordance with the terms of the Condominium Documents.

1.11 “Common Surplus” means the excess of all receipts of the Association over the amount of the Common Expenses.

1.12 “Condominium” means the Edenton, A Condominium, and consists of the Condominium Property, as defined herein, submitted to the condominium form of ownership by this Declaration.

1.13 “Condominium Documents” means the Declaration, Bylaws, Articles, Rules and Regulations and all exhibits attached thereto as the same may be amended from time to time.

1.14 “Condominium Parcel” means a Unit, together with the undivided share in the Common Elements and Limited Common Elements, that are appurtenant to the Unit.

1.15 “Condominium Property” or “Property” means all property covered by the Declaration, and includes the Parcel 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.

1.16 “Declarant” means Cahaba Beach Investments, LLC, and its successors and assigns.

1.17 “Declaration” means this Declaration as it may be amended from time to time.

1.18 “Development Rights” shall have the same meaning as is defined in the Act and set out in Article XV below.

1.19 “Limited Common Elements” means the part or parts of the Condominium Property as set forth in Paragraph 5.02 of this Declaration, in which one or more, but not all of the Unit Owners have an undivided interest.

1.20 “Limited Common Expenses” shall mean the expenses arising out of the ownership of the Limited Common Elements, including expenses incurred in the maintenance, administration, improvement, and repair of the Limited Common Elements, whether incurred or estimated by the Board.

1.21 “Managing Agent” shall mean the Person who undertakes the duty, responsibility and obligation of managing the Condominium by employment or contract with the Association.

1.22 “Member” means a member of the Association, membership in which is confined to Unit Owners.

1.23 “Mortgagee” means any Mortgagee holding a mortgage on one or more individual Units.



1.24 “Occupant” means a person or persons in possession of a Unit, regardless of whether that person is the Unit Owner.

1.25 “Party Wall” means each wall built as part of the original construction of the Units which shall serve and separate any two (2) adjoining Units.

1.26 “Person” means a natural person, a corporation, a partnership, a limited liability company, or other legal entity.

1.27 “Plans” means the site plan, building plans, floor plans, and sections prepared by Dungan & Nequette Architects, Inc. which depict the location, layout, identifying numbers, and dimensions of the Units and the Limited Common Elements and the Common Elements, identified as the Edenton, A Condominium, that are attached hereto as **Exhibit C**, and by this reference made a part hereof. The Plans contain a certification of completion executed by an independent registered architect in accordance with the Act. The Plans also contain a certification that the Plans contain all information required by the Act.

1.28 “Probate Office” shall mean the Office of the Judge of Probate of Shelby County, Alabama, or such other place as is designated as the official public registry for the public recording of real estate documents for real estate located in Shelby County, Alabama.

1.29 “Special Assessments” means the costs and expenses, other than Common Expenses, for which the Unit Owners are liable to the Association.

1.30 “Special Declarant Rights” shall have the same meaning as is defined in the Act and set out in Article XV below.

1.31 “Unit” shall mean and refer to a physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in this Declaration, the Plans and the Act. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plans and described in Paragraph 4.02 hereof. Each Unit shall include all improvements contained within such area, including any plumbing and electrical fixtures; provided, however, that no bearing walls and bearing columns of the Building in which such Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, and public Utility Lines situated within such Unit and forming a part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of the Unit.

1.32 “Unit Owner” or “Owner” means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the attached undivided interest in the Common Elements.

1.33 “Utility Lines” shall mean and refer to any and all lines, pipes, wiring, conduit, equipment, machinery and other apparatus and appurtenances necessary or required to provide Utility Services to any portion of the Condominium.

1.34 “Utility Services” shall mean and refer to any and all publicly or privately owned or operated master television and/or cable television systems, security and similar systems and



electrical, gas, telephone, water and sanitary sewer services, storm drains and sewer and drainage systems.

## **ARTICLE II**

### **Name and Address**

The name of the Condominium is Edenton, A Condominium. The Condominium is located at Portobello Road, Birmingham, in the County of Shelby, State of Alabama.

## **ARTICLE III**

### **Submission of Property to Act/Development Plan**

**3.01 Submission of Property.** The Parcel and the Buildings are hereby submitted to the condominium form of ownership as established by the Act and all of the Parcel and the Buildings shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and otherwise utilized subject to the provisions of the Act, the covenants, conditions, restrictions, easements, limitations, charges, liens, obligations and regulations set forth in this Declaration and the Rules and Regulations, all of which are declared and agreed to be in furtherance of a plan for improvement of the Property and the Building and the division thereof into condominium ownership and all of which shall run with the land and shall be binding upon and inure to the benefit of all Owners and any other parties having or acquiring any right, title or interest in any portion of the Property or the Condominium.

### **3.02 Development Plan.**

(a) **Plans.** The improvements are substantially completed in accordance with the Plans, as evidenced by the Certificate of Completion executed by an independent registered architect.

(b) **Amendment.** The Declarant shall have the unilateral right, privilege and option from time to time at any time (subject to the provisions of this Declaration) to amend this Declaration without the consent of any Unit Owner or other Person in order to exercise any Development Rights and Special Declarant Rights so long as said amendment complies with the requirements of the Act. The Declarant, at its sole option, may develop the Condominium on an incremental or phased basis. The Declarant intends to construct two (2) Buildings, containing six (6) Units in the initial development phase of the Condominium. Further, the Declarant may construct up to forty five (45) additional Buildings, containing up to one hundred eighty seven (187) additional Units, as reflected on the Plans and currently designated as "Need Not Be Built." In the event Declarant exercises the Development Rights or Special Declarant Rights contained herein to add Buildings and Units to the Condominium, such additional development may likewise occur in one or more phases. Inclusion of the additional Buildings and Units and changes to the Common Elements, Limited Common Elements and Allocated Interest, if any, shall be reflected by one or more amendments to the Plans and to this Declaration.

(c) **Agreement.** Each Person or entity who shall acquire any Unit in the Condominium or interest in or lien upon any such Unit shall be deemed, by accepting a



conveyance of or otherwise acquiring such Unit, interest or lien, to have agreed and consented, within the meaning of this Declaration and of the Act to be bound by the terms and provisions of this Declaration and to have further agreed and consented that any amendment to this Declaration executed by the Declarant alone pursuant hereto shall be binding and effective as written notwithstanding the fact that the undivided interest of the Unit Owners in the Common Elements will be changed thereby.

### **3.03 Identification of Units and Allocation of Interests.**

(a) Each Unit is described in detail in the Plans. Each Unit is assigned a number or letter or a combination thereof as indicated on the Plans. No Unit bears the same designation as another Unit. The legal description of each Unit shall consist of the identifying number or letter or combination thereof as shown on the Plans, the name of the Condominium, the name of the county in which the Unit is situated, the name of the public office where this Declaration is recorded and the book and page number (or the instrument number or card number) where the first page of this Declaration is recorded. The current number of Units subject to this Declaration is set forth in **Exhibit D** attached hereto and incorporated herein by reference.

(b) Each Unit consists of the Unit, as described in Section 4.02 below, together with an undivided interest in the Common Elements equal to the Allocated Interest for such Unit. Any conveyance, transfer or encumbrance of a Unit shall be deemed to convey, transfer, encumber and otherwise include the Unit Owner's corresponding undivided Allocated Interest in the Common Elements even if the same is not expressly mentioned or described in the deed or other instrument of conveyance, transfer or encumbrance. Ownership of a Unit and the Owner's Allocated Interest in the Common Elements shall not be separated. No Unit, by deed, plat, court decree or otherwise, shall be subdivided or in any manner separated into any parcel or unit smaller than the whole Unit as shown on the Plans except as otherwise permitted pursuant to the exercise of any of the Special Declarant Rights by Declarant.

(c) The Allocated Interest attributable and allocated to each Unit is set forth on **Exhibit D** hereto. The Allocated Interest shall be attributable and allocated to each Unit on an equal basis. Each Unit Owner, by acceptance of a deed to any Unit, acknowledges that should Declarant exercise any of the Special Declarant Rights, Declarant has the right, without the consent or approval of any Unit Owner or Mortgagee, to amend **Exhibit D** hereto and reallocate the Allocated Interest for each of the Units. Allocations and reallocations of the Allocated Interests may be subject to minor variations attributable to rounding.

## **ARTICLE IV**

### **Description of Property/Units**

**4.01 Land.** The following real property, which is owned by the Declarant, is hereby submitted to the condominium form of ownership:

See attached **Exhibit A**.

The real property is subject to the following:



1. Zoning, if any, planning, and other restrictions or regulations upon the use of the Condominium Property as may be legally imposed by the County of Shelby, the State of Alabama, or any other governmental authorities having jurisdiction over the Condominium Property;
2. Development Rights and Special Declarant Rights granted Declarant by the Condominium Documents or the Act;
3. All ad valorem taxes and assessments;
4. The rights of eminent domain or governmental rights of police power;
5. Easements or claims of easements shown or not shown by the public records;
6. Encroachments, overlaps, boundary line disputes and any other matters which would be disclosed by an accurate survey and inspection of the Condominium Property; and
7. Right of other parties to use the Common Elements.
8. All matters identified on **Exhibit F** hereto.

**4.02 Units.** The maximum number of Units the Declarant reserves the right to create is One Hundred Ninety-Three (193). Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plans, but shall not include the Unit Boundaries that are determined as follows:

**(a) Upper and Lower Boundaries.** The upper and lower boundaries intended to their planar intersections with the perimetrical boundaries of the Unit as follows:

(i) Upper Boundary – the upper horizontal plane of the exterior, unfinished, unexposed surface of the lower interior surface of the uppermost ceiling (i.e., the concrete, wood, or metal support structures above the interior finished ceiling material, lights or ducts).

(ii) Lower Boundary – the concrete slab on which the Unit is constructed, with the finish flooring, if any, constituting part of the Unit and the concrete subflooring and building foundation not constituting part of the Unit.

**(b) Perimetrical Boundaries.** The perimetrical boundaries of each Unit shall be the vertical planes of the interior surfaces of exterior windows and glass doors bounding a Unit and the unfinished interior surfaces of the walls and entry doors bounding the Unit, excluding paint, wallpaper and like coverings, extended to their planar intersections with each other and with the upper and lower boundaries. With respect to Party Walls, the perimetrical boundary of the Units served thereby shall be the vertical plane constituting the centerline of the Party Wall extended until such plane intersects the exterior unexposed surface of the upper and lower boundaries perpendicular to said plane.



(c) **General.** Each Unit includes any airspace lying within the upper and lower boundaries and perimetrical boundaries of the Unit and any and all improvements contained therein. Any heating, ventilating and air conditioning compressors, components or other apparatus, including ducts and vents, for such Unit, whether located within or outside the boundaries of a Unit and which serve only that particular Unit shall constitute and be deemed to be part of that Unit (and shall be maintained by the Owner of such Unit). If any chutes, flues, ducts, conduits, wires, load bearing walls, load bearing columns or any other apparatus lie partially inside and partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed part of that Unit but any portions thereof serving more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements. Without limiting the generality of the foregoing or, as appropriate, in addition, each Unit shall include the following:

(i) The decorated surfaces, including paint, lacquer, varnish, wall coverings, tile and other finishing materials applied to floors, ceilings and interior and perimeter walls, carpeting, if any, and also the floors and ceilings themselves and all paneling and other finishing wall material;

(ii) All windows, skylights, if any, screens and doors and the frames, sashes and jams, including door locks and hardware, for the same;

(iii) All furniture, fixtures, furnishings, appliances, equipment and machinery installed for the exclusive use of that Unit and any and all Utility Lines which serve only that Unit, including, without limitation, any and all hot water heaters, if any, installed within such Unit;

(iv) All control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which serve either the Unit or any of the fixtures located therein; and

(v) All interior walls within the Unit which are not necessary for the support of the Building in which the Unit is located.

**4.03 Unit Ownership.** Each Unit Owner shall be entitled to the exclusive ownership and possession of his Unit. Subject to the rights reserved by the Declarant, rights granted to others, including easements described in this Declaration, each Unit Owner shall have the unrestricted right of ingress and egress to his Unit, which right shall be an appurtenance to his Unit.

**4.04 Transfer.** When a Unit is conveyed, the following shall pass with it as appurtenances thereto: (a) an undivided share of the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided by this Declaration and as may not be separately conveyed in accordance with this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in a space that is vacated shall be terminated automatically; and (d) other appurtenances as may be provided in this Declaration.



## **ARTICLE V**

### **Common Elements and Limited Common Elements**

**5.01 Common Elements.** The Common Elements shall include the common areas and facilities located substantially as shown on the Plans, and as more particularly set forth on **Exhibit E** attached hereto. Each Unit Owner, as a tenant in common with all other Unit Owners, owns an undivided interest in the Common Elements equal to the Allocated Interest for such Unit as shown on **Exhibit D** hereto, as the same may be amended from time to time. The ownership interest in the Common Elements and Limited Common Elements appurtenant to each Unit shall be an undivided interest, and except as provided in the Act and this Declaration, shall remain undivided. No Unit Owner shall bring any action for partition or division of the Common Elements or Limited Common Elements. The ownership interest in the Common Elements and Limited Common Elements shall not be conveyed, transferred, encumbered, or otherwise affected separate from the ownership of the Unit, and any agreement to the contrary shall be void.

**5.02 Limited Common Elements.** The Limited Common Elements shall include the limited common areas located substantially as shown on the Plans. Such Limited Common Elements will include the following:

- (a) All entrance ways, exists and landings from which there is direct access from the interior of an Unit shall be for the exclusive use of the Unit Owner of such Unit.
- (b) All doors providing egress and ingress directly to a Unit.
- (c) Any parking area designated on the Plans as being for the exclusive use of specific Units or Buildings.
- (d) Any fences appurtenant to Units for which fences are an available option; provided, however, that fences are only available on certain Units as designated by Declarant in its sole discretion.

**5.03 Use of Common Elements.** Each Unit Owner shall have the right to use the Common Elements (except any portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of parking, access, ingress to, egress from, use, occupancy, and enjoyment of the respective Unit owned by such Unit Owner. The Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements serving his Unit. The rights to use the Common Elements and Limited Common Elements shall be subject to and governed by the provisions of the Act, Declaration, Bylaws, and the rules and regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions, or grant easements with respect to parts of the Common Elements, subject to the provisions of the Declaration and Bylaws.

**5.04 Share of Common Expenses.** Each Unit Owner shall be assessed and shall be liable for a proportionate share of the Common Expenses, and the proportionate share of Common Expenses shall be the same ratio as his percentage of ownership in the Common Elements. Each Unit Owner shall be assessed and shall be liable for the Limited Common



Expenses in connection with the Limited Common Elements serving its Unit. Payment of Common Expenses and Limited Common Expenses shall be in such amounts and at such times as determined in the Bylaws. No Unit Owner shall be exempt from payment of its proportionate share of the Common Expenses or Limited Common Expenses by waiver or nonuse or nonenjoyment of the Common Elements or Limited Common Expenses, or by abandonment of its Unit.

(a) Assessments must be made at least annually, based on a budget adopted at least annually by the Association.

(b) Except for specific exceptions as set out in the Act, expenses must be assessed in accordance with the allocations set forth in the Declaration.

(c) Limited Common Expenses are to be paid only by those Units affected by such Limited Common Elements.

**5.05 Late Payments.** Assessments not paid on or before thirty (30) days after the date such assessments are due shall bear such late charges, penalties, interest, and other costs and expenses, at a rate set by the Board, but not to exceed the maximum legal rate, together with all expenses, including attorneys fees, incurred by the Association in collecting such assessments and expenses. All payments upon account shall be first applied to such late charges, penalties, interests and other costs and expenses, including attorneys' fees, and then to the Assessment payment due. The Association may, in the manner provided for in the Bylaws, levy reasonable fines for violations of the Declaration, Bylaws, and any rules and regulations of the Association.

**5.06 Lien for Expenses.** If any Unit Owner shall fail or refuse to make any payment of the Common Expenses when due, the amount due, together with interest thereon at the rate of eighteen percent (18%) per annum or such greater percentage as may then be permitted under the laws of the State of Alabama (the "Applicable Rate"), from and after the date said Common Expenses become due and payable, shall constitute a lien on the interest of the Unit Owner in the Property, which lien shall also secure: (i) such late charges, penalties, and interest, if any, which may be due on the amount of any delinquent assessment; (ii) all payments of taxes and payments on account of superior mortgages, liens, and encumbrances; and (iii) all costs and expenses paid, advanced or incurred in preserving, protecting and enforcing the lien.

**5.07 Priority of Lien.** The Association shall have a lien for nonpayment of Common Expenses and Limited Common Expenses as is provided by the Act. In any suit for the foreclosure of a lien for Assessments, the Association shall be entitled to rental from the Unit Owner from the date on which the payment of any Assessment or installment thereof becomes delinquent and shall be entitled to the appointment of a receiver for said Unit, without notice to the Unit Owner. The rental required to be paid shall be equal to the rental charged on comparable type of Units in the area in which the Condominium is located. The lien granted to the Association shall further secure such advances for taxes and other payments which may be required to be advanced or paid by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at a rate set by the Board of the Association, but in no case shall said interest exceed the maximum legal rate on any such advances made for such purposes. All Persons, firms or corporations who shall acquire, by whatever means, any



interest in the ownership of any Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association. A lien for Common Expenses or Limited Common Expenses shall not be affected by any sale or transfer of a Unit, except as herein provided. Except as otherwise provided by the Act, a sale or transfer pursuant to a foreclosure of a first mortgage or first vendor's lien shall extinguish a subordinate lien for Assessments which became payable prior to such sale or transfer. However, any such delinquent Assessments which were extinguished pursuant to the foregoing provision may be reallocated and assessed to all of the Units as a Common Expense. Any such sale or transfer pursuant to foreclosure does not relieve the purchaser or transferee of a Unit from liability for, nor the Unit from the lien of, any Assessments made thereafter.

#### **5.08 Enforcement of Lien.**

(a) The lien described in Paragraph 5.06 may be foreclosed in like manner as a mortgage on real estate containing a power of sale. In conjunction and simultaneously with publication of a notice of sale as described herein, the Association shall provide reasonable advance notice of its proposed action to foreclose to the Unit Owner and all lienholders of record of the affected Unit. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. The Association may sell a Unit on which it has a lien to the highest bidder at public auction in front of the courthouse of the county in which the Unit is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in such county, and, upon payment of the purchase money, the Association or any person conducting the sale for the Association is authorized to execute to the purchaser at said sale a deed to the Unit so purchased. The proceeds from any foreclosure sale shall be applied to (i) the costs and expenses of retaking, holding, storing and preparing the Unit for sale, (ii) making the sale, including a reasonable attorneys' fee for such services as may be necessary in the collection of the unpaid Assessments, and (iii) to the Assessments, including any late fees, interests or other charges due thereon.

(b) The lien granted herein to the Association shall be effective from and after the time that this Declaration has been recorded in the Probate Office and no further recordation to any claim of lien for Assessments shall be required.

(c) In addition to the lien rights and foreclosure rights specified herein, the Association may exercise all other rights and remedies available at law or in equity in the event any Unit Owner fails to pay Assessments when due or otherwise violates any of the terms and provisions of this Declaration. Any judgment rendered in such action shall include late charges, if any, interest on the unpaid amount due to the Association calculated at the Applicable Rate from and after the date on which such payment was due, together with attorneys' fees and expenses, court costs and all other costs and expenses paid or incurred by the Association in connection therewith, together with interest thereon at the Applicable Rate from and after any such costs and expenses were incurred or paid by the Association.



(d) The Association shall have the right and power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any Unit.

(e) In addition to the other rights and remedies set forth in this Declaration, in the event any Owner fails to pay any Assessments by the due date for the payment of such Assessments, then all voting rights of such Unit Owner under this Declaration or any of the other Condominium Documents shall be suspended (and such Owner shall not be counted in determining a quorum or the minimum number of Owners voting in any meeting of the Owners) until all Assessments due and owing by such Owner have been paid in full.

**5.09 Disposition of Common Surplus.** The Common Surplus shall appertain to the Units in proportion to the Allocated Interests appertaining to each Unit; or in the alternative, such Common Surplus or any portion thereof may be added to a reserve fund for maintenance, repair, and replacement of the Common Elements, at the sole discretion of the Association.

**5.10 Conveyance or Encumbrance of Common Elements or Limited Common Elements.** Portions of the Common Elements may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by a Declarant, agree to such action, but all of the Unit Owners to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest. Such conveyance or grant of a security interest must be made pursuant to Section 35-8A-312 of the Act.

## **ARTICLE VI**

### **The Association**

**6.01 Name.** The name of the Association responsible for the maintenance, repair, replacement, administration, and operation of the Property shall be Edenton Residential Condominium Association, Inc.

**6.02 Powers and Duties.** The Association shall have all the powers and duties set forth in the Act, as well as all the powers and duties granted to or imposed on it under the Condominium Documents as they may be amended from time to time. The Association is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other person or persons. The Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Condominium Property and further, shall have the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Property. The Board shall have the authority and duty to levy and enforce the collection of general and specific Assessments and is further authorized to provide adequate remedies for failure to pay such Assessments.

**6.03 Membership.** Each Unit Owner shall be a member of the Association so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases



to be a Unit Owner. The membership of a Unit Owner cannot be assigned or transferred in any manner except as an appurtenance to his Unit.

**6.04 Voting Rights.** Each Unit shall be entitled to one vote in the Association.

The vote for a Unit shall be cast by the Owner thereof in the manner provided for herein and in the Bylaws. However, should the Association be a Unit Owner, it shall not have the voting right for that Unit. In the event a Unit is owned by more than one (1) person, the vote for such Unit shall be cast in accordance with the Act. If a Unit is owned by a corporation, a limited liability company, partnership, or limited partnership, the individual entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Corporation (in the case of a corporation), or by the member or members (in the case of a limited liability company) or by the General Partner or Partners, if more than one (in the case of a partnership or limited partnership), which certificate shall be filed with the Secretary of the Association. If such a certificate is not on file with the Secretary of the Association for a Unit owned by more than one (1) person or by a corporation, limited liability company, partnership or limited partnership, the membership or vote of the Unit concerned may be cast in accordance with the Act. 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.

**6.05 Declarant's Right to Appoint Directors and Officers.**

(a) Notwithstanding anything provided in any of the Condominium Documents to the contrary, during the Declarant Control Period, Declarant will have the sole and exclusive right to appoint, remove and designate the officers and certain members of the Board as set forth in the Bylaws. As used herein, the term "Declarant Control Period" shall mean, subject to the provisions of Section 6.05(b) below, the period of time commencing as of the date of this Declaration and continuing until the earlier of either (i) 60 days after conveyance of seventy-five percent (75%) of all Units which may be created pursuant to this Declaration to Unit Owners other than Declarant; (ii) two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after any Development Right to add new Units was most recently exercised by Declarant.

(b) Notwithstanding anything provided to the contrary in Section 6.05(a) above, Declarant may, in its sole and absolute discretion, voluntarily surrender the right to appoint and remove officers and members of the Board prior to the termination of the Declarant Control Period; provided, however, that in such event, Declarant may require, in an instrument executed and recorded by Declarant in the Probate Office, that, for the duration of the Declarant Control Period, specific actions by or on behalf of the Association and Board be subject to the approval of Declarant prior to the same becoming effective.

**6.06 Indemnification.** Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees reasonably incurred by or imposed upon him in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by



reason of his or her being or having been a Director or officer of the Association, whether or not he or she is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

**6.07 Management by Declarant or Affiliates.** The Association shall have the right, at any time and from time to time, to enter into a contract or agreement with any Person to serve as the Managing Agent of the Association, which Managing Agent shall have the right to exercise any and all of the rights of the Association specified herein. Declarant or any Person affiliated with Declarant may be employed as the Managing Agent of the Association, at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable services.

**6.08 Availability of Records.** The Association shall keep financial records sufficiently detailed to enable the Association to comply with the Act. The Association shall make reasonably available in Shelby County, Alabama, for examination by Unit Owners, prospective purchasers, first Mortgagees and insurers of first Mortgagees of any Unit, or their authorized agents, current copies of the Declaration, Bylaws, any rules and regulations of the Association and other books, records, financial statements and the most recent annual financial statement of the Association. Reasonably available shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

## **ARTICLE VII**

### **Occupancy, Use, and Leasing Restrictions**

**7.01 Residential Use.** Unless a different use is designated for a Unit in the Plan, each Unit is hereby restricted to residential use and the parking spaces shall be used exclusively for the parking of passenger automobiles. The foregoing restrictions as to use shall not, however, be construed in such manner as to prohibit a Unit Owner from: (i) maintaining a personal or professional library in his or her Unit; (ii) keeping personal business or professional records or accounts therein; or (iii) handling personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customary and incidental to the principal residential use and shall not be deemed a violation of these restrictions.

**7.02 Use of Common Elements.** The Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, invitees, and licensees for parking, access, ingress to, and egress from their respective Units and for such other purposes incidental to use of the Units. The use, maintenance, and operation of the Common Elements shall not be obstructed, damaged, or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession, or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements. No Unit Owner or Occupant shall place, distribute, or maintain any sign, poster, or bill in any portion of the Common Elements outside his Unit without the approval of the Board of Directors.



**7.03 Nuisances.** No nuisances shall be allowed on the Condominium Property, nor any use or practice that is the source of unreasonable annoyance or that interferes with the peaceful possession and proper use of the Condominium Property by Unit Owners or occupants. No Owner shall permit anything to be done or kept in his Unit or in the Common Elements or Limited Common Elements which will result in any increase of fire or hazard insurance premiums or the cancellation of insurance on any part of the Condominium Property. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate nor any fire hazard allowed to exist.

**7.04 Lawful Use.** No offensive or unlawful use shall be made of the Condominium Property, nor 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 that 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.

**7.05 Leases.** Units may be leased by the Unit Owners; provided, however, that such lease and the rights of any tenant thereunder is 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.

**7.06 Rules and Regulations.**

(a) **Compliance.** Each Unit Owner and the Association shall be governed by and shall comply with the terms of the Condominium Documents and the rules and regulations applicable to the Condominium Property. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to an action for damages or injunctive relief, or both, in addition to other remedies provided in the Condominium Documents and the Condominium Act.

(b) **Enforcement.** The Association, through the Board of Directors, is hereby empowered to enforce the Condominium Documents and all rules and regulations of the Association by such means as are provided by the laws of the State of Alabama, including the imposition of reasonable fines from time to time as set forth in the Bylaws. In the event a Unit Owner fails to maintain his Unit in the manner required in the Condominium Documents and any rules and regulations of the Association, the Association, through the Board of Directors, shall have the right to assess the Unit Owner and the Unit for the sums necessary to do the work required to effect compliance and to collect, and enforce the collection of, a Special Assessment therefor as provided in this Declaration. In addition, the Association shall have the right, for itself and its employees and agents, to enter such Owner's Unit and perform the necessary work to effect compliance.

(c) **Negligence.** A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness or by that of his lessees, licensees, guests, invitees, employees, or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability



shall include any increase in fire and casualty insurance rates occasioned by the use, misuse, occupancy, or abandonment of a Unit, or of the Common Elements or of the Limited Common Elements. The liability for such increases in insurance rates shall equal five (5) times the first resulting increase in the annual premium rate for such insurance.

**(d) No Waiver of Rights.** The failure of the Association or any Unit Owner to enforce any covenant, restriction, or other provision of the Act, the Condominium Documents, or any rules and regulations adopted pursuant thereto shall not constitute a waiver of the right to do so.

## **ARTICLE VIII**

### **Easements**

The Association shall have the right to grant permits, licenses, and easements over the Common Elements for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Property. Each of the following easements is reserved to the Association for the benefit of its Members, their guests and lessees, is a covenant running with the land, may not be amended or revoked, and shall survive the termination of the Condominium:

**8.01. Utilities.** Each Unit shall have an easement as may be required for utility services needed to serve the Condominium Property adequately; provided, however, easements through a Unit shall be according to the plans and specifications for the Building or as the Building is actually constructed or reconstructed, unless otherwise approved in writing by the Unit Owner. The Board of Directors or its designee shall have a right of access to each Unit to inspect such Unit, to maintain, repair, or replace drainage facilities and the pipes, wires, ducts, vents, cables, conduits, and other facilities related to the providing of utility services, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any improvements interfering with or impairing the utility services, drainage facilities, and easements herein reserved; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency, entries shall not be made without prior notice to the Unit Owner.

**8.02. Ingress and Egress.** Each Unit shall have an easement for pedestrian traffic over, through, and across sidewalks, paths, walks, walkways and lanes, and like passageways, as the same may from time to time exist on the Common Elements; and for vehicular traffic over, through, and across such portions of the Common Elements as from time to time may be paved and intended for such purposes, but the same shall not give or create in any person the right to park on any portion of the Condominium Property not designated as a parking area. This easement shall be nonexclusive and shall include the right of ingress and egress.

**8.03. Drainage.** Each Unit shall have an easement as may be required to drain the Condominium Property adequately.

**8.04. Support.** Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and of necessity in favor of all other Units and the Common Elements.



**8.05. Parking.** Each Unit shall have an easement for parking in all designated parking areas whether part of the Common Area or Limited Common Area in favor of each Unit, Owner and their tenants, agents, servants, invitees, licensees, and all those of their tenants.

**8.06. Encroachments.** If any portion of the Common Elements encroaches upon any Unit or Limited Common Element, if any Unit encroaches upon any portion of the Common Elements or Limited Common Elements or if any portion of the Limited Common Elements encroaches upon any Common Elements or Units, then, in each case, Declarant does hereby establish and reserve reciprocal appurtenant easements for such encroachments between each Unit, adjacent Common Element and adjacent Limited Common Element, which easements shall be permanent, perpetual and reciprocal. Furthermore, following the reconstruction of any unit upon the occurrence of any fire or other casualty or any taking by act of eminent domain, minor encroachments upon the Limited Common Elements and Common Elements resulting from such reconstruction are permitted and permanent and perpetual easements for such encroachments are hereby granted and established.

**8.07 Reservation of Easements to Common Elements.** Declarant does hereby establish and reserve for itself, the Association and their respective successors and assigns a permanent, perpetual and non-exclusive easement over, across, through and upon all of the Common Elements for the purposes of (a) exercising any Special Declarant Rights, (b) making and constructing improvements to the Condominium and (c) for the purpose of doing all other things reasonably necessary or proper in connection with the development, construction, sale and leasing of units within the Condominium, including without limitation, construction, excavation, landscaping, terrain alteration, sloping and installation of any and all Utility Lines in connection with providing Utility Services to any portion of the Condominium Property.

**8.08 Grant of Easements to Association.** Declarant does hereby grant to the Association, its agents, employees, successors and assigns, a permanent and perpetual non-exclusive easement over, across, through and upon all portions of the Condominium, including all Units, the Common Elements and the Limited Common Elements, for the purposes of carrying out and performing any of its duties and obligations set forth in this Declaration.

**8.09 Right of Association to Grant Additional Easements.** The Association, acting through the Board of Directors, shall have the sole and exclusive right, power and authority to grant rights and easements in and to the Common Elements as the Board may, in its sole discretion, determine to be necessary or desirable.

## **ARTICLE IX**

### **Maintenance, Alteration, and Improvements**

**9.01 Maintenance by the Association.** The Association, as a Common Expense, shall maintain, repair, and replace all portions of the Common Elements and Limited Common Elements not the responsibility of a Unit Owner under the provisions of this **Article IX**. 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 Documents to have the approval of the Members of the Association; provided, however, 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.

#### **9.02 Maintenance by Unit Owners.**

Each Unit Owner shall maintain, repair, and replace his Unit and keep such Unit in good tenantable condition and repair, and such Limited Common Elements, if any, attached to such Unit, including:

(a) The fixtures and equipment in his Unit, including 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 between the Unit and any balcony, 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 any such system or a portion thereof is within another Unit, or requires access to another Unit, the repair, maintenance, or replacement thereof shall be performed by the Association, and the cost thereof shall constitute an Assessment against the Unit Owner responsible therefor.

(c) Party walls, the reasonable repair and maintenance of which shall be shared by the Unit Owners who make use of the wall in equal proportions.

**9.03 Alteration and Improvement.** Except for repairs and maintenance of the existing improvements, and except as permitted by the Development Rights and the Special Declarant Rights set forth in this Declaration after the completion of the improvements in accordance with the Plans, there shall be no alteration or further improvement of the Common Elements without the prior approval of not less than 66.6% percent of the Members. Any such alteration or improvement shall be financed and constructed in accordance with the provisions of the Bylaws.

**9.04 Unit Owner's Covenants.** Each Unit Owner agrees to the following, unless the said actions are permitted by the Declarant's Rights and the Special Declarant Rights set forth in this Declaration:

(a) To perform all maintenance, repairs, and replacements that are his obligation under this Declaration and the Act.

(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 pursuant to this Declaration, 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) To make no alterations, additions, improvements, decoration, repair, replacement, or change to the Common Elements, or to any outside or exterior portion of the building, 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 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.

(h) To reimburse the Association for any repairs or replacements which are made necessary because of abuse or negligent use by a Unit Owner of the Condominium Property, the cost of such repair or replacement may be assessed against such Unit Owner.

**9.05 Facade.** The Association shall determine the exterior color scheme of the Buildings and Common Elements and shall be responsible for the maintenance thereof, except as may be otherwise provided for herein. No Owner shall paint any such surface or add or replace anything thereon or affixed thereto without written consent of the Association.

## **ARTICLE X**

### **Insurance**

**10.01 Specified Insurance.** Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain insurance upon the Condominium Property to the extent reasonably available as provided for in the Act and this **Article X** (the "**Specified Insurance**").



**10.02 Location of Policies, Copies to Mortgagees.** The Association shall retain the original of all insurance policies for Specified Insurance in a place of safekeeping such as a safe or a safety deposit box and shall provide copies of such policies to Mortgagees requesting such copies.

**10.03 Notice of Change in Insurance Coverage.** No material adverse change (as such materiality is determined by the Board) in the Specified Insurance provisions, including changes in the amount of coverage, the risks covered, or endorsements or other changes in the coverage provisions, may be effected by the Association without written notice to the Mortgagee.

**10.04 Qualification of Insurance Company.** Each company issuing Specified Insurance must be specifically authorized by the laws of the State of Alabama to transact such business as is necessary to provide the Specified Insurance.

**10.05 Named Insured.** The named insured on all policies of Specified Insurance shall be the Association, and in the case of property damage insurance, the Association, as agent for all Unit Owners (without naming them) and their Mortgagees (without naming them), as their interests may appear.

**10.06 Coverage.**

(a) The Association shall maintain, to the extent reasonably available:

(i) Property and Casualty. The Association must obtain, maintain and pay, as a Common Expense, the premiums for property insurance on the Units, the Common Elements and the Limited Common Elements, insuring against all risks of direct physical loss commonly insured against, in an amount determined each year by the Board, but in no event, less than the full replacement value (i.e., all insurable improvements located on or constituting part of the Condominium, including fixtures and other permanent improvements to the Building, including all heating, ventilating and air conditioning units and other service machinery and equipment installed thereon), but specifically excluding: (A) the Property, foundation excavation and other items normally excluded from such insurance coverage; and (B) any and all appliances, furniture, wall coverings, improvements, additions, alterations and personal property supplied or installed by any Owner in their respective Units or Limited Common Elements. The amount of insurance coverage will be determined annually by the Board with the assistance of the insurance company providing such coverage.

(ii) Public Liability Insurance. The Board shall secure and maintain in effect a comprehensive general liability insurance policy covering loss or damage resulting from an occurrence on the Property, in such amounts as may be required by the Board, but not less than \$1,000,000, covering all claims for bodily injury or property damage, or both, arising out of a single occurrence. The coverage shall include protection against water damage liability and, if applicable, elevator collision, garagekeeper's liability, and such other risks as shall customarily be covered with respect to condominium buildings similar in construction, location, and use.





(iii) Fidelity Bonds. The Association may, if reasonably available, obtain, maintain and pay, as a Common Expense, the premiums for a fidelity bond to protect against the loss of money by dishonest acts on the part of all officers, directors and employees of the Association and all other persons handling, or responsible for funds of the Association or funds administered by the Association, including the Managing Agent. Such fidelity bonds shall name the Association as the obligee and shall not be less than the estimated maximum funds, including reserve funds, in the custody of the Association or the Managing Agent, as the case may be, at any given time during the term of each bond. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of “employees” or similar terms or expressions.

(iv) Flood Insurance. If any portion of the Property shall be deemed to be in a special flood plain area, as defined by the Federal Emergency Management Agency or other governmental agency, the Association shall, if reasonably available, obtain, maintain and pay, as a Common Expense, the premiums for a “master” or “blanket type” of flood insurance policy. The policy shall cover any Units, Common Elements or Limited Common Elements falling within the designated flood hazard area, shall be in an amount not less than one hundred percent (100%) of the current replacement cost of all buildings and other property covered under the required form or policy for the maximum coverage available under the National Insurance Act of 1968, as amended.

(v) Personnel Coverage. Should the Association employ personnel, all coverage required by applicable law, including workmen’s compensation, shall be obtained so as to meet the requirements of applicable law and the premiums for such insurance shall be deemed a Common Expense.

(vi) Other Insurance. The Association may obtain any other insurance coverage which the Board may, from time to time, deem appropriate to protect the Association and the Unit Owners, including, without limitation, “directors and officers” liability coverage.

(b) Each Specified Insurance policy shall provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of his Allocated Interest in Common Elements, membership in the Association and his or her ownership of a Unit;

(ii) The insurer waives any and all rights to claims, by way of subrogation, against Declarant, the Association, the Board of Directors, the Managing Agent, the Owners and Occupants;

(iii) No act or omission by any Owner or Occupant, unless acting within the scope of his authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and



(iv) The policy shall be primary, even if the Unit Owner or Occupant has other insurance that covers that same loss and further provide that the liability of the insured Owner shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of, any other insurance obtained by or for any Unit Owner or Occupant.

If the insurance described in this **Paragraph 10.06** is not reasonably available, the Association shall give notice of that fact to be hand delivered or sent prepared by United States Mail to all Unit Owners.

#### **10.07 Unit Owners' Individual Responsibilities.**

(a) A Unit Owner shall be liable for any claim, damage, or judgment entered as a result of the use or operation of his Unit caused by his own conduct. Each Unit Owner or its lessee shall be responsible for obtaining his own insurance on the contents of his own Unit and the contents of any Limited Common Elements serving his Unit, as well as additions and improvements thereto, decorations, furnishings, and personal property therein, and personal property stored elsewhere on the Property.

(b) Any Owner who obtains an individual insurance policy covering any portion of the Condominium Property other than personal property belonging to such Owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance. In the event casualty insurance maintained by an Owner causes a decrease in the amount of the insurance coverage maintained by the Association for the benefit of all Owners on a casualty loss to the Condominium Property by reason of proration or otherwise, the Owner so maintaining such insurance shall be deemed to have assigned to the Association the proceeds collected on such policy for loss or damage to the Condominium Property and such proceeds shall be paid directly to the Association by the insurer. Any such insurance proceeds shall be applied and distributed by the Association in accordance with this Article X.

**10.08 Premiums.** Premiums for insurance maintained by the Association shall be paid by the Association as a Common Expense. Should the Association fail to pay such premiums when due, or should the Association fail to comply with other insurance requirements of any Mortgagee of the Association, such Mortgagee shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance. To the extent of any money so advanced, the Mortgagee shall be subrogated to the Assessment and lien rights of the Association as against the individual Unit Owners for the payment of such item of Common Expense.

**10.09 Payment of Insurance Proceeds.** Any loss covered by property insurance obtained and maintained by the Association in accordance with the terms and provisions of this Declaration shall be adjusted by the Association and the insurance proceeds shall be payable to the Association and not to any Mortgagee or Owner. The Association shall hold any insurance proceeds in trust for the Owners and all lienholders (including Mortgagees) as their interests may appear. Subject to the provisions of Sections 10.10 and 10.11 below, the proceeds shall be disbursed for the repair or restoration of the damage to Common Elements, Limited Common



Elements and Units and Owners and lienholders (including Mortgagees) shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of funds after all Common Elements, Limited Common Elements and Units damaged or destroyed by any fire or other casualty have been completely repaired and restored or this Declaration is terminated.

#### **10.10 Obligation to Restore.**

(a) Any portion of the Condominium for which insurance is maintained hereunder or required to be maintained pursuant to any of the provisions of the Act must be repaired or replaced promptly by the Association unless:

(i) Within 60 days of such casualty, this Declaration is terminated in the manner provided in Section 14.02 below;

(ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(iii) Within 60 days of such casualty, at least eighty percent (80%) in interest of all Unit Owners vote not to rebuild.

(b) Subject to the terms and provisions of Sections 10.10(a) and 10.11 hereof, all insurance proceeds received by the Association as a result of any fire or casualty shall be used to repair and restore all portions of the Condominium damaged by such fire or casualty. All portions of the Condominium must be repaired and restored in accordance with either the original plans and specifications or any other plans and specifications which have been approved by the Board of Directors and the vote of at least fifty-one percent (51%) in interest of all Owners.

(c) The costs of repair or replacement of any of the Condominium in excess of insurance proceeds received by the Association and any reserves held by the Association shall be assessed according to Section 11.04 hereof. If, following the restoration of all portions of the Condominium which have been damaged or destroyed by fire or other casualty, the Association has insurance proceeds which have not been expended in such repair or restoration work, then the surplus insurance proceeds shall be distributed among all Owners or lienholders (including Mortgagees), as their respective interests appear, in proportion to their respective Allocated Interests.

#### **10.11 Distribution of Proceeds and Reallocation of Allocated Interests.**

(a) If, following any casualty, the entire Condominium is not repaired or replaced, then the insurance proceeds shall be used or distributed as follows:

(i) First, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged areas to 'a condition compatible with the remainder of the Condominium;

(ii) Second, the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt must be used first to pay for the costs and



expenses of placing such Units and Limited Common Elements in an aesthetically pleasing condition in harmony with the other portions of the Condominium and second, distributed to the Owners of those Units which are not rebuilt, or to their respective lienholders (including Mortgagees), as their interests may appear, and

(iii) The remainder of the proceeds must be distributed to all the Unit Owners or lienholders (including Mortgagees), as their interests may appear, in proportion to their respective Allocated Interests.

(b) Notwithstanding anything provided in this Section 10.11 to the contrary, the terms and provisions of § 35-8A-218 of the Act govern the distribution of insurance proceeds if the Condominium is terminated pursuant to Section 14.02 below.

(c) If any Unit is not rebuilt, then the Allocated Interest of such Unit not rebuilt shall be automatically reallocated to the remaining Units as if the Unit had been condemned under § 35-8A-107(a) of the Act and the Association shall promptly execute and record an amendment to the Declaration reflecting such reallocations, which amendment need not be consented to, approved or executed by any Owner or Mortgagee.

**10.12 Insurance Trustee.** Notwithstanding anything provided herein to the contrary, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom such Association may enter into an insurance trust agreement or any successor to such trustee (each of whom shall be referred to as an "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing property damage or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Unit Owner appoints the Association, or any Insurance Trustee or any substitute Insurance Trustee designated by the Association, as such Owner's attorney-in-fact for the purpose of purchasing and maintaining any insurance required to be maintained hereunder by the Association including, without limitation, the collection and appropriate distribution of all proceeds thereof, the negotiation of losses and execution of settlement and releases of liability, the execution of any and all documents and the performance of any and all other acts necessary or required to accomplish any of the foregoing purposes.

## **ARTICLE XI**

### **Damage and Destruction**

**11.01 Plans and Specifications.** Any reconstruction or repair following a casualty loss or condemnation must be sufficient to restore the Property to substantially the same condition in which it existed prior to the casualty or condemnation and must be made substantially in accordance with the plans and specifications of the original Buildings. In the alternative, reconstruction may be according to plans and specifications approved by the Board. If the damaged property includes part or all of a Building, approval of such plans and specifications shall be by the Unit Owners of all damaged Units and by all Mortgagees holding mortgages on the damaged Units. No approvals shall be unreasonably withheld.

**11.02 Responsibility.** If the damage is only to those parts of Units for which the responsibility of maintenance and repair is that of the respective Unit Owners, then those Unit



Owners shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

**11.03 Estimate of Costs.** When the Association shall have the responsibility of reconstruction or repair, prior to the commencement of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

**11.04 Assessments for Reconstruction and Repair.** If the proceeds of insurance are not sufficient to defray completely the estimated cost of reconstruction and repair by the Association, Special Assessments shall be levied against the Unit Owners who own damaged Units, and, in the case of damage to Common Elements, Assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs. Special Assessments against Unit Owners for damage to Units shall be in the proportion that the cost of reconstruction and repair of their respective Units bears to the total cost of such reconstruction and repair. An Assessment against a Unit Owner on account of damage to Common Elements shall be in proportion to the Unit Owner's share in the Common Elements. Special Assessments for reconstruction and repair may be collected, and the collection enforced, in the same manner as an Assessment.

## **ARTICLE XII**

### **Condemnation**

**12.01 Condemnation Considered a Casualty Loss.** The taking of a portion of a Unit, any Limited Common Elements allocated to a Unit or any of the Common Elements by eminent domain shall be deemed to be a casualty loss, and except as otherwise provided in Section 12.02 below, the award for any such takings shall be deemed to be proceeds from insurance on account of the casualty and shall be applied and distributed by the Association in accordance with the provisions of Article X above. Even though the award may be payable to one or more Owners, each Owner will deposit the award with the Association and, in the event of any failure to do so, in the discretion of the Board of Directors, an Assessment shall be made against a defaulting Owner in the amount of his or her award or the amount of such award shall be set off against the sums hereinafter made payable to such Owner. If any Unit or any Limited Common Elements allocated to a Unit or any portions thereof are made the subject of any condemnation or eminent domain proceedings or is otherwise sought to be acquired by a condemning authority, the Mortgagee of such Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition and no provision hereof shall entitle the Owner of such Unit or allocated Limited Common Element or any other party to priority over such Mortgagee with respect to the distribution of any award or settlement to the Owner of such Unit. Notwithstanding anything provided in this Declaration to the contrary, the taking, either in whole or in part, of any Unit or Limited Common Element shall not be deemed a transfer of any voting rights attributable to said Unit so taken and the voting rights in the Association attributable to any Unit so taken shall cease as of such taking.

**12.02 Partial Condemnation of Units.** In the event that the Condominium is not to be terminated and one or more Units are taken, in whole or in part, the taking shall have the following effects:



(a) If the taking reduces the size of a Unit but the remaining portion of that Unit can be made tenantable, then the award for the taking of a portion of such Unit shall be used for the following purposes in the order stated below and the following changes shall be effected in the Condominium:

(i) The Unit shall be made tenantable and if the cost of such restoration work (A) exceeds the amount of the award, the Owner of such Unit shall, on demand, provide to the Association the additional funds necessary to pay for such restoration and, if such additional funds are not timely deposited by such Owner with the Association, then the Association may levy against the Owner of the Unit an Individual Assessment equal to the amount of funds needed to complete such restoration or (B) is less than the amount of the award attributable to such Unit, the surplus funds shall be paid to such Unit Owner or lienholders (including Mortgagees), as their respective interests may appear; and

(ii) The Allocated Interest for such Unit shall not be changed as a result of such taking.

(b) If such taking destroys or so reduces the size of a Unit so that it may not be made tenantable, the award for the taking of such Unit shall be used for the following purposes in the order stated below and the following changes shall be effected in the Property:

(i) The condemnation award shall be utilized first to clear away the remainder of such Unit and any remaining Limited Common Elements attributable thereto in order to place the real property surrounding such Unit and any Limited Common Elements so taken in a good, safe and attractive condition and the remaining portions of such Unit and any Limited Common Elements thereto shall thereafter become part of the Common Elements;

(ii) The balance of such award shall thereafter be paid to the Owner of such Unit and to any lienholders (including Mortgagees) of such Unit, as their respective interests may appear, and

(iii) If any Unit is not rebuilt following any condemnation or any taking, then the Allocated Interest of such Unit not rebuilt shall be automatically reallocated in accordance with the terms and provisions of § 35-8A-107(a) of the Act and the Association shall promptly execute and record an amendment to the Declaration reflecting such reallocation.

### **12.03 Partial Condemnation of Common Elements and Limited Common Elements.**

(a) If part of the Common Elements is acquired by atiy taking, that portion of the award attributable to the Common Elements so taken must be paid to the Association and utilized as follows:



(i) First, the award attributable to the Common Elements so taken must be used to restore the damaged areas of the Common Elements to a condition compatible with the remainder of the Condominium; and

(ii) The remainder such award must be distributed to all of the Unit Owners or lienholders (including Mortgagees), as their interests may appear, in proportion to their respective Allocated Interests.

(b) Any portion of the award from any taking which is attributable to the acquisition of any Limited Common Elements must be equally divided among the Owners of the Units to which the Limited Common Elements so taken were allocated as of the time of such taking.

**12.04 Association Appointed as Attorney-In-Fact.** The Association is hereby appointed as attorney-in-fact for each Unit Owner and any and all Mortgagees for the purposes of attending, negotiating and otherwise entering into any settlement agreement arising with respect to any condemnation or eminent domain proceedings affecting any portion of the Condominium.

**12.05 Conflicts with Act.** In the event of any conflicts within the terms and provisions of this Article XII in the terms and provisions of the Act, then the terms and provisions of the Act shall at all times control.

### **ARTICLE XIII**

#### **Notice of Lien or Suit**

**13.01 Notice of Lien.** A Unit Owner shall give notice in writing to the Secretary of the Association of every lien on his Unit, other than liens for mortgages, taxes, and Special Assessments, within ten (10) days after he learns of the attaching of the lien.

**13.02 Notice of Suit.** A Unit Owner shall give notice in writing to the Secretary of the Association of every suit or other proceeding that may affect the title to his Unit, with such notice to be given within five (5) days after the Unit Owner obtains knowledge thereof.

**13.03 Failure to Comply.** Failure to comply with this section will not affect the validity of any judicial proceeding.

### **ARTICLE XIV**

#### **Amendment and Termination**

##### **14.01 Amendment.**

(a) Except as to those matters specified in § 35-8A-217(a) of the Act or as may be otherwise provided in this Declaration, this Declaration, including the Plans, may be amended only by the affirmative vote or agreement of at least sixty-seven percent (67%) in interest of the Owners. No action to challenge the validity of an amendment adopted by the



Association pursuant to § 35-8A-217 of the Act may be brought more than one (1) year after the amendment is recorded in the Probate Office.

(b) Except as to any modification or amendment executed by Declarant pursuant to any Special Declarant Rights or Sections 10.11, 12.02(b) and 12.06 hereof, the Allocated Interests shall not be modified or amended without the written consent of all the Owners and all of the Eligible Mortgage Holders.

(c) No amendment which purports to or does increase or otherwise modify the obligations imposed by the Declaration on Declarant or decrease, limit, or otherwise modify the rights granted by the Declaration to Declarant, including the Special Declarant Rights, shall be valid without the express written consent of Declarant.

(d) Notwithstanding anything provided to the contrary in this Declaration, the Articles of Incorporation or the Bylaws, the terms and provisions of this Declaration regarding what constitutes Limited Common Element Expenses may not be modified, amended or changed in any respect without the approval of at least (i) eighty percent (80%) in interest of all Unit Owners and (ii) eighty percent (80%) in interest of the Owners of the Second and Third Floor Units.

(e) Any amendment to the Declaration shall be effective upon recordation of the same in the Probate Office. Any amendments to the Declaration (other than any amendments resulting from the exercise of any of the Special Declarant Rights by Declarant or as otherwise provided in Sections 14.01(a) and 14.01(b) above) shall be prepared, executed, recorded and certified by any Vice President or the President of the Association.

#### **14.02 Termination.**

(a) This Declaration and the condominium form of ownership of the Condominium shall not be terminated except by agreement (an agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by at least eighty percent (80%) in interest of the Owners and the termination agreement must specify a date after which the agreement will be void, unless it is recorded before that date).

(b) Any termination agreement adopted pursuant to Section 14.02(a) above shall be effective when duly recorded in the Probate Office. Following the termination of this Declaration and the condominium form of ownership of the Condominium pursuant to the terms and provisions of Section 14.02(a) above, all Unit Owners shall own the Condominium and all assets of the Association as tenants in common in undivided shares, subject to the terms and provisions of § 35-8A-218 of the Act.

### **ARTICLE XV**

#### **Development Rights; Special Declarant Rights**

**15.01 Allocation of Limited Common Elements.** Declarant reserves the right to assign or not to assign some or all of the parking spaces, if any, shown on the Plans for the



exclusive use of certain Owners to whose Units such assigned parking spaces shall become appurtenant. Such allocation shall be made either on the Plans or pursuant to the Act by making an express allocation in the deed to the Unit to which such parking space shall be appurtenant or at any subsequent time in a separate instrument and by confirming such allocation by recording an appropriate amendment or amendments to this Declaration and/or to the Plan. Declarant reserves the rights set forth in this Section 15.01 until the fifteenth (15th) anniversary of the recordation of this Declaration.

**15.02 Use for Sales and Other Purposes.** Declarant expressly reserves for itself and its successors and assigns the right to use one or more Units owned by Declarant, or any of its successors or assigns, and any portion of the Common Elements for the maintenance of management, sales, resales, construction or rental offices or trailers and for the placement of portable toilet facilities thereon. Such management, sales, resales, construction and rental offices may be maintained in such number and size as may be determined by Declarant, in its sole discretion, and may be located and relocated in Units and/or in any improvements on the Common Elements as may be determined by Declarant. Declarant further reserves the right to maintain on the Common Elements advertising signs in any location or locations and from time to time to relocate and/or remove the same, all in the sole discretion of Declarant. Declarant reserves the rights set forth in this Section 15.02 until the fifteenth (15th) anniversary of the recordation of this Declaration.

**15.03 Appointment of Officers and Directors.** As set forth in this Declaration and in the Bylaws, Declarant reserves the right to appoint or remove any officer of the Association and certain members of the Board during the Declarant Control Period.

**15.04 Other Special Declarant Rights.** In addition to the rights reserved in Sections 15.01, 15.02 and 15.03, Declarant reserves the right, until the fifteenth (15th) anniversary of the recordation of this Declaration, in compliance with the Act, and without the consent of any Owner or Mortgagee, to:

(a) Use the easements through the Common Elements described in Article VIII for the purpose of making improvements within the Condominium;

(b) Make the Condominium part of another condominium;

(c) Make the Condominium subject to a master association;

(d) Exercise, in the manner described in § 35-8A-210 of the Act:

(i) the right to add real estate to the Condominium; and

(ii) the right to expand the Condominium to create additional Units, Common Elements and Limited Common Elements in the location shown as "Need Not Be Built" on the Plans.

(e) Exercise, in the manner described in § 35-8A-210 of the Act:



(i) the right to subdivide and re-subdivide Units or convert Units into Common Elements; and

(ii) the right to withdraw from the Condominium any of the real estate described on Exhibit A.

(f) Subdivide or convert a Unit previously created into additional Units or different types of Units or additional Common Elements or Limited Common Elements.

(g) The right to construct under or above-ground Utility Lines, pipes, wires ducts, conduits and other facilities on the Condominium Property for the purpose of furnishing utility and other services to Buildings and Improvements to be constructed on the land designated "Need Not Be Built" on the plans. The Declarant also reserves the right to withdraw and grant easements to public utility companies and to convey improvements within those easements anywhere in the Condominium not occupied by Buildings for the above-mentioned purposes.

**15.05 Permanent Access and Utility Easement.** Declarant reserves unto itself, its successors and assigns, a permanent, perpetual and non-exclusive blanket easement over, across, through, upon and under the Common Elements to perform warranty work, repairs and construction work, and to store materials in secure areas, in Units owned by Declarant and in Common Elements and for the construction, operation and maintenance, repair and replacement thereon of Utility Lines (including connection rights to any existing Utility Lines situated on the Property). The Declarant further reserves such easement for the purpose of exercising Special Declarant Rights or Development Rights, whether arising under the Act or reserved in this Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities and other governmental authorities.

**15.06 Exercise of Special Declarant Rights.**

(a) The rights established and reserved pursuant to this Article XV are collectively referred to as "Development Rights" or "Special Declarant Rights" and may be exercised at any time and from time to time by Declarant and its successors and assigns, subject to the limitations set forth in Section 15.04 above. To the extent Declarant exercises any of the Special Declarant Rights which result in a change in the number of Units, different types of Units, a change in the Common Elements or Limited Common Elements, a change in the Plans or a change in the Allocated Interest for any Unit, then Declarant shall have the right to amend this Declaration to reflect any of the foregoing without any requirement that the consent or approval of any Unit Owner or Mortgagee be obtained. Any and all costs and expenses of amending the Declaration pursuant to the terms and provisions of this Section 15.06 shall be paid for by Declarant.

(b) No assurance is made concerning whether or not any Unit will be or will not be changed by the Declarant nor is any assurance made concerning the nature, character, or quality of said change. The exercise by the Declarant of the Development Rights or Special Declarant Rights to change a Unit does not obligate the Declarant to exercise said right in any other Unit or in all of the other Units in the Condominium.



(c) All Units, Common Elements and Limited Common Elements created pursuant to the exercise of Development Rights or Special Declarant Rights will be restricted to use in the same manner and to the same extent as the Units, Common Elements and Limited Common Elements created in the initial phase of the Condominium. No assurances are made regarding: (i) the general descriptions of any buildings or other improvements that may be created; (ii) any limitations on the location of any building or other improvements that may be made; (iii) any Limited Common Elements that may be created; (iv) whether any Limited Common Elements will be of the same general types and sizes as the Limited Common Elements within any other part of the Condominium; and (v) that the proportion of Limited Common Elements to Units that may be created will be equal to the proportion existing within other parts of the Condominium.

(d) No assurances are made by the Declarant regarding the portions of the areas shown as "Need Not Be Built" on the Plans as to the portions where the Declarant will exercise its Development Rights or Special Declarant Rights or the order in which such portions, or all of the areas, will be developed. The exercise of Development Rights or Special Declarant Rights as to some portions will not obligate the Declarant to exercise them as to other portions.

## **ARTICLE XVI**

### **Miscellaneous**

**16.01 Intent.** It is the intent of the Declarant to create a condominium pursuant to the Act. In the event that the condominium created by this Declaration shall fail in any respect to comply with the Act, then the common law as the same exists on the filing date of this Declaration shall control, and the condominium hereby created shall be governed in accordance with the several laws of the State of Alabama, the Bylaws, the Articles, and all other instruments and exhibits attached to or made a part of this Declaration.

**16.02 Covenants, Conditions, and Restrictions.** All provisions of the Condominium Documents shall, to the extent applicable and unless otherwise expressly therein provided to the contrary, be perpetual and be construed to be covenants running with the Parcel and with every part thereof and interest therein; and all of the provisions of the Condominium Documents shall be binding on and inure to the benefit of any owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors, and assigns, but said provisions are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All Unit Owners and Occupants shall be subject to and shall comply with the provisions of the Condominium Documents and any rules and regulations promulgated thereunder.

**16.03 Severability.** The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase, word, or other provision of this Declaration, the Articles, the Bylaws, any rules and regulations of the Association promulgated pursuant thereto, and any exhibits attached hereto, as the same may be amended from time to time, or the Act, or the invalidity in whole or in part of the application of any such covenant, restriction, paragraph, subparagraph, sentence, clause, phrase, word, or other provision shall not affect the remaining portions thereof.



**16.04 Taxation of Condominium Units.** If there is any Unit Owner other than Declarant, each Unit, together with its interest in the Common Elements and any applicable Common Elements constitutes a separate parcel of real estate. For the purpose of ad valorem taxation, the interest of a Unit Owner in his Unit and in the Common Elements shall be inseparable. In any year in which either or both of such interests are not taxes separately to a Unit Owner, the total value of said interests shall be equal to the product obtained by multiplying the entire value of the Condominium Property for purposes of ad valorem taxation by the decimal equivalent of the share of the Common Elements appurtenant to such Unit. No provision in this Declaration shall be construed as giving any Unit Owner the right of contribution or any right of adjustment against any other Unit Owner on account of any deviation by the taxing authorities from the valuation herein prescribed; each Unit Owner being required to pay ad valorem taxes and special assessments as are separately assessed by governmental authorities against his Condominium Parcel.

**16.05 Notice.** The following provisions shall govern the construction of the Condominium Documents, except as may be specifically provided to the contrary herein:

(a) All notices required or desired under the Condominium Documents to be sent to the Association shall be sent certified mail, return receipt requested, to the Secretary of the Association, care of McKay Management, One Riverchase Parkway, Suite 200, Birmingham, Alabama 35244, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners.

(b) Except as provided specifically to the contrary in the Act, all notices to any Unit Owner shall be delivered in person or sent by first-class mail to the address of such Unit Owner at the Condominium, or to such other address as he may have designated from time to time, in a writing duly receipted for, to the Association.

(c) Proof of such mailing or personal delivery to him by the Association may be provided by the affidavit of the person personally delivering said notice or by a post office certificate of mailing. All notices to the Association or a Unit Owner shall be deemed to have been given when delivered to the addressee in person in accordance with the provisions of this Declaration or when mailed in a postage-paid, sealed envelope, except notices of address changes, which shall be deemed to have been given when received.

**16.06 Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by the Condominium Documents or any rules and regulations adopted pursuant to such documents, such dispute or litigation shall be governed by the laws of the State of Alabama.

**16.07 Waiver.** No provisions contained in the Condominium Documents shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

**16.08 Ratification.** Each Unit Owner, by reason of having acquired ownership of his Unit, whether by purchase, gift, operation of law, or otherwise, shall be deemed to have



acknowledged and agreed that all the provisions of the Condominium Documents and any rules and regulations promulgated thereunder are fair and reasonable in all material respects.

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

**16.10 Assignment.** All rights in favor of the Declarant reserved in this Declaration are freely assignable in whole or in part by the Declarant and may be exercised by any nominee of the Declarant and/or exercised by the successors in interest of the Declarant.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Condominium this 20 day of April, 2007.

**DECLARANT:**

**CAHABA BEACH INVESTMENTS, LLC,**  
an Alabama limited liability company

By: \_\_\_\_\_

Its: Member

STATE OF ALABAMA     )  
COUNTY OF SHELBY    )

I, Loretta Lynne White, a Notary Public, in and for said County in said State, hereby certify that Jonathan Belcher, whose name as Member of CAHABA BEACH INVESTMENTS, LLC, an Alabama limited liability company, 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, \_\_\_\_\_ as such \_\_\_\_\_ and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 20<sup>th</sup> day of April, 2007.

Loretta Lynne White  
Notary Public

My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Apr 13, 2010  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

[NOTARIAL SEAL]





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 Shelby Cnty Judge of Probate, AL  
 04/20/2007 02:30:46PM FILED/CERT

**CONSENT BY MORTGAGEE**

Compass Bank, a banking corporation organized under the laws of the State of Alabama, does hereby consent to the submission of the real property described in **Exhibit A** to this Declaration of Condominium of Edenton, A Condominium (the "Declaration") to the Alabama Uniform Condominium Act of 1991 and does hereby consent to the establishment of the Condominium regime contained in the foregoing Declaration for Edenton, A Condominium.

Acknowledged and Agreed this 19<sup>th</sup> day of April, 2007.

COMPASS BANK

By: Paris Lindsey  
 Its: Vice President

STATE OF ALABAMA )  
 COUNTY OF Jefferson )

I, April C Price, a Notary Public, in and for said County in said State, hereby certify that Paris Lindsey, whose name as Vice President of COMPASS BANK, an Alabama state banking association, 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, \_\_\_\_\_ as such \_\_\_\_\_ and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this the 19<sup>th</sup> day of April, 2007.

April C Price  
 Notary Public  
 My Commission Expires: 11/26/07

[NOTARIAL SEAL]



**EXHIBIT A  
TO DECLARATION OF CONDOMINIUM**

**Description of Parcel**

Parcel 1:

A parcel of land being the Southeast 1/4 of the Southeast 1/4 of Section 25, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast Corner of the Southeast 1/4 of the Southeast 1/4 of said Section 25; thence West, along the South line of said 1/4 – 1/4 Section, a distance of 1314.65 feet to the Southwest corner of said 1/4-1/4 Section; then 87 deg. 44 min. 56 sec. right, in a Northerly direction and along the West line of said 1/4-1/4 Section, a distance of 1315.03 feet to the Northwest corner of said 1/4-1/4 Section; thence 92 deg. 05 min. 18 sec. right, in an Easterly direction and along the North line of said 1/4-1/4 Section, a distance of 1317.26 feet to the Northeast corner of said 1/4-1/4 Section; then 88 deg. 01 min. 52 sec. right, in a Southerly direction and along the East line of said 1/4-1/4 Section, a distance of 1318.67 feet to the Point of Beginning, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Mineral and mining rights excepted.

Less and except that portion lying within a public road right of way.

Parcel 2:

Beneficial rights to use of non-exclusive easement obtained by Easement Agreement dated October 14, 2005 as set out by instrument recorded in Inst. #20051024000550530 in the Probate Office of Shelby County, Alabama, more particularly described as follows: A parcel of land situated in the Northeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama and run in a westerly direction along the North line of said 1/4 section thereof a distance of 110.77 feet; thence run in a southeasterly direction for a distance of 160.15 feet, more or less, to a point on the East line of said 1/4 section, said point being 115.67 feet South of the Northeast Corner of said Northeast 1/4; thence run in a northerly direction along the East line of said 1/4 section for a distance of 115.67 feet to the point of beginning, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.



**EXHIBIT B  
TO DECLARATION OF CONDOMINIUM**

**Copy of Bylaws of the Association**

**BYLAWS  
OF  
EDENTON RESIDENTIAL OWNERS' ASSOCIATION, INC.**

**ARTICLE I**

**THE ASSOCIATION**

**Section 1.01     Name.** The name of the Association shall be the "Edenton Residential Owners' Association, Inc.," an Alabama nonprofit corporation (the "Association"), which has been formed pursuant to the Articles of Incorporation of the Association (the "Articles") which have been filed with the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"). The provisions of these Bylaws are expressly subject to the terms and provisions of the Declaration of Edenton, A Condominium, dated as of \_\_\_\_\_, 2007, which has been or will be recorded in the Probate Office (which, together with all subsequent amendments thereto, is hereinafter referred to as the "Declaration"). *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.*

**Section 1.02     Principal Office.** The principal office of the Association in the State of Alabama shall be located at **3545 Market Street, Birmingham, AL 35226**. The Association may have such other offices, either within or without the State of Alabama, as the Board may designate from time to time.

**Section 1.03     Registered Office.** The registered office of the Association required by the Alabama Nonprofit Corporation Act to be maintained in the State of Alabama shall be the same as the principal office of the Association.

**ARTICLE II**

**MEMBERS**

**Section 2.01     Membership.** Each Person who is a Unit Owner shall be a member of the Association. Cahaba Beach Investments, LLC, an Alabama limited liability company (as referred to in these Bylaws, the "Declarant"), shall be deemed a member of the Association, and subject to the limitations set forth in Section 3.03(b), Section 3.3(c), and Section 3.03(e) below, shall have all voting rights attributable to each Unit owned by Declarant. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. As used in these Bylaws, "Member" shall mean a Unit Owner, as defined in the Declaration. Notwithstanding anything provided herein or in the Articles to the contrary, during the Declarant Control Period, Declarant shall have the sole and exclusive right to appoint and remove certain members of the Board in accordance with the terms and provisions of Section 3.03(a) below. The voting rights of any Member who has violated the Declaration or who is in default in the payment of any Assessment may be limited and suspended in accordance with the provisions of the Declaration or these Bylaws. Any Member whose voting rights in the Association have been suspended shall not, during the period of such suspension, be (a) entitled to vote on any matters submitted to the Members for approval hereunder or under the Declaration or Articles, or (b) counted in determining whether a quorum exists for any meeting of the Members or in determining whether the requisite number of Members have voted on any matter submitted to the Members in a ballot vote pursuant to Section 2.09 below.

**Section 2.02     Annual Meeting.** The annual meeting of the Members of the Association shall be held annually on such date and at such time during either the first quarter or fourth quarter of each calendar year as shall be established from time to time by the Board. If the day fixed for the annual meeting shall be a legal holiday, such meeting shall be held on the next succeeding business day. At each annual meeting, the Members of the Association



shall, subject to the terms of Section 3.03 of these Bylaws, elect the Board of Directors and otherwise transact such other business as may come before such meeting.

**Section 2.03      Special Meetings.** Subject to the provisions of Section 2.09 below, special meetings of Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or a majority of the Board of Directors and shall be called by the President or Secretary of the Association upon the petition of at least twenty percent (20%) or more of the total votes in the Association. As used herein, the term "total votes in the Association" shall mean and refer to the total number of votes of all Members entitled to vote on any matter determined pursuant to the respective Allocated Interests of the Members.

**Section 2.04      Place of Meeting.** Subject to the provisions of Section 2.09 below, the Board may designate any place, either within or without the State of Alabama, as the place of meeting for any annual or special meeting. In the absence of any designation, all meetings shall be held at the principal office of the Association in the State of Alabama.

**Section 2.05      Notice of Meeting.** Subject to the provisions of Section 2.09 below, written or printed notice (or wireless transmission via facsimile or electronic mail to the extent any Member has, by written notice to the Association, requested that all notices to such Member be provided by either of the foregoing forms of wireless transmission) stating the place, day and hour of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove an officer or a member of the Board, shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail (or by wireless transmission via facsimile or electronic mail to the extent any Member has, by written notice to the Association, requested that all notices to such Member be provided by either of the foregoing forms of wireless transmission).

**Section 2.06      Quorum.** Subject to the provisions of Section 2.09, Section 2.10 and Section 5.08 below, with respect to the annual or any special meeting of the Members of the Association, a quorum shall be deemed to exist if Members of the Association entitled to cast at least twenty percent (20%) of the total votes in the Association are present, in person or by proxy, at the beginning of such meeting. At such time that a quorum is obtained, the vote of a majority in interest of the Members who are voting, in person or by proxy, at such meeting shall be required to approve any matter submitted to the Members of the Association for approval. The Members present at a duly organized meeting may continue to transaction business until adjournment, notwithstanding the withdrawal of Members thereby leaving less than a quorum.

**Section 2.07      Proxies.** At all meetings of the Members of the Association and in all ballot votes of the Members of the Association held pursuant to Section 2.09 below, a Member may vote either in person or by proxy executed in writing by the Member or by his or her duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting or at the time of any ballot vote held pursuant to Section 2.09 below. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

**Section 2.08      Voting by Members.**

(a) Subject to the provisions of this Section 2.08 and Sections 2.10 and 3.03 below, each Member of the Association shall be entitled to one vote. No fractional voting shall be permitted. If a Residential Unit is owned by more than one Person and if only one of those Persons is present at a meeting of the Association, that Person shall be entitled to cast the vote appertaining to such Residential Unit; provided, however, that if more than one of those Persons is present, the vote appertaining thereto shall be cast only in accordance with their unanimous agreement, and, if no unanimous agreement is reached, the vote appurtenant to such Unit shall be suspended and shall not be counted in any vote held at a meeting of the Members or in any ballot vote held pursuant to the provisions of Section 2.09 below; provided, however, that (i) such Member shall be counted for the purposes of determining whether a quorum exists for the holding of any meeting of Members, and (ii) if in a ballot vote, a ballot is submitted to the Association, but not signed by all Persons who constitute Unit Owners, then such Unit shall be counted in determining whether the minimum number of votes in the Association have been cast in such ballot vote although such ballot shall not be counted as being cast either in favor of or against any proposal submitted to the Members for a vote in a ballot vote.



(b) For purposes of these Bylaws and the Articles, the vote of a “majority” of the Members of the Association shall mean the vote, whether in person or by proxy, of at least fifty-one percent (51%) of the total number of votes entitled to vote on a matter which are voted either (i) at a duly constituted annual or special meeting of the Members (*i.e.* an annual or special meeting at which a quorum is present) or (ii) in a ballot vote held in accordance with the terms and provisions of Section 2.09 hereof; provided, however, that any Member whose voting rights in the Association or under the Declaration are then currently suspended shall not be entitled to vote on any matters and shall not be included in any determination as to whether a quorum exists or the minimum number of votes are cast in a ballot vote. Unless a greater proportion is specified in these Bylaws or the Articles and, subject to the terms and provisions of this Section 2.08 and Sections 2.10 and 3.03 of these Bylaws, any matter which requires a vote of, approval, disapproval or consent of the Members of the Association shall be deemed to have been given if a “majority” of the votes represented at a duly constituted meeting or in a ballot vote held in accordance with the terms and provisions of Section 2.09 below, either in person or by proxy, affirmatively vote for, approve, disapprove or consent to the same. There shall be no cumulative voting by the Members.

(c) Notwithstanding anything provided in these Bylaws or the Articles to the contrary, any amendments to the Declaration (including, without limitation, the termination of the Declaration) must be voted on and approved by the requisite number of Members as set forth in the Declaration.

**Section 2.09      Ballot Voting in Lieu of Meetings.**

(a) Any matter which is required or permitted to be approved by the Members of the Association pursuant to these Bylaws or the Articles, including without limitation, amendments to the Articles and these Bylaws which require any consent or approval of the Members, the election and removal of members of the Board, the approval of the annual budget for the Common Expenses of the Association and the approval of any special assessments, may be submitted to the Members of the Association by a ballot vote, without any requirement that either an annual or special meeting of the Members of the Association be held, subject to the satisfaction of the following terms and conditions:

(i) Any matters submitted to the Members for approval pursuant to a ballot vote shall (1) be set forth on a ballot, the form of which must be approved by the Board, (2) subject to the provisions of Section 2.10 below, be mailed to all Members of the Association entitled to vote thereon (utilizing the notice provisions set forth in Section 5.10 hereof) not less than ten (10) nor more than sixty (60) days before the date such ballots shall be counted by the Board and (3) specify that all such ballots must be returned to and received by the Association no later than 12:00 p.m. on the date specified on such ballot as the date on which the ballots will be counted by the Board; and

(ii) Any matter submitted to the Members for approval by ballot vote shall be deemed approved only if (1) ballots are cast by at least twenty percent (20%) in interest by those Members entitled to vote on such matters (regardless of whether such ballots are cast for or against such matter) and (2) at least fifty-one percent (51%) of the total number of votes cast in such ballot vote approve such matter.

(b) The ballot voting procedures set forth above may be utilized in lieu of the holding of any annual or special meeting of the Members of the Association.

**Section 2.10      Suspension of Voting Rights.** Any Member who has not timely paid any Assessment due to the Association pursuant to any of the provisions of the Declaration (following the giving of any required notices and the expiration of any applicable cure periods) shall not be entitled to vote on any matters submitted to the Members for a vote, shall not be included in determining whether a quorum exists or whether the requisite number of Members have voted in a ballot vote and shall not be considered in good standing (and thereby will not be eligible to be nominated or serve as a Director of the Association).

**Section 2.11      Order of Business.** The order of business at all meetings of the Members, so far as practical shall be:



- (a) Calling the Roll and Certifying Proxies;
- (b) Proof of Notice of Meeting and Waiver(s) of Notice;
- (c) Reading and disposal of any unapproved Minutes;
- (d) Reports of Officers;
- (e) Reports of Committees;
- (f) Reports of Inspectors for Elections (when so required);
- (g) Election of Directors (when so required);
- (h) Unfinished Business;
- (i) New Business; and
- (j) Adjournment.

### ARTICLE III

#### **BOARD OF DIRECTORS**

**Section 3.01     General Powers.** The business and affairs of the Association shall be managed by or under the direction of the Board of Directors (individually a “Director” and collectively, the “Directors”). The Board shall have all of the powers and duties necessary for the administration of the business and affairs of the Association and may do all acts and things for and on behalf of the Association as may be authorized or allowed under these Bylaws, the Articles, the Declaration, the Act or otherwise by law. Except as otherwise expressly provided to the contrary in these Bylaws, the Declaration or the Act, all actions and powers of the Association shall be taken and exercised solely by the Board.

#### **Section 3.02     Number, Qualifications and Nominations.**

(a) The number of Directors of the Board initially shall be three (3). At such time as twenty-five percent (25%) of all Units which may be created pursuant to the Declaration (including any Units which Declarant may elect, but without obligation to do so, pursuant to the exercise of the Special Declarant Rights, to construct) have been conveyed to Unit Owners other than the Declarant (the “25% Conveyance”), the number of Directors of the Board shall increase to four (4). At such time as fifty percent (50%) of all Units which may be created pursuant to the Declaration (including any Units which Declarant may elect, but without obligation to do so, pursuant to the exercise of the Special Declarant Rights, to construct) have been conveyed to Unit Owners other than the Declarant (the “50% Conveyance”), the number of Directors of the Board shall increase to five (5). From and after the expiration of the Declarant Control Period, the number of Directors of the Board shall be five (5). Each Director shall hold office until his or her successor shall have been elected and qualified.

(b) During the Declarant Control Period, Declarant shall have the sole and exclusive right to appoint, remove and designate all officers of the Association and all members of the Board, except as follows:

(i) No later than ninety (90) days after the occurrence of the 25% Conveyance, at least one member of the Board and not less than twenty-five percent (25%) of the members of the Board must be elected by the Residential Unit Owners other than Declarant; and

(ii) No later than ninety (90) days after the occurrence of the 50% Conveyance, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board must be elected by Unit Owners other than Declarant.

For the purposes of this Section 3.02(b) the references above to the conveyance of twenty-five percent (25%) and fifty percent (50%) of all Units are references to the total number of Units within the Condominium without regard to the Allocated Interest of the Units.

(c) Notwithstanding anything provided to the contrary in Section 3.02(b) above, Declarant may, in its sole and absolute discretion, voluntarily surrender the right to appoint and remove officers and members of the Board prior to the termination of the Declarant Control Period; provided, however, that in such event, Declarant may require, in an instrument executed recorded by Declarant in the Probate Office, that for the duration



of the Declarant Control Period, specific actions by or on behalf of the Association and Board are subject to the approval of Declarant prior to the same becoming effective.

(d) Following the expiration of the Declarant Control Period, all members of the Board shall be elected by the Unit Owners (including Declarant, to the extent the Declarant is the owner of any Unit).

(e) Directors appointed by the Declarant need not be residents of the State of Alabama or Members of the Association. Directors elected by the Members must, subject to the provisions of Section 35-8A-303(f) of the Act, be either (i) Members or spouses of Members who are in good standing with the Association and not subject to any suspended membership status pursuant to Section 2.10 above or (ii) any agent, employee, trustee, beneficiary, officer, director, shareholder, partner, member or manager of any Member or (iii) Declarant or any of its officers, agents, managers, members, shareholders or directors.

(f) At any and all times that any members of the Board are to be elected by the vote of the Members, the then existing members of the Board shall appoint a nominating committee consisting only of Members of the Association. At least ten (10) days prior to any meeting of the Members (or any ballot vote held in lieu of any meeting), the nominating committee shall provide written notice to all Members identifying those candidates who have been nominated for any positions on the Board which will be filled by the vote of the Members. The number of candidates proposed to fill upcoming vacancies on the Board shall be determined by the nominating committee.

(g) At each meeting of the Members (or any ballot vote held in lieu of any such meeting) at which the Members are to elect any Directors, the Members will have the right to nominate from the floor (or write-in on any ballot) the name(s) of any Member(s) not nominated by the nominating committee as a candidate for any position on the Board which will be vacated and filled by the vote of the Members at such meeting (or any ballot vote held in lieu of any such meeting).

### **Section 3.03 Election, Tenure, Removal, and Replacement of Directors.**

(a) Subject to the provisions of Section 3.02(b) above, prior to the expiration of the Declarant Control Period, Declarant shall have the sole and exclusive right to appoint and remove, with or without cause, three (3) members of the Board. Each member of the Board appointed by Declarant shall serve an initial term of one (1) year; provided, however, that Declarant may, in its sole discretion, remove any member of the Board of Directors approved by Declarant at any time, with or without cause, upon written notice to such member of the Board of Directors. In the event of the death or resignation of a member of the Board appointed by Declarant, Declarant shall appoint a substitute member of the Board to fill the vacancy of such deceased or resigned member of the Board for the remainder of the term of such member of the Board.

(b) Not later than 90 days after the occurrence of the 25% Conveyance, the number of Directors shall increase to four and the President shall call for an election by which the Members, other than Declarant, shall be entitled to elect one (1) additional Director as the fourth member of the Board. The remaining three (3) Directors shall be appointed (and may be removed at any time) by Declarant. The Director elected by the Members pursuant to this Section 3.03 (b), shall not be subject to removal by Declarant and shall be elected for a term of two (2) years or until the expiration of the Declarant Control Period, whichever is shorter; provided, however, that all Directors shall serve until such time as their respective successors have been duly elected.

(c) Not later than 90 days after the occurrence of the 50% Conveyance, the number of Directors shall increase to five and the President shall call for an election by which the Members, other than Declarant, shall be entitled to elect one (1) additional Director as the fifth member of the Board. The remaining three (3) Directors shall be appointed (and may be removed at any time) by Declarant. The Directors elected by the Members pursuant to this Section 3.03(c), shall not be subject to removal by Declarant and shall each be elected for a term of two (2) years or until the expiration of the Declarant Control Period, whichever is shorter; provided, however, that all Directors shall serve until such time as their respective successors have been duly elected.



(d) Upon the expiration of Declarant Control Period, the President shall call for an election by which the Members, including Declarant to the extent Declarant owns any Unit, shall be entitled to elect all five (5) Directors. At the first meeting (or ballot vote) of the Members of the Association following the expiration of the Declarant Control Period, the Members shall elect five (5) Members of the Board to serve the following terms: two (2) candidates shall serve three (3) year terms on the Board, two (2) candidates shall serve two (2) year terms on the Board and one (1) candidate shall serve a one (1) year term on the Board. Such candidates shall be nominated pursuant to the provisions of Section 3.02(f) above and shall be elected for the following terms: (i) the two (2) candidates receiving the first and second highest number of votes shall each be elected to three (3) year terms, (ii) the next two (2) candidates receiving the third and fourth highest number of votes shall each be elected to two (2) year terms and (iii) the next candidate receiving the fifth highest number of votes shall be elected to a one (1) year term. All such elected members of the Board shall serve until such time as their respective successors have been duly elected. At each subsequent annual meeting of the Members (or any ballot vote held in lieu of any annual meeting) following the expiration of the Declarant Control Period, the Members shall elect Directors for terms of three (3) years each to fill the position of any expired terms of any Director. Following the expiration of the Declarant Control Period, at least a majority of the Directors must be Unit Owners (or spouses of Owners), other than Declarant, and no Person may be elected to serve as a Director for more than three (3) consecutive terms (regardless of the length of such consecutive terms).

(e) At any annual or special meeting of the Members duly called at which a quorum is present, any one or more of the Directors, other than Directors appointed by Declarant, may be removed with or without cause by the vote of at least two-thirds (2/3rds) in interest of the votes of the Members who are present either in person or by proxy and entitled to vote at such meeting, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given at least ten (10) days notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at such meeting.

(f) In the event of the death or resignation of a member of the Board, other than a Director appointed by a Declarant, then the remaining members of the Board shall cause a special meeting (or a ballot vote) to be held as soon as possible thereafter at which time the Members who are entitled to vote shall elect, pursuant to the terms and provisions of either Section 3.02(b) or Section 3.03(d) above, as applicable, a suitable Director to fill the vacancy of such deceased or resigned Director who shall serve for the remainder of the term of such former member of the Board. In the event of death or resignation of a member of the Board appointed by Declarant, then Declarant shall appoint a substitute Director to fill the vacancy of such deceased or resigned member of the Board who shall serve for the remainder of the term of such former member of the Board.

**Section 3.04 Regular Meetings.** A regular meeting of the Board shall be held, without further notice immediately after, and at the same place as, the annual meeting of the Members of the Association; provided, however, that any such annual meeting of the Board may be held at any other time or place as determined by a majority of the members of the Board. The Board may provide, by resolution, the time and place, either within or without the State of Alabama, for the holding of regular meetings without further notice.

**Section 3.05 Special Meetings.** Special meetings of the Board may be called by or at the request of the President or any two (2) Directors. The Person or Persons authorized to call special meetings of the Board may fix any place, either within or without the State of Alabama, as the place for holding any special meeting of the Board called by them.

**Section 3.06 Notice.** No notice of any annual, regular or special meeting of the Board shall be given so long as a quorum is present at any such meeting.

**Section 3.07 Quorum.** A majority of the number of Directors fixed by Section 3.02(a) of these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board. Members of the Board may participate in any meetings by means of a conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at such meeting. If a quorum is present when the meeting is convened, the Directors present may continue to do business, taking action by a vote of a majority of quorum as fixed above, until



adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum as fixed above, or the refusal of any Director present to vote.

**Section 3.08 Manner of Acting.** The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by statute, the Declaration, the Articles or these Bylaws. As used throughout these Bylaws, the term “majority of the Directors” or “a majority of the number of Directors” or similar terms relating to any action to be taken by the Directors shall mean at least fifty-one percent (51%) of all of those Directors present at a duly convened meeting of the Board at which a quorum is present have approved or consented to such proposed action or matter.

**Section 3.09 Action Without a Meeting.** Any action required or permitted to be taken by the Board may be taken without a meeting of the Board if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

**Section 3.10 Vacancies.** Any vacancy occurring in the Board shall be filled as provided in Section 3.03 above. A Director elected or appointed to fill a vacancy shall be elected to serve for the unexpired term of his or her predecessor in office.

**Section 3.11 Compensation.** By resolution of the Board, each Director may be paid his or her expenses, if any, of attendance at each meeting of the Board. No such payment shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

**Section 3.12 Committees.** The Board, by resolution adopted by a majority of the Directors, may designate from among the Members one or more committees. No such committee shall have the authority of the Board. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board or any Director of any responsibility imposed upon it or such Director by law.

**Section 3.13 Resignations.** Any Director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

**Section 3.14 Participation in Meetings by Conference Telephone.** Members of the Board or any committee designated thereby may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at such meeting.

**Section 3.15 Delegation of Authority.** The Board, by resolution adopted by a majority of the Directors, may delegate to a director, to the Managing Agent or to any other Person, the authority to act on behalf of the Board, which authority may include, without limitation, any of the powers of the Board and any of the powers of any of the officers of the Association set forth in these Bylaws, the Articles or the Declaration.

## ARTICLE IV

### OFFICERS

**Section 4.01 Principal Officers.** The principal officers of the Association shall be elected by the Board and shall include a President, one or more Vice Presidents, a Secretary and a Treasurer and may, at the discretion of the Board, also include a Chairperson of the Board and such other officers as may be designated from time to time. Any number of offices may be held by the same Person, except the offices of President and Secretary. None of the principal officers need be Directors or Members of the Association.

**Section 4.02 Election of Principal Officers; Term of Office.** The principal officers of the Association shall be elected annually by the Board. Each principal officer shall hold office until his or her successor shall have



been duly elected and qualified or until such officer's death or until such officer shall resign or shall have been removed in the manner hereinafter provided. If the Board shall fail to fill any principal office at an annual meeting of the Board, or if any vacancy in any principal office shall occur, or if any principal office shall be newly created, such principal office may be filled at any regular or special meeting of the Board.

**Section 4.03 Subordinate Officers, Agents and Employees.** In addition to the principal officers, the Association may have such other subordinate officers, agents and employees as the Board may deem advisable each of whom shall hold office for such period and have such authority and perform such duties as the Board, the Chairperson of the Board, the President, or any officer designated by the Board, may from time to time determine. The Association may employ a Managing Agent, who shall serve in the capacity described by the Articles, these Bylaws, the Declaration and all rules and regulations of the Association including all amendments thereto. The Board at any time may appoint and remove, or may, upon such conditions as are deemed advisable, delegate to any principal officer the power to appoint and to remove, any subordinate officer, agent or employee of the Association.

**Section 4.04 Delegation of Duties of Officers.** The Board may delegate the duties and powers of any officer of the Association to any other officer or to any Director for a specified period of time for any reason that the Board may deem sufficient.

**Section 4.05 Removal of Officers or Agents.** Any officer or agent of the Association may be removed by the Board at any time, either with or without cause, and the Board may appoint a successor to such removed officer or agent. Election or appointment of any officer or agent shall not of itself create contract rights.

**Section 4.06 Resignations.** Any officer may resign at any time by giving written notice of resignation to the Board, to the Chairperson of the Board, to the President or to the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of a resignation shall not be necessary to make the resignation effective.

**Section 4.07 Vacancies.** A vacancy in any office, the holder of which is elected or appointed by the Board, because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term of such office. A vacancy in any other office for any reason shall be filled by the Board, or any committee, or officer to whom authority for the appointment, removal or filling of vacancies may have been delegated by these Bylaws or by resolution of the Board.

**Section 4.08 Chairperson of the Board.** The Chairperson of the Board, who must be a Director, shall preside at all meetings of the Members of the Association and of the Board at which he or she is present. The Chairperson of the Board shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board.

**Section 4.09 President.** The President shall, in the absence of the Chairperson of the Board, preside at all meetings of the Members of the Association at which he or she is present. The President shall be the chief executive officer of the Association and, subject to the control of the Board, shall have general supervision over the business and affairs of the Association. The President shall have all powers and duties usually incident to the office of the President except as specifically limited by resolution of the Board. The President shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board.

**Section 4.10 Vice Presidents.** In the absence or disability of the President or if the office of President be vacant, the Vice Presidents, in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or confine such powers and duties or to assign them to others. Any Vice President may have such additional designation in his or her title as the Board may determine. Each Vice President shall generally assist the President in such manner as the President shall direct. Each Vice President shall have the right and authority to execute any documents, instruments, and agreements on behalf of the Association and shall have such powers and perform such other duties as may be assigned to him or her from time to time by the Board or the President.



**Section 4.11     Secretary.** The Secretary shall act as secretary of all meetings of the Members of the Association and of the Board at which he or she is present, shall record all the proceedings of all such meetings in a minute book to be kept for that purpose, shall have supervision over the giving and service of notices of the Association, and shall have supervision over the care and custody of the records and seal of the Association. The Secretary shall be empowered to affix the corporate seal to documents, the execution of which on behalf of the Association under its seal is duly authorized, and when so affixed may attest the same.

**Section 4.12     Treasurer.** The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of the Association and shall cause the funds of the Association to be deposited in the name of the Association in such banks or other depositories as the Board of Directors may designate. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board of Directors. The Treasurer shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

**Section 4.13     Salaries.** The officers of the Association shall not be entitled to any salaries or other compensation except for expenses incurred on behalf of the Association which shall be reimbursed.

## ARTICLE V

### **FISCAL MATTERS AND BOOKS AND RECORDS**

**Section 5.01     Fidelity Bonds.** The Board may require that any contractor or employee of the Association handling or responsible for Association funds furnish an adequate fidelity bond. The premium for any such bond shall be paid by the Association and shall constitute a Common Expense.

**Section 5.02     Books and Records Kept by Association.** The Association shall keep accurate financial records, including itemized records of all receipts and disbursements, shall keep minutes of the proceeds of all meetings of the Members and of the Board and committees having any of the authority of the Board, and shall keep such other books and records as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association may keep at the office of the Association a record giving the names and addresses of the Directors and all Members of the Association, which shall be furnished by each Unit Owner pursuant to Section 5.10 of these Bylaws.

**Section 5.03     Inspections.** The books, records and papers of the Association shall at all times during reasonable business hours be subject to inspection by an Member or his or her agent or attorney for any proper purpose upon not less than 72 hours prior written notice to the Association, which notice shall specify which books, records or papers of the Association such Member desires to inspect or review. True and correct copies of the Articles, these Bylaws, the Declaration and all rules and regulations of the Association with all amendments thereto, shall be maintained at the principal registered offices of the Association and copies thereof shall be furnished to any Member on request upon payment by such Member of a reasonable charge therefore.

**Section 5.04     Contracts.** The Board may authorize any officer or officers, or agent or agents of the Association, in addition to the officers so authorized by the Declaration and these Bylaws, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of the Association, and such authority may be general or confined to specific instances.

**Section 5.05     Checks, Drafts, etc.** All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer of the Association.

**Section 5.06     Deposits.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.



**Section 5.07**     **Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**Section 5.08**     **Annual Budget.** The Board shall determine and approve annually an annual budget (the "Budget") covering the estimated Common Expenses for the upcoming year in the manner provided in the Declaration. Within thirty (30) days after the Board's adoption of any such proposed Budget, the Board shall provide a copy of such proposed Budget to all Members and shall establish a date for a meeting of the Members to consider ratification of the Budget, which date shall be not less than fourteen (14) nor more than thirty (30) days after delivery or mailing of the Budget to the Members. Any such Budget for Common Expenses shall be deemed ratified and approved unless at such meeting of the Members more than ninety percent (90%) of all Members present, either in person or by proxy, reject such Budget, even though a quorum of Members may not be present for such meeting. In the event the proposed Budget is rejected, the periodic Budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent Budget proposed by the Board. Any Budget adopted by a majority of the members of the Board (which is deemed to have been ratified by the Members as provided above) shall be binding on all Members and the Association shall be authorized to enter into any and all contracts and agreements necessary or required to implement such Budget.

**Section 5.09**     **Surplus Funds.** Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any reserves establishing any applicable budget shall be utilized as provided in Section 5.09 of the Declaration.

**Section 5.10**     **Notices.** Each Member shall be obligated to furnish to the Secretary of the Association in writing, the address, if other than the Unit of such Member, to which any notice to such Unit Owner under the Declaration or these Bylaws is to be given and, if no address other than such Unit shall have been designated in writing, then all such notices and demands shall be mailed or delivered to the Unit of such Unit Owner. Any Member may, for the purposes of notices hereunder, specify in writing to the Association that all notices be submitted to such Member by facsimile transmission or through the Internet utilizing a specific electronic mailbox for that particular Member. All notices required or permitted to be given by the Association to any Member under the Declaration, these Bylaws or under any other documents or agreements shall be deemed to have been sufficiently given or served upon any Member when either (a) deposited into the United States mail for first-class delivery with postage prepaid and addressed to the last address furnished by such Member to the Association (or if no address has been furnished, then to the Unit of such Owner), in which case notice shall be deemed given upon deposit of the same in the United States mail, (b) delivered to the Unit owned by such Member, in which event notice shall be deemed given upon delivery of such notice to the mailbox or when attached to the front door of such Unit, (c) sent by facsimile transmission to a facsimile number provided in writing by such Member to the Association, which notice shall be deemed to have been given upon transmission of such facsimile notice or (d) sent by Internet to an electronic mailbox address provided in writing by such Member to the Association, which notice shall be deemed to have been given upon transmission of such electronic mail by the Association.

## **ARTICLE VI**

### **INSURANCE**

**Section 6.01**     **Types of Coverage.** The Association shall maintain in effect at all times as a Common Expense the types of insurance coverage required by the Declaration, any workmen's compensation or other insurance required by law and such other insurance as the Board may from time to time deem appropriate. The Board shall review the amount and terms of such insurance annually.

**Section 6.02**     **Indemnification Insurance.** The Association shall have the power and authority to purchase and maintain insurance on behalf of any Person who is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him against such liability under applicable law.



## ARTICLE VII

### NOTICE, HEARINGS AND APPEALS

**Section 7.01** Right to Notice and Hearing. Whenever the Declaration, Bylaws or Articles require that any action by the Board be taken only after written notice of the alleged violation (or the possible levy of a fine or individual Assessment) as well as the opportunity for such Owner to appear before the Board and be heard, the following procedures shall be observed:

(a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a hearing is requested within 10 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided that the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice 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 Person who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative 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.

**Section 7.02** Appeals. Any Person having a right to “written notice of the alleged violation (or the possible levy of an individual Assessment) as well as the opportunity for such Owner to appear before the Board and be heard” shall have the right to appeal to the Board of Directors from a decision of persons other than the Board by filing a written notice of appeal with the Board within ten (10) days after being notified of the decision. The Board of Directors shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

## ARTICLE VIII

### GENERAL PROVISIONS

**Section 8.01** Waiver of Notice. Whenever any notice is required to be given under any provision of law, the Declaration, the Articles or these Bylaws, a waiver thereof in writing signed by the Person or Persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members, the Board or members of any committees established by the Board need be specified in any written waiver of notice unless otherwise required by these Bylaws. Attendance of a Director at a meeting of the Board shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**Section 8.02** Incorporation by Reference. All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth herein in these Bylaws and in the Declaration, then the provisions of the Declaration shall at all times control.

**Section 8.03** Amendments. Except as otherwise provided in the Declaration, these Bylaws may be amended by either (a) the vote of a majority of the Members, as defined and provided in Section 2.08 above, or (b) by the vote of a majority of the Directors; provided, however, that until the expiration of the Declarant Control



Period, any provision which exists for the protection of Declarant or otherwise confers a right upon Declarant may not be amended without the written consent of Declarant. In the event of a proposed amendment by the Members, notice of any meeting at which such an amendment will be considered shall state that fact and the subject matter of the proposed amendment. Any amendments to these Bylaws adopted as provided above may be evidenced by a written certificate signed by either the President or a Vice President of the Association, which certificate shall certify the number of votes casts for any such amendment, the number of votes actually voted (whether for or against) such proposed amendment, whether such vote was undertaken at an annual or special meeting or pursuant to a ballot vote and shall be recorded in the Probate Office.

**Section 8.04**     **Seal.** The Board may, but shall not be obligated to, provide a corporate seal which shall be circular in form and have inscribed thereon the name of the Association, the state of incorporation and such other words as the Board may prescribe; provided, however, that the use of the seal of the Association on any contract or agreement shall not be required to evidence the validity, authenticity or approval of such contract or agreement.





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Shelby Cnty Judge of Probate, AL  
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**EXHIBIT C  
TO DECLARATION OF CONDOMINIUM**

**Plans**

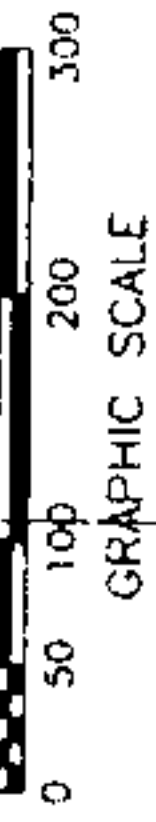
[Attached.]



# Condominium Plat of Edenton, A Condominium

Being situated in the  
Southeast 1/4 of the Southeast 1/4 of  
Section 25, Township 18 South, Range 2 West,  
Shelby County, Alabama

SCALE: 1" = 100'  
APRIL 16, 2007



STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land being the Southeast 1/4 of the Southeast 1/4 of Section 25,  
Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly  
described as follows:

Begin at the Southeast Corner of the Southeast 1/4 of the Southeast 1/4 of said  
Section 25; thence West, along the South line of said 1/4 - 1/4 Section, a distance of  
1314.65 feet to the Southwest corner of said 1/4 - 1/4 Section; thence 87°44'56" right, in a  
line to the Northwest corner of said 1/4 - 1/4 Section, a distance of 1315.03  
feet to the Northwest corner of said 1/4 - 1/4 Section; thence 92°05'18" right, in an Easterly  
direction and along the North line of said 1/4 - 1/4 Section, a distance of 1317.28 feet to the  
Northeast corner of said 1/4 - 1/4 Section; thence 87°03'52" right, in a Southerly direction  
and along the East line of said 1/4 - 1/4 Section, a distance of 1318.67 feet to the Point of  
Beginning.

LESS AND EXCEPT any part of subject property lying within a public road right-of-way.  
Said parcel contains 38.75 Acres, more or less.

## REGISTERED ENGINEER'S CERTIFICATION

I, the undersigned, Robert W. Easley, IV, a registered engineer in the State of Alabama,  
Registration No. 21564, hereby certify that the Plans show the layout, location, unit numbers,  
and the other improvements forming a part of the Condominium. I further certify that the  
Plans show the dimensions of the improvements and the Units "as-built" and that the  
improvements shown on the Plans are substantially complete. I further certify that the Plans  
contain all of the information required by § 35-8A-209, Code of Alabama (1975).

I further certify that said Condominium is currently located in Flood Zone X (outside any  
special flood hazard area) according to the flood map prepared by the U.S. Department of  
Homeland Security. This Certification is intended to be part of the Plans and Declaration of  
Edenton, A Condominium in Shelby County, Alabama, with all legal descriptions contained therein  
incorporated as it is stated in full herein and is prepared for recordation in the Condominium  
Book in the Office of the Judge of Probate of Shelby County, Alabama.



Printed Name: **ROBERT W. EASLEY, IV**  
Registered Engineer  
Registration Number: 21564 Alabama  
NAME OF THE CONDOMINIUM:  
EDENTON, A CONDOMINIUM  
SHELBY COUNTY, ALABAMA

Date: **4-16-07**

Conrad R. Smith, President  
Conrad R. Smith, LLC, Owner

State of Alabama  
Shelby County

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Robert  
W. Easley, IV, whose name is signed to the foregoing Condominium Declaration, is duly  
qualified before me, on this date, that after having been duly informed of the contents of  
said certification, he executed same voluntarily as such individual with full authority thereof.

Given under my hand and seal this **20th** day of **April**, 2007.

**Janetta Lynn Lohrke**  
Notary Public

My Commission Expires: **2010-04-16**  
NOTARY PUBLIC STATE OF ALABAMA

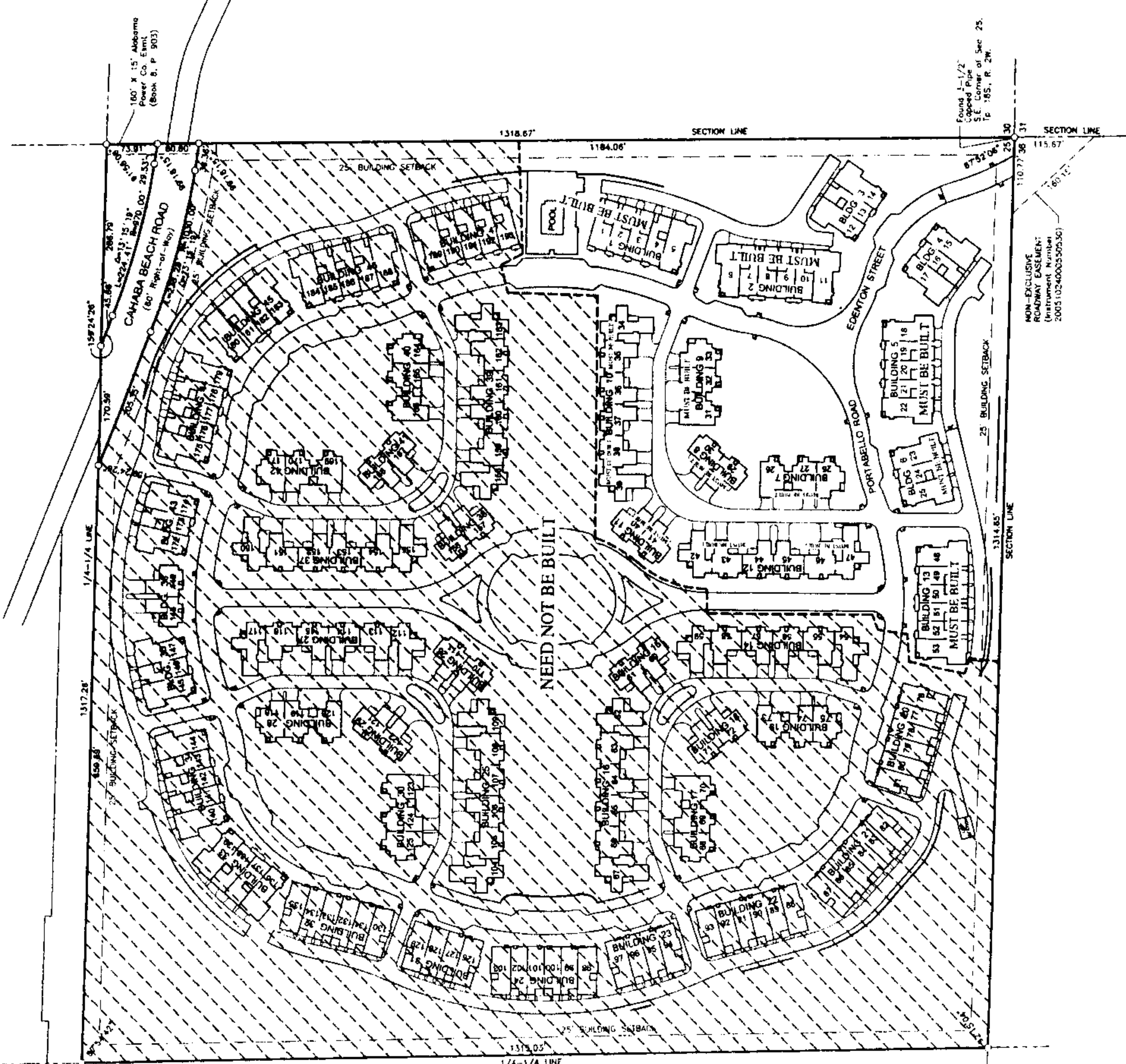
State of Alabama  
Shelby County

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Jonathan Barber,  
whose name is signed to the foregoing Condominium Declaration, is duly qualified before me,  
on this date, that after having been duly informed of the contents of  
said certification, he executed same voluntarily as such individual with full authority thereof.

Given under my hand and seal this **20th** day of **April**, 2007.

**Janetta Lynn Lohrke**  
Notary Public

My Commission Expires: **2010-04-16**  
NOTARY PUBLIC STATE OF ALABAMA



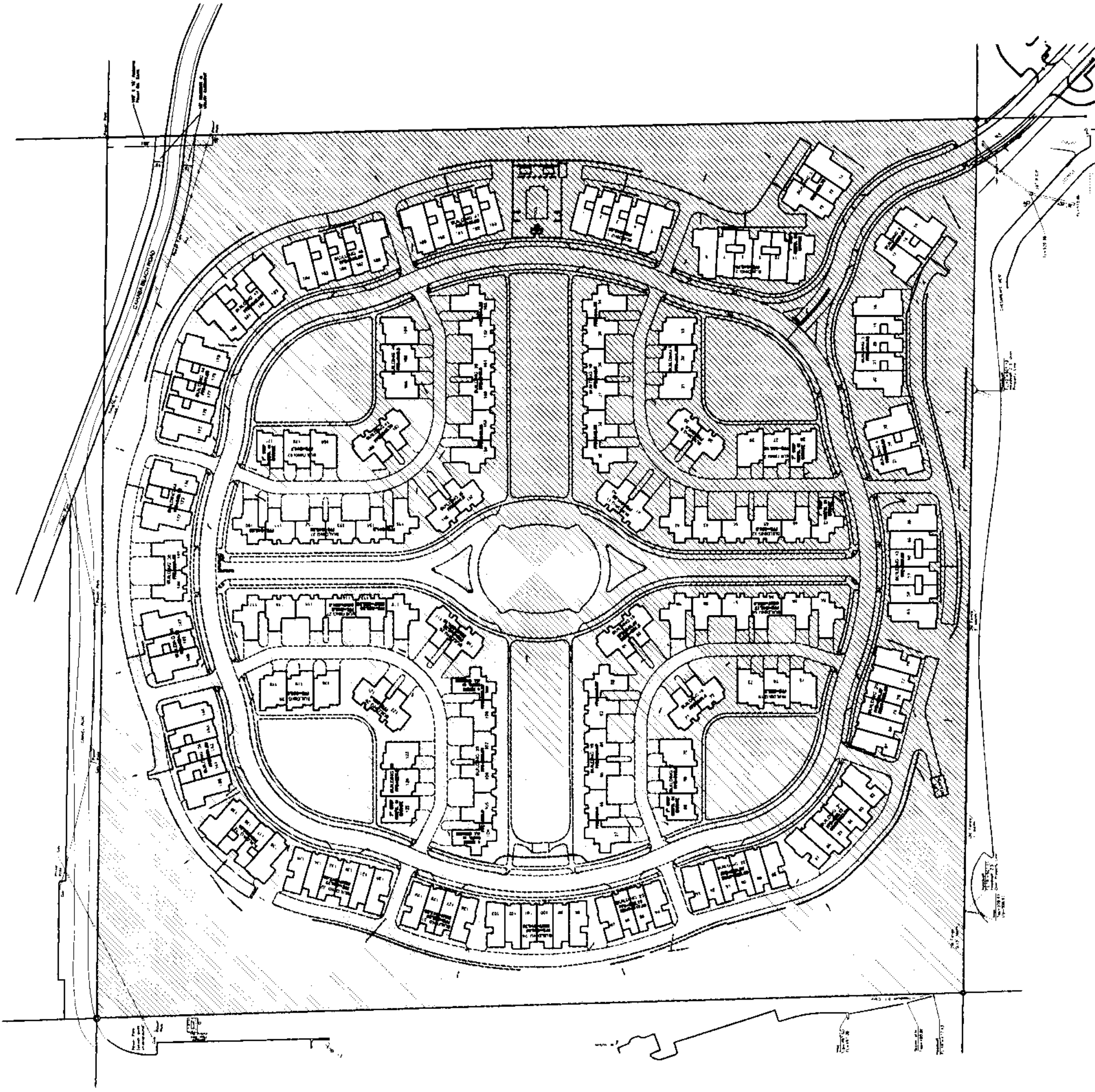
Notes:  
All portions of the site outside of the buildings are  
common elements. See attached building plans for  
common elements within buildings.  
All portions of the site are subject to development  
rights.  
This plat is not a survey.  
The Engineer's Certification only applies to this sheet  
and to work outside of the buildings shown on  
shown on this sheet, some improvements are not yet constructed.  
See Architect's Certification for building information.  
Shelby County is not responsible for the roads or drainage  
within this site. The Edenton Residential Owners Association,  
INC. is responsible for all maintenance.

APPROVED: **Shelby County Planning Commission** DATE: **4-16-07**





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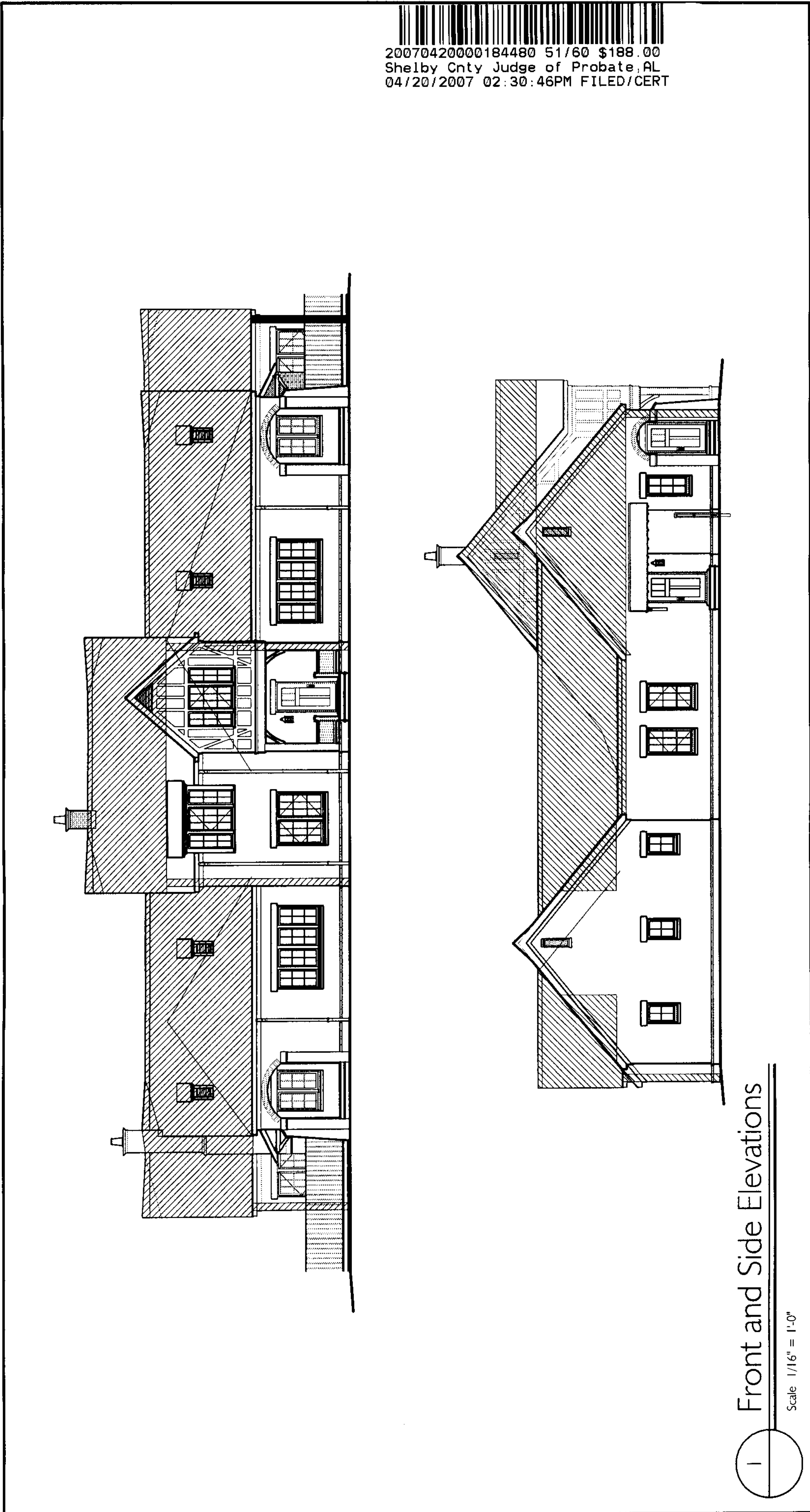
1 Site Plan  
Scale: 1" = 200'-0"

**EDENTON, A CONDOMINIUM**  
**Site Plan**  
Shelby County, Alabama  
05023-02

LEGEND	
	COMMON ELEMENT
	LIMITED COMMON ELEMENT

**DUNGAN  
NEQUETTE  
ARCHITECTS**  
2829 Second Avenue South  
Suite 240  
Birmingham, Alabama 35233  
P: 205.322.6455  
F: 205.322.6167  
dungan-nequette.com





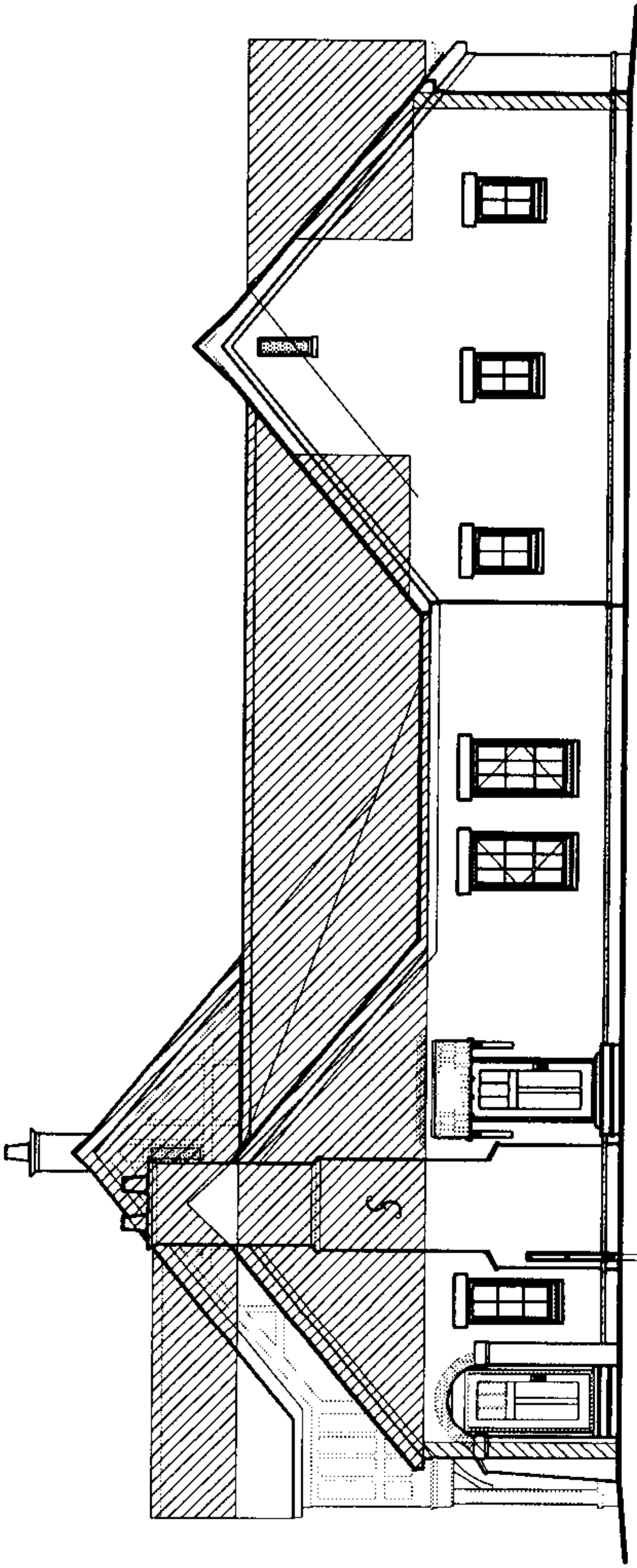
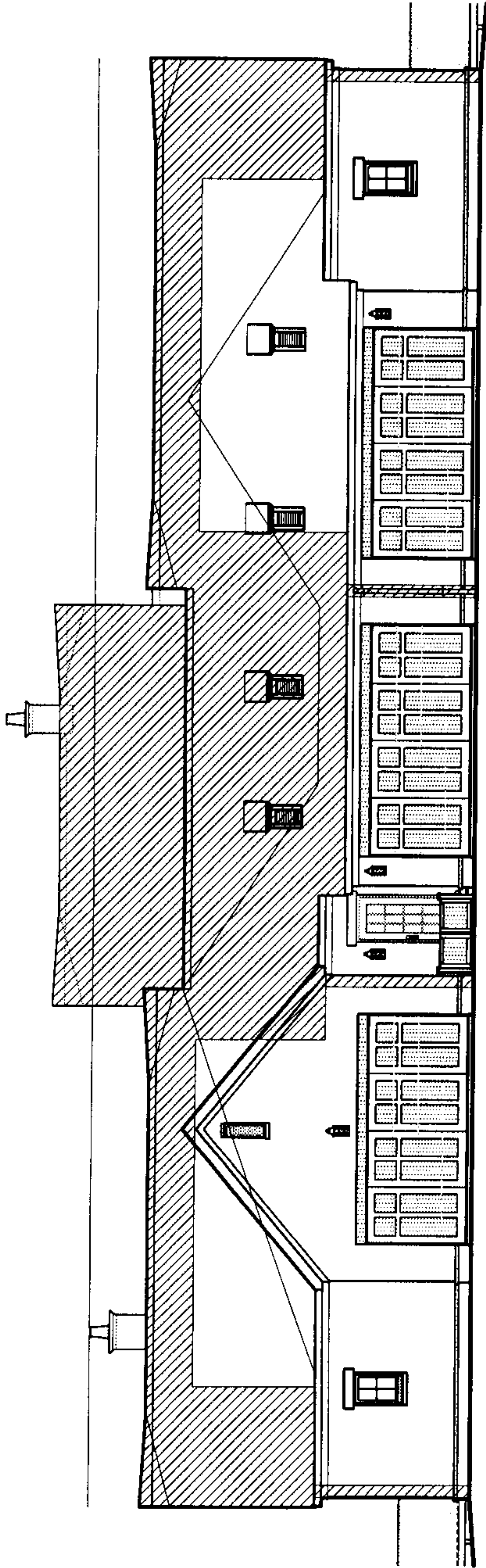
EDENTON, A CONDOMINIUM  
Building 3  
Units 12, 13, 14  
Shelby County, Alabama  
05023

LEGEND

	COMMON ELEMENT
	LIMITED COMMON ELEMENT

DUNGAN  
NEQUETTE  
ARCHITECTS  
2829 Second Avenue South  
Suite 240  
Birmingham, Alabama 35233  
t 205.322.6455  
f 205.322.6167  
dungan-nequette.com





1 Back and Side Elevations

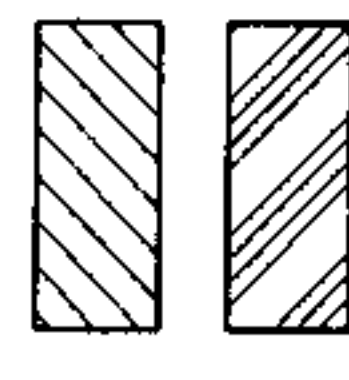
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Shelby Cnty Judge of Probate, AL  
04/20/2007 02:30:46PM FILED/CERT



EDENTON, A CONDOMINIUM  
Building 3  
Units 12, 13, 14  
Shelby County, Alabama  
35023

LEGEND

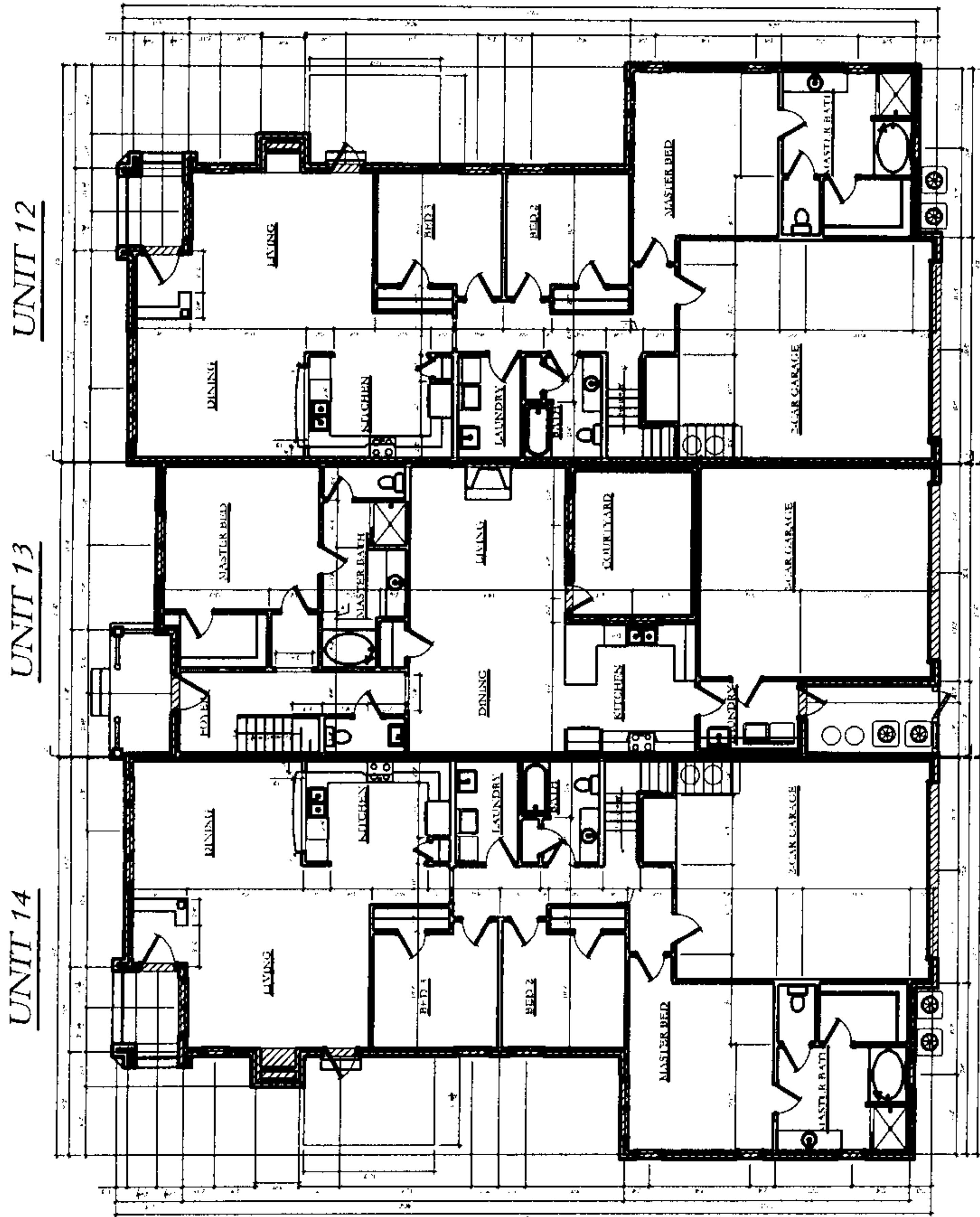


COMMON ELEMENT

LIMITED COMMON ELEMENT

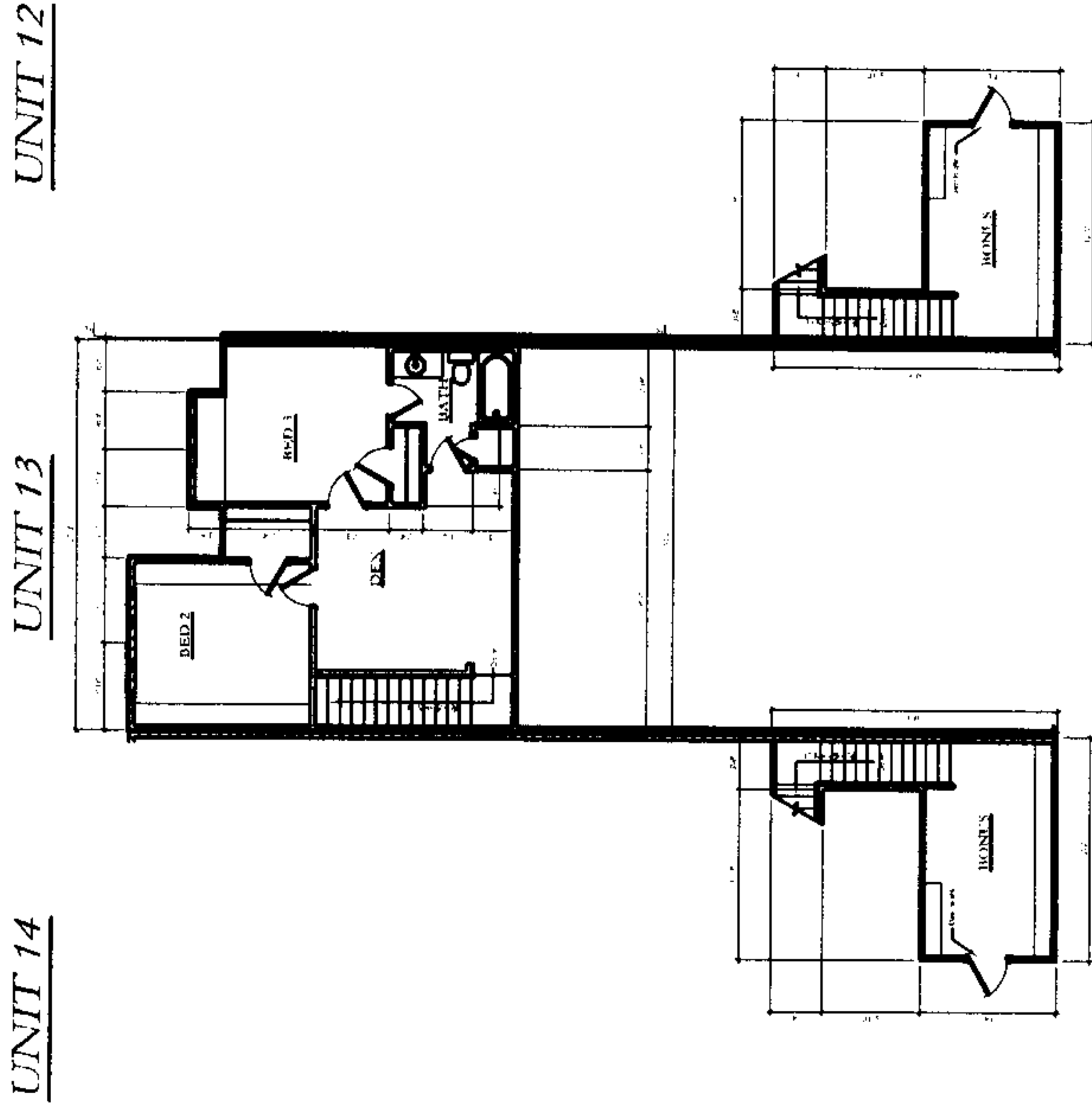
DUNGAN  
NEQUETTE  
ARCHITECTS  
2829 Second Avenue South  
Suite 240  
Birmingham Alabama 35233  
t 205.322.6455  
f 205.322.6167  
dungan-nequette.com





1 First Floor

Scale 1/16" = 1'-0"

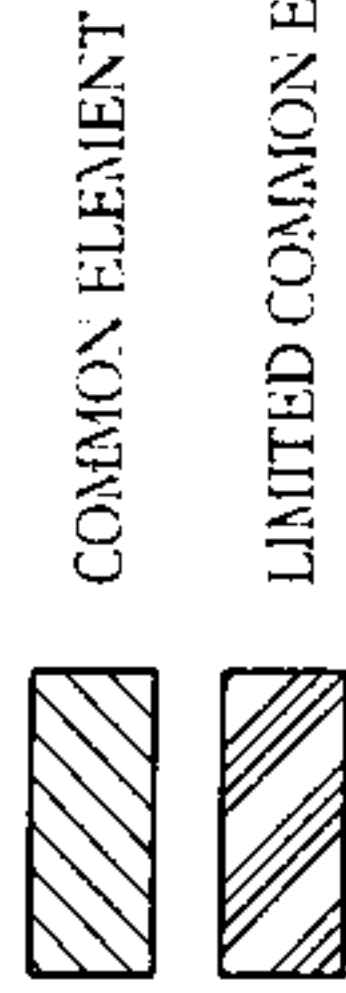


2 Second Floor

Scale 1/16" = 1'-0"

EDENTON, A CONDOMINIUM  
Building 3  
Units 12, 13, 14  
Shelby County, Alabama  
05023

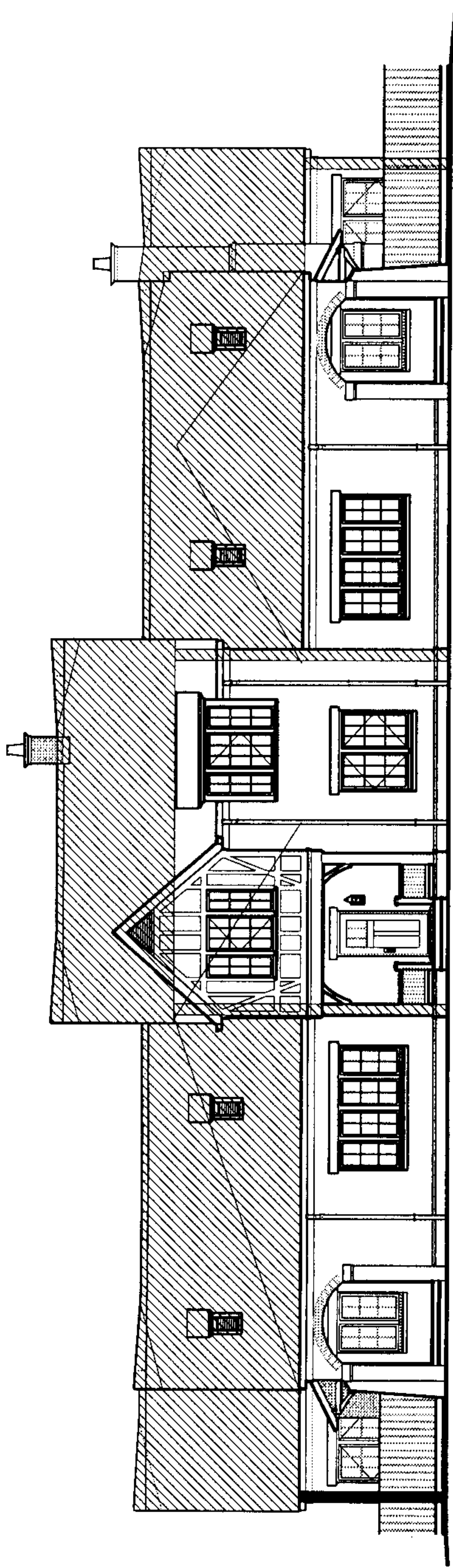
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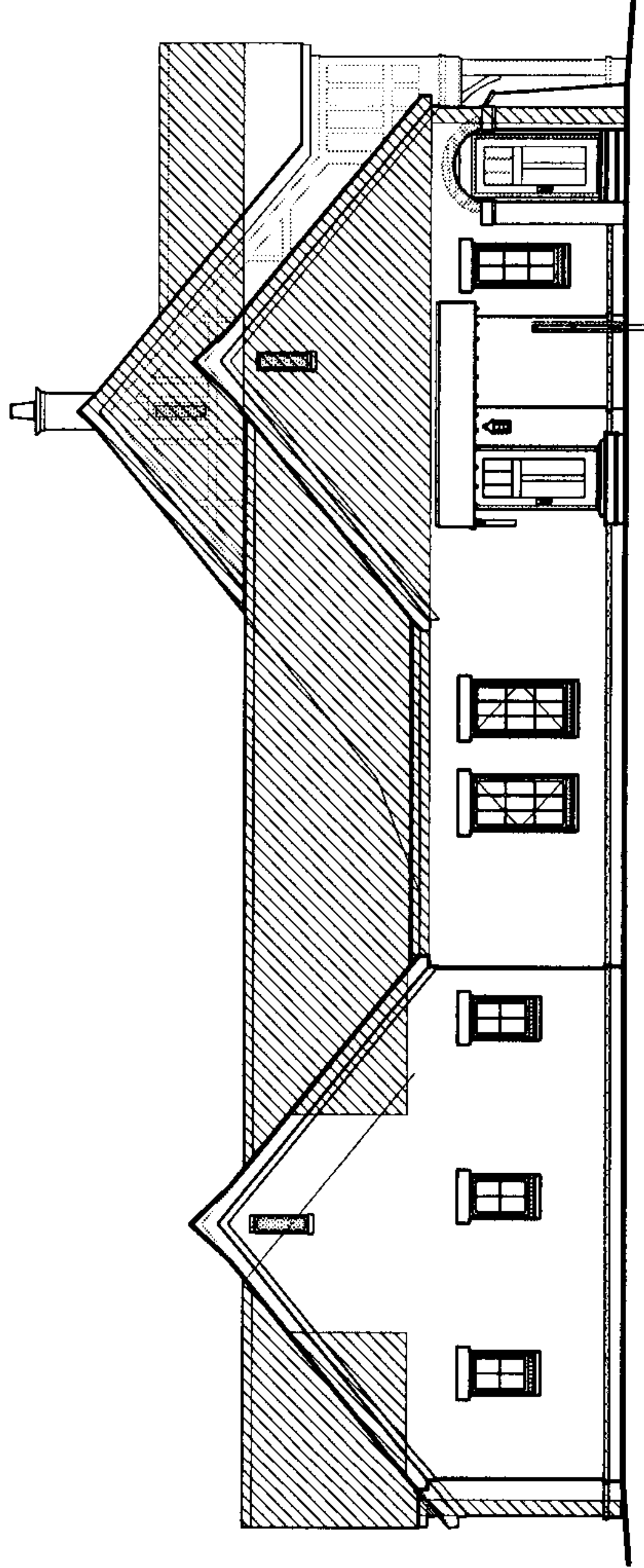
DUNGAN  
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Birmingham, Alabama 35233  
T 205.322.6455  
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dungan-nequette.com

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Shelby Cnty Judge of Probate, AL  
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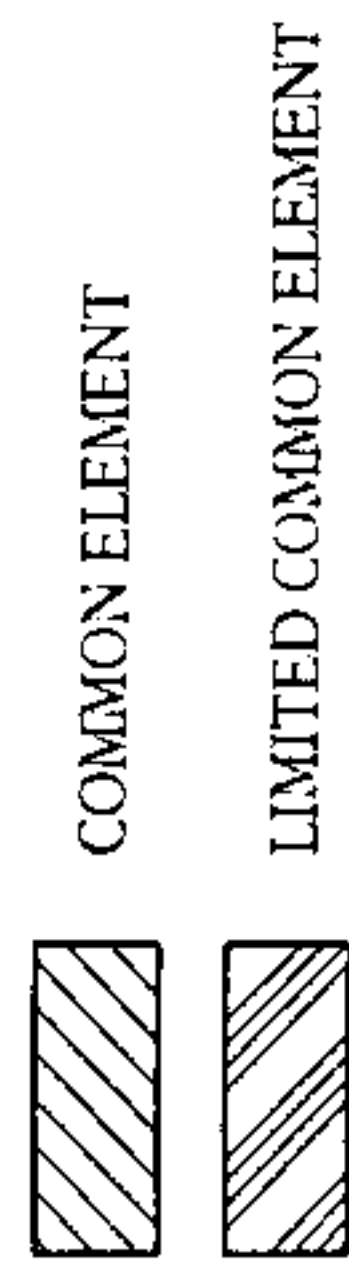


# 1 Front and Side Elevations

Scale 1/16" = 1'-0"

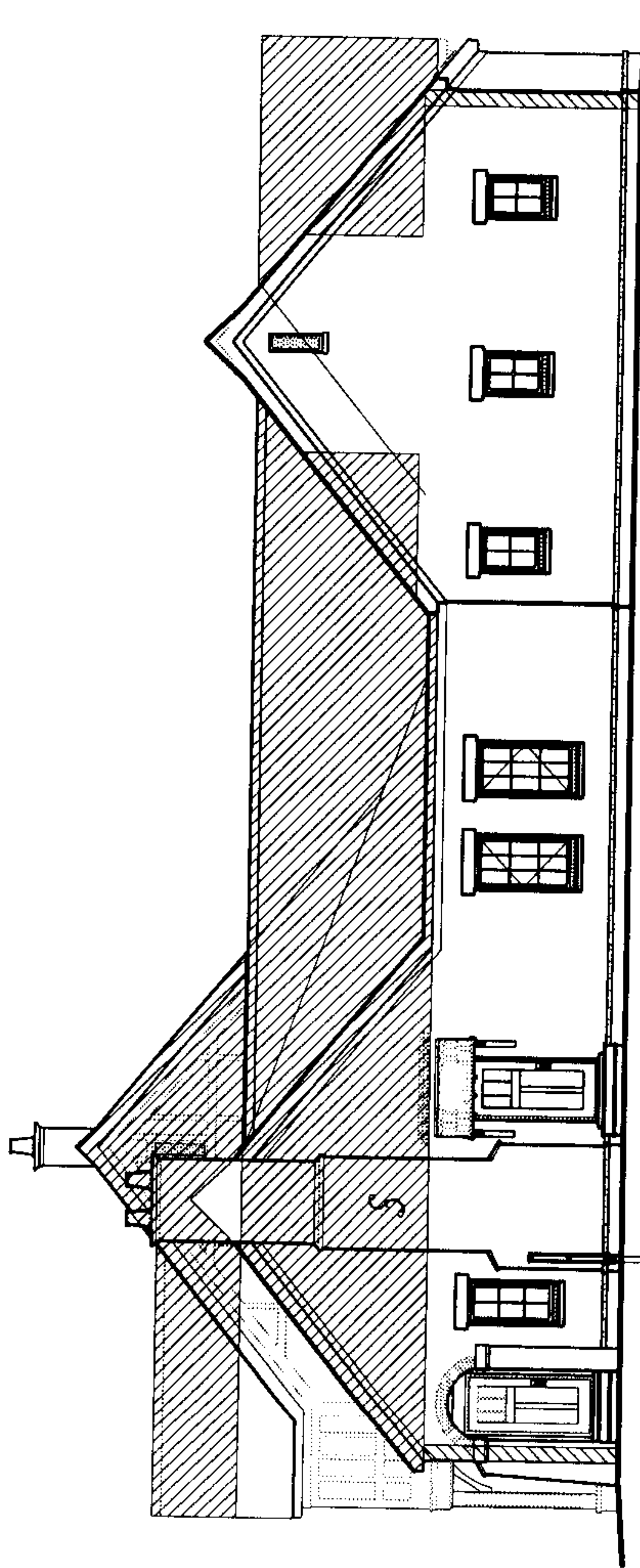
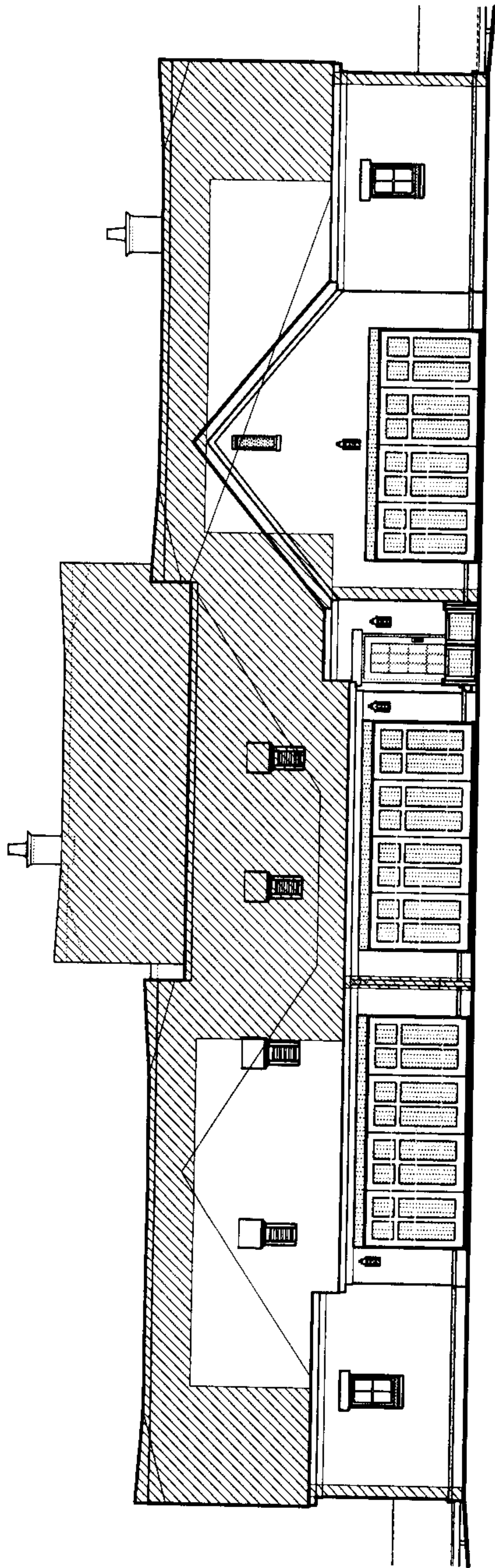
EDENTON, A CONDOMINIUM  
Building 4  
Units 15, 16, 17  
Shelby County, Alabama  
05023

## LEGEND



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ARCHITECTS  
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Birmingham, Alabama 35233  
t 205.322.6455  
f 205.322.6167  
dungan-nequette.com





1 Back and Side Elevations

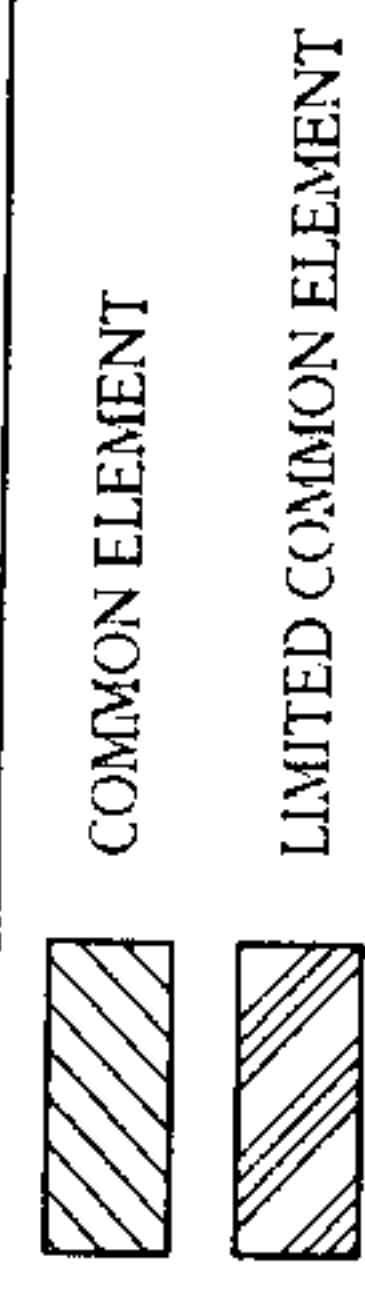
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Shelby Cnty Judge of Probate, AL  
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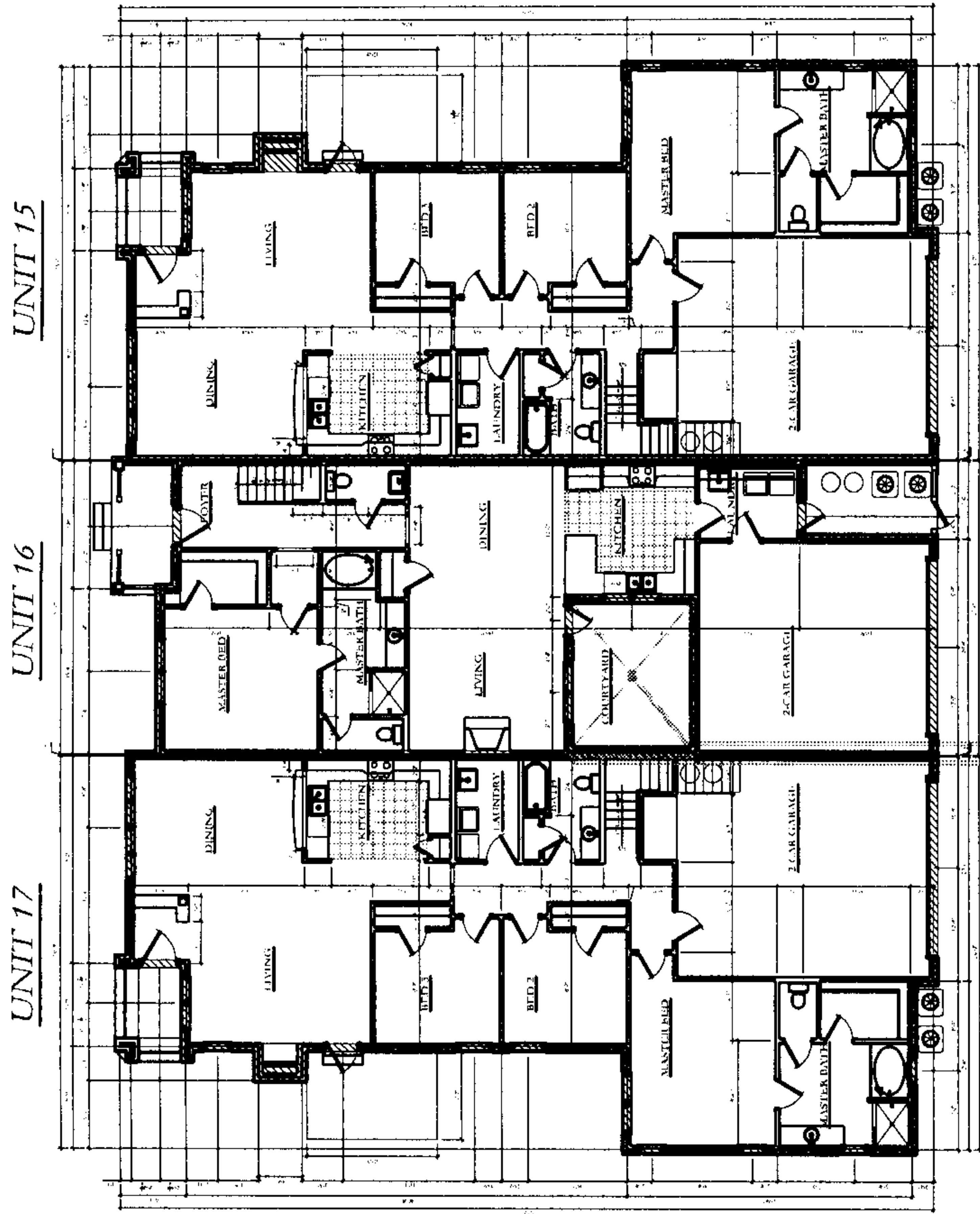
EDENTON, A CONDOMINIUM  
Building 4  
Units 15, 16, 17  
Shelby County, Alabama  
05023

LEGEND



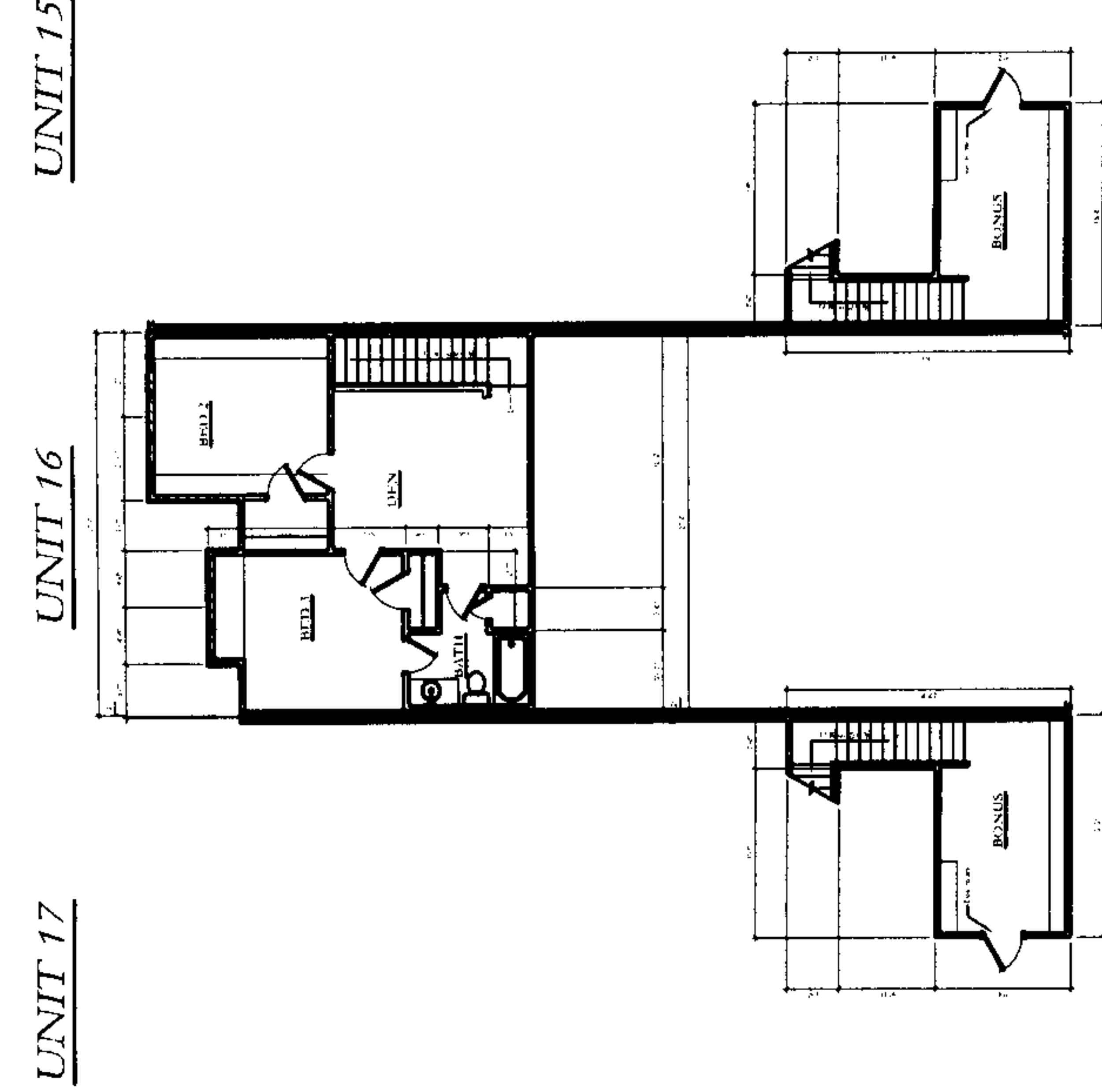
DUNGAN  
NEQUETTE  
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2829 Second Avenue South  
Suite 240  
Birmingham, Alabama 35233  
t 205.322.6435  
f 205.322.6167  
dungan-nequette.com





1 First Floor

Scale 1/16" = 1'-0"



2 Second Floor

Scale 1/16" = 1'-0"

EDENTON, A CONDOMINIUM  
Building 4

Units 15, 16, 17  
Shelby County, Alabama  
(15)023

LEGEND

- COMMON ELEMENT  
LIMITED COMMON ELEMENT

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04/20/2007 02:30:46PM FILED/CERT

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**EXHIBIT D**  
**TO DECLARATION OF CONDOMINIUM**

**Ownership of Common Elements**

Particular Unit	Resident in Allocated Interest	Vote in Common
Units 12 through 17	16.67%	1 vote / Unit
Total	100%	



## EXHIBIT E

### DESCRIPTION OF COMMON ELEMENTS

The Common Elements consist of and include all portions of the Condominium, other than the Units and shall include, without limitation, the following:

(a) The real property, including the Buildings and all other improvements situated thereon other than: (i) the Units and all private elements described in Section 4.02(c) of the Declaration, and (ii) any and all furniture, fixtures, alterations, additions, improvements and personal property located within a Unit.

(b) The sidewalks, walkways, paths, grass, shrubbery, trees, landscaping, roadways, any parking areas and related facilities upon the Condominium Property.

(c) The foundation, footings, columns, girders, beams, supports, perimeter and supporting walls, and roofs of the Buildings (but specifically excluding any of the foregoing which are located within the boundaries of any Unit).

(d) All mechanical installations and systems providing Utility Services to the Buildings or to any Unit, including, without limitation, electrical, gas, hot and cold water, heating and air conditioning, sanitary and storm sewer facilities and all pipes, vents, ducts, flumes, cable conduits, wiring and other apparatus and similar utility installations (other than (i) any of the foregoing which may be situated solely within the boundaries of any Unit and serve only such Unit and (ii) any heating, ventilation and air conditioning equipment situated outside the boundaries of a Unit but which constitute part of the private elements of a Unit as provided in Section 4.02(c) of the Declaration).

(e) All maintenance facilities, storage areas, pumps and equipment serving the Condominium Property, outdoor lighting, exterior signage and similar equipment, machinery and appurtenances serving the Condominium Property.

(f) All easements, rights or appurtenances affecting or relating to the use of the Condominium Property unless specifically included as a Unit or which may be or has been created by the terms of this Declaration for the benefit of any specific Units.

(g) To the extent not maintained or owned by the provider of any applicable Utility Service, all Utility Lines lying within any Common Elements, except those Utility Lines which are located within a Unit and serve only that Unit.

(h) An exterior trash dumpster (which may be leased from or provided by a third party contractor) for use by all Owners.



## EXHIBIT F

### PERMITTED TITLE EXCEPTIONS

#### As to Parcel 1 only:

1. Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement from Cahaba Beach Investments, LLC, as mortgagor, to Compass Bank, as mortgagee, dated October 14, 2005, and recorded October 24, 2005, as Inst. No. 20051024000550560 in the Probate Office of Shelby County, Alabama.
2. Transmission Line Permit(s) to Alabama Power Company as shown by instrument(s) recorded in Deed 163, page 424 in the Probate Office of Shelby County, Alabama.
3. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed 121, page 414 in the Probate Office of Shelby County, Alabama.
4. Memorandum of Agreement for Consenting to Easement and Future Development recorded as Inst. #1998-38004 in the Probate Office of Shelby County, Alabama.
5. Alabama Power Company easement recorded in Book 8, page 903 in the Probate Office of Shelby County, Alabama.

#### As to Parcel 2 only (the easement property):

1. Restrictions as set out in the Deed of Declaration recorded in Real Book 54 page 199 in the Probate Office of Shelby County, Alabama (the "Probate Office").
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Real Book 41 page 83 and Volume 176 page 186 (Jefferson County) in the Probate Office.
3. Riparian and other rights created by the fact that the subject property fronts on Lake Dixie.
4. Right(s) of Way(s) granted to Alabama Power Company by instrument(s) recorded in Volume 126 page 188, Volume 185 page 120, Real Book 105 page 861, and Real Book 167 page 335 in the Probate Office.
5. Regulatory Agreement and Declaration of Restrictive Covenants as set out in Real Book 54 page 278; Amendment to Regulatory Agreement and Declaration of Restrictive Covenants as set out in Real Book 164 page 551; Regulatory Agreement and Declaration of Restrictive Covenants as set out in Inst. No. 1994-09690; and Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants as recorded in Inst. No. 20050330000145740 in the Probate Office.
6. Right(s) of Way(s) granted to Shelby County by instrument(s) recorded in Deed Book 95 page 525 in the Probate Office.
7. Restrictive Use Agreement by and between JRC Lakeside Limited Partnership, JRC Lakeside Property (GMO), LLC, JRC Lakeside Property (O'Hare), LLC, JRC Lakeside (Quail Ridge), LLC, JRC Lakeside (Quail/Queen), LLC, JRC Property (Quail) L.L.C., JRC Hunter's Pointe LLC, JRC Drake/Georgia Limited Partnership, JRC Charleston Limited Partnership, JRC Southfield/W-L Limited Partnership, R&J Southfield LLC, CCC, LLC, JRC Powerline Chattanooga, LLC, TMG Southfield Associates LLC, Victorville Evanston, L.L.C., JRC Parcwood Property (O'Hare), LLC, JRC Parcwood Property (GMO), LLC, and JRC Mt. Pleasant/Vermillion, LLC



and Cahaba Beach Investments, LLC, dated October 14, 2005, recorded October 24, 2005 at 09:33 am in Inst. No. 20051024000550540 in the Probate Office.

8. Roadway Easement Agreement by and between JRC Lakeside Limited Partnership, JRC Lakeside Property (GMO), LLC, JRC Lakeside Property (O'Hare), LLC, JRC Lakeside (Quail Ridge), LLC, JRC Lakeside (Quail/Queen), LLC, JRC Property (Quail) L.L.C., JRC Hunter's Pointe LLC, JRC Drake/Georgia Limited Partnership, JRC Charleston Limited Partnership, JRC Southfield/W-L Limited Partnership, R&J Southfield LLC, CCC, LLC, JRC Powerline Chattanooga, LLC, TMG Southfield Associates LLC, Victorville Evanston, L.L.C., JRC Parcwood Property (O'Hare), LLC, JRC Parcwood Property (GMO), LLC, and JRC Mt. Pleasant/Vermillion, LLC, and Cahaba Beach Investments, LLC, dated October 14, 2005, recorded October 24, 2005 at 09:33 am as Inst. No. 20051024000550530 in the Probate Office.

As to Parcels 1 and 2:

1. Assignment and Conveyance with Development Agreements and Restrictive Covenants by and between Cahaba Land Associates, LLC and Cahaba Beach Investments, LLC dated October 14, 2005, recorded as Inst. No. 20051024000550520 in the Probate Office.

2. Assignment of Rents and Leases by and between Cahaba Beach Investments, LLC and Compass Bank dated October 14, 2005 and recorded as Inst. No. 20051024000550570 in the Probate Office.

3. Uniform Commercial Code Financing Statement filed by and between Cahaba Beach Investments, LLC and Compass Bank recorded as Inst. No. 20051024000550580 in the Probate Office.

4. Non-beneficial rights to use of non-exclusive easement obtained by Easement Agreement dated October 14, 2005 as set out in Inst. No. 20051024000550530 in the Probate Office.