

8000 of
500
700 K

STATE OF TEXAS

§
§
§

COUNTY OF LUBBOCK

42889

CONDOMINIUM DECLARATION
MAIN STREET CONDOMINIUMS

This Declaration is executed by McDougal Construction, Ltd., a Texas Limited Partnership, under the provisions of the Uniform Condominium Act, TEXAS PROPERTY CODE §§82.001 et seq. ("Act"), and constitutes the entire Condominium Declaration affecting the described property.

1. DEFINITIONS AND DESCRIPTIONS

- A. The property is located in the 2100 block of Main Street, Lubbock, Lubbock County, Texas 79401.
- B. Declarant, by recording this Declaration, submits the property to the provisions of the Act.
- C. The covenants, conditions and restrictions contained in this Declaration and in the exhibits and appendices to the Declaration will be enforceable legal and equitable covenants and will run with the land.
- D. Attached to this Declaration as Exhibits "A", "B", and "C" and made a part of this Declaration are plats of the property and tables, as required by the Act.
- E. The administration of the property will be governed by Bylaws which are embodied in a separate instrument, a true copy of which is appended to and recorded with this Declaration as Appendix A.
- F. All terms used in this Declaration and the Bylaws will have the same definition as the terms defined in the Act, unless the Act allows for a variation of the terms and that variation is stated in this Declaration.
- G. The property will be known as MAIN STREET CONDOMINIUMS.

2. DESCRIPTION OF THE LAND

The land on which the buildings and improvements are located, is described as follows:

Tract 11, Overton Addition to the City of Lubbock as found in Volume 9412, Page 188, of the Real Property Records of Lubbock County, Texas.

3. DESCRIPTION OF THE BUILDINGS

The buildings, as shown on Exhibit "A", located on the land are described as Building 1 (2101 Main Street), Building 2 (2105 Main Street), Building 3 (2109 Main Street), Building 4 (2111 Main Street), Building 5 (2115 Main Street), and Building 6 (2119 Main Street) as shown on the plat are of brick- and/or masonry-veneer construction on concrete slab foundations and contain residential condominiums as shown on the plat.

4. DESCRIPTION OF CONDOMINIUM UNITS

A. Each condominium unit ("Unit") has immediate access to the exterior, attached to this Declaration as Exhibit "C", is a table setting forth the building and number of each Unit, indicating the location of the Unit, a general description of the Unit, the approximate square footage in the Unit and the approximate percentage of undivided interest in the common elements appertaining to the Unit. The Units are more particularly described in the plats attached as Exhibit "B".

B. The boundary lines of each Unit are the undecorated and/or unfinished interior surfaces of its (i) perimeter or bearing walls, (ii) windows and doors; (iii) its lowermost floor and (iii) uppermost ceiling. Each Unit will include both the portions of the building in which it is located that are not common elements within those boundary lines and the space encompassed within those boundary lines, excepting common elements. A Unit includes any finishing material applied or affixed to the interior surfaces of the interior walls, floors, and ceilings; non-supporting interior walls; and all utility pipes, lines, systems, fixtures, or appliances found within the boundary lines of the Unit and servicing only that Unit. Notwithstanding anything else herein, the air conditioning unit servicing each Unit is a part of that Unit, no matter where located, and is not a common element.

5. DESCRIPTION OF COMMON ELEMENTS

The term "common elements" means and includes the land on which the buildings are located and all portions of the property not contained within any Unit, including, but not by way of limitation, the foundations, columns, girders, beams, supports, main walls, fire walls, roofs, and entrances and exits of the buildings; the grounds and green belts; installations of all services not serving an individual Unit (including power, light, gas, and water equipment); any driveways; utility pipes, lines, or systems servicing more than a single Unit; all limited common elements as described below; and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as common elements in the plat and all repairs, alterations, and replacements of any of these items.

6. DESCRIPTION OF LIMITED COMMON ELEMENTS

The term "limited common elements" means and includes those portions of the common elements reserved for the use of certain Units to the exclusion of other Units. The limited common elements will be the entrances and exits of each Unit, the windows of each Unit, the patios, balconies that are immediately adjacent and contiguous to certain Units as well as the parking spaces adjacent to the buildings. The use and occupancy of designated limited common elements will be reserved to its associated Unit. Each Unit owner is granted an irrevocable license to use and occupy their respective limited common elements, and will have the responsibility to maintain their respective limited common elements as provided below.

7. UNIT OWNERSHIP

A. The percentage of undivided interest in the common elements appertaining to each Unit and its owner for all purposes, including voting, is $1/36^{\text{th}}$. These percentages have been computed by taking as a basis the individual Units in relation to the total number of all Units in the property.

B. A Unit owner will have the exclusive ownership and use of the owner's Unit, subject to the provisions of this Declaration and the Bylaws, and will have a common right to share with other owners in the common elements of the property.

8. PURPOSE OF THE PROPERTY/RESTRICTIONS & COVENANTS

A. The purpose of the property is to provide residential housing, parking and recreational facilities for Unit owners, their respective families, tenants and guests.

B. The following restrictions and covenants are placed on each of the affected units as a general plan or scheme of restrictions, for the benefit of each unit and for the whole:

1. All of the Units in this Condominium will be known and described as Residential Units and will be used for residential purposes only during the existence and continuance of the condominium established by this Declaration. The area embraced by the General Common Elements will be used for parking, social recreation, utility access or other purposes directly related to family residential use.

2 Each Residential Unit will be used and occupied as a private, single-family dwelling unit only. No Residential Unit will be altered, remodeled, subdivided or converted into more than one single-family dwelling unit, except as provided for herein.

3. No Unit will be used or occupied for any professional office, business or commercial purpose, or any other non-residential purpose.

4. The Owners of the respective Units will have the right to rent or lease their respective Units, furnished or unfurnished, for residential purposes, provided that the tenancy or lease will be subject to the provisions of this Declaration, the Bylaws and the rules and regulations adopted by the Board of Directors of the Association of Unit Owners.

5. No parking space will be used for any other purpose except to park an operable motor vehicle, motorcycle or other wheeled conveyance. No other storage will be allowed in the parking spaces.

6. A Unit owner will not obstruct the common elements. A Unit owner will not place or store anything within the common elements without the prior written consent of the Board of Directors.

7. No trash, rubbish, garbage or debris will be kept or placed in any of the patios or similar areas or be

permitted to accumulate on any other Common Elements so as to render those area unsightly, offensive or detrimental to other property. All garbage and trash will be placed or kept in designated containers as approved by the Board of Directors.

8. Without the prior written consent of the Board of Directors, a Unit owner will not permit anything to be done or kept in the owner's Unit or in the limited common elements appurtenant to the Unit that would result in an increase in the cost of insurance on the property, or that would result in the cancellation of insurance with respect to all or any part of the property, or that would be in violation of any governmental law, ordinance, regulation, or requirement.

9. Without the prior written consent of the Board of Directors, a Unit owner will not permit any signs, pictures, banners, posters or other objects of any kind to be displayed to the public view from the owner's Unit or from the limited common elements appurtenant to the Unit. Notwithstanding the above, the Developer may maintain a sign on the property to advertise or attract attention to the project for as long as the Developer owns any Unit which is for sale.

10. A condominium unit may not be renovated or remodeled in any manner which interferes with the aesthetic or structural integrity of the supporting structure. A unit owner shall not alter, construct in, or remove anything from the common elements without the prior written consent of the Board of Directors.

11. No antenna, satellite dish, or other device for the transmission or reception of television signals, radio signals, or any form of electro-magnetic radiation will be erected, used, or maintained outdoors on any Unit if attached to a building or structure or otherwise. No such equipment shall be placed on or in, or protrude on or in, any General Common Element airspace. But the Association of Unit Owners may erect a common television reception device or devices. No C. B. or shortwave radios shall be operated in any Unit.

12. Outside visible clotheslines or other outside facilities for drying or airing clothes will not be erected.

13. No tree, shrub or planting of any kind on any Unit or on Common Elements will be allowed to overhang or otherwise encroach on any sidewalk or other pedestrian way from ground level to a height of twenty five (25) feet without the prior approval of the Board of Governors.

14. No unit or any part of the surface of the Common Elements will be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

15. No Owner will permit any condition to exist on any unit which will induce, breed, or harbor plant diseases or noxious insects.

16. A Unit owner will not permit animals of any kind to be raised, bred or kept in the owner's Unit or in the limited common elements appurtenant to the Unit, other than a dog, cat, or other common household pet, subject to reasonable rules and regulations as may be adopted by the Board of Directors. No animal or bird will be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing, or confinement of any animal or bird will be maintained so as to be visible from neighboring property. On the written request of any Owner, the Board of Directors will conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds in question is reasonable and in compliance with this subparagraph.

17. The Units and Common Elements will not be used so as to disturb the neighborhood or occupants of adjoining Units, or to constitute a nuisance or to violate any applicable public law, ordinance or regulation, or to create or emit any objectionable, offensive or noxious odors, dust, gas, offensive fumes or similar material.

18. A Unit owner will not violate any of the rules and regulations for the use of apartments, common elements or limited common elements adopted by the Board of Directors and furnished in writing to the Unit owners.

19. No immoral, improper, offensive or unlawful use will be made of the project, and all valid laws, zoning ordinances and regulations of the governmental bodies having jurisdiction of the property will be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the project will be the responsibility of the Association of owners acting by and through the Board of Directors.

20. No nuisances will be allowed on the project, nor any use or practice which is the source of annoyance or offense to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property will be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No unit owner will permit any use of his or her unit or make any use of the general or limited common elements which will constitute a nuisance or annoyance to the residents of other units.

The Board of Directors of the Association of Unit Owners will determine whether an activity is offensive or constitutes a nuisance subject to the reasonable rules and regulations adopted.

9. ASSOCIATION OF UNIT OWNERS AND BOARD OF DIRECTORS

A. The persons or entities, including the Declarant, who are at the pertinent time the Unit owners constitute the Association of Unit Owners ("Association"), which will be incorporated as a Texas nonprofit corporation under the name Main Street Condominiums Unit Owners Association, Inc. This is the name in which contracts will be entered into, title to property will be acquired, held, dealt in and disposed of, bank accounts will be opened and suits will be brought and defended by the Board of Directors or officers of the Association on behalf of, or as agent for the Unit owners in the manner specified by the Act, this Declaration and the Bylaws.

The Association will not include those having an interest in a Unit merely as security for the performance of an obligation.

B. The management and maintenance of the property and the administration of the affairs of the Association will be conducted by a Board of Directors ("Board"), consisting of seven (7) natural persons who must be Unit owners. The Board will be elected as provided in the Bylaws. The rights, duties and functions of the Board may be exercised by Declarant until twenty-nine (29) Units are sold by the Declarant. Declarant may, at its sole option, turn over these rights, duties and functions to the Board at an earlier date.

C. The Board will have all the powers, duties and responsibilities as are now or may later be provided by the Act, this Declaration and Bylaws, including but not limited to the following:

1. To make and enforce all administrative rules and regulations covering the operation and maintenance of the property and the assignment of parking spaces.
2. To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to those persons a reasonable compensation for their services. In the event the Board determines that the management of the property should be conducted by a professional management company, any agreement relating to professional management will be for a contract term not to exceed three (3) years.
3. To operate, maintain and repair the common elements including landscaping and the exterior surfaces of the Units. However, furnaces, air conditioning equipment, plumbing, fixtures, household appliances and other interior mechanical equipment, used in and for the Units, and the interior surfaces of each Unit will be maintained and repaired by the respective owners of the Units, and all maintenance of this type will be at the sole cost and expense of the respective Unit owner.
4. To determine and pay the common expenses including water, sewer, garbage, gas, electricity and other necessary utility services for the common elements. Charges for utilities so used will be assessed and collected by the Board as provided herein.
5. To assess and collect the proportionate share of all common expenses from the Unit owners.
6. To enter into contracts, deeds, leases and other written instruments or documents and to

authorize their execution and delivery by the appropriate officers.

7. To open bank accounts on behalf of the Association and to designate the authorized signatures for those accounts.

8. To purchase, hold, sell, convey, mortgage or lease Units in the name of the Association or its designee.

9. To bring, prosecute and settle litigation for itself, the Association and the property, provided that the Association make no settlement which results in a liability against the Board, the Association or the property in excess of \$36,000.00 without prior approval of the members of the Association.

10. To obtain insurance for the Association with respect to the Units and the common elements as provided below, as well as worker's compensation insurance, Directors and Officers liability insurance and general liability insurance.

11. To repair or restore the property following damage or destruction or a permanent taking by the power of, or power in the nature of, eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the property from the provisions of the Act.

12. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Unit owners, items of personal property necessary to, or convenient to, the management of the business and affairs of the Association and the Board in the operation of the property, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

13. To keep adequate books and records of the affairs and dealings of the Board relating to the management of the property.

14. To do all other acts necessary for the operation and maintenance of the property, including the maintenance and repair of any Unit or Limited Common Element if the same is necessary to protect or preserve the appearance and/or value of the property and the Unit owner has failed or refused to perform the maintenance or repair within a reasonable time after written notice of the necessity of the maintenance or repair delivered by the Board. The Board will levy a special assessment against that Unit for the cost of the necessary maintenance or repair.

D. The Board may delegate to a manager or managing company all of the foregoing powers, duties and responsibilities referred to in Section 9C, above, except (i) the final determination of common expenses, budgets and assessments; (ii) the promulgation of administrative rules and regulations; (iii) the power to enter into any contract involving the expenditure of more than \$36,000.00 in any one fiscal year; (iv) the opening of bank accounts; (v) the power to purchase, hold, sell, convey, mortgage or lease any Units in the name of the Association or (vi) the authority to bring, prosecute and settle litigation.

E. Members of the Board, the officers and any assistant officers, agents and employees of the Association (i) will not be liable to the Unit owners as a result of their activities for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) will have no personal liability in contract to a Unit owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in that capacity; (iii) will have no personal liability in tort to any Unit owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in that capacity, and (iv) will have no personal liability arising out of the use, misuse or condition of the property, which might in any way be assessed against or imputed to them as a result or by virtue of that capacity.

F. The Unit owners will indemnify and hold harmless any person, his or her heirs and personal representatives, from and against all personal liability and all expenses, including attorneys' and experts' fees, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more Unit owners, or any other persons or entities, to which he or she will be or will be threatened to be made a party by reason of the fact that he or she is or was a member of the Board or an officer or assistant officer, agent or employee of the Association, other than to the extent, if any, that the liability or expense is attributable to his or her willful misconduct or bad faith, provided that, in the case of any settlement, the

Board will have approved the settlement, which approval is not to be unreasonably withheld. This indemnification by the Unit owners will be paid by the Board on behalf of the Unit owners and will constitute a common expense and will be assessed and collectible as a common expense. At the election of the Board, policies of insurance may be secured, as a common expense, insuring the members of the Board and officers, assistant officers, agents and employees of the Association against all liability envisioned by this paragraph.

10. MAINTENANCE

A. The maintenance, replacement and repair of the common elements will be the responsibility of the Board, and those costs will be a common expense. The Board will also maintain, replace and repair all balconies and patios except for routine cleaning, and all conduits, ducts, plumbing and wiring and other facilities for the furnishing of gas, light, power, water and sewer service contained in the portions of the Units that service part of the property other than the Unit in which they are contained. All incidental damages caused to a Unit by the maintenance, replacement and repair of the common elements or utility services will be repaired promptly as a common expense.

B. The Unit owners will have the responsibility to maintain and keep in a clean and sanitary condition, at the Unit owner's expense, all portions of the owners' Unit, except those portions to be maintained by the Board. The Unit owners will keep clean and in a sanitary condition their storage areas, balconies and patios.

11. INSURANCE

A. The Board will maintain insurance on this property of the type and kind provided below, including insurance for risks that are customarily covered with respect to other properties similar in construction, design and use to this property. The Board will make every reasonable effort to obtain insurance with the following provisions or endorsements:

1. Exclusive authority to adjust losses will be vested in the Board as insurance trustee;
2. The insurance coverage will not be brought into contribution with insurance purchased by individual Unit owners or their respective mortgagees;
3. Each Unit owner may obtain additional insurance covering the owner's real property interest at the owner's expense;
4. The insurer waives its right of subrogation as to any claims against each Unit owner;
5. The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any one or more individual Unit owners or their respective tenants, employees, agents, contractors and guests;
6. The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any officer or employee of the Association or Board or their employees, agents or contractors, without prior demand in writing that the Board cause the defect to be cured. If the defect is not cured within thirty (30) days after receipt of demand by the Board the policy may then be cancelled, invalidated or suspended, at the option of the insurer and as provided by the policy.

B. The Board will obtain insurance insuring the Board, the Association, the Unit owners and their respective tenants, servants, agents or guests against any liability to the public or to the owners of Units, members of the households of Unit owners and their respective invitees or tenants arising out of and incident to the ownership or use of the Common Elements, including all personal liability exposure of the Unit owners incident to the ownership or use of the Common Elements. The limits of liability under this insurance will not be less than \$1,000,000.00 for any one person injured in any one occurrence, and will not be less than \$50,000.00 for property damage in each occurrence. The Board will also obtain an umbrella policy covering general liabilities with a minimum policy limit of \$1,000,000.00. The Board will obtain a Officers & Directors policy with a minimum policy limit of \$1,000,000.00. The limits of liability coverage will be reviewed at least annually by the Board and increased or decreased at its discretion, provided that these limits will not fall below the minimums specified in this paragraph. This liability coverage will be issued on a comprehensive liability basis and, if possible, will provide cross-liability endorsements for possible claims of any one or more or group of insureds against any one or more or group of insureds

without prejudice to the right of a named insured under the policies to maintain an action against another named insured.

C. The Board, for the benefit of the property and the Unit owners, will maintain a policy or policies of casualty and multi-risk insurance on the property, with the provisions and endorsements as stated in paragraph 11.A, if obtainable, and with extended coverage endorsements for the full insurable replacement value of the Common Elements payable to the Board as insurance trustee to be disbursed in accordance with the terms of this Declaration. The initial limits and coverage under this policy shall be \$3,500,000.00 of property insurance (with a \$10,000.00 deductible and a \$25,000.00 deductible for wind and hail losses). The limits and coverage of this insurance will be reviewed at least annually by the Board. This coverage will provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees, if any, of each Unit, provided however, any proceeds will be applied pursuant to the provisions of paragraph 12.

D. Each Unit owner will be required to notify the Board of all improvements made by the Unit owner to his or her apartment, the value of which is in excess of \$10,000.00, and will be liable for any increased insurance premium for insurance maintained by the Board occasioned by those improvements. Each Unit owner will bear the risk of loss for all improvements made to his or her apartment that were not the subject of prior notice to the Board.

E. Unit owners must provide the Board, at least annually, with a Certificate of Insurance evidencing coverage for the Unit and the Limited Common Elements. Minimum coverages for Unit policies shall be \$500,000.00 for personal liability, \$4,000.00 for medical coverage of others, and property coverage of at least \$50,000.00 for damage to the Unit's finish out elements. The Board may increase this minimum coverage at its discretion. Proceeds of claims paid under such policies for damage to the Unit property must be applied to the appropriate repair of the finish out elements. If they are not, the Board is authorized to make repairs and assessments for them as set forth in Paragraph 9(c)(14), above.

F. No Unit owner will be entitled to exercise his or her right to maintain insurance coverage in a manner which decreases the amount that the Board, on behalf of all of the Unit owners, may realize under any insurance policy that the Board may have in force covering the property.

12. DAMAGE

A. If any of the buildings are damaged by fire or other casualty and that damage is limited to a single Unit, all insurance proceeds will be paid to the owner or owners or mortgagee or mortgagees, of that Unit, as their respective interests may appear. The Unit owner or owners or mortgagee or mortgagees, will use those insurance proceeds to promptly rebuild or repair that Unit in accordance with the original plans and specifications for the Unit. If the insurance proceeds are insufficient to pay all the costs of repairing or rebuilding the Unit in accordance with the original plans and specifications, the Unit owner will be liable for any deficiency.

B. If the casualty damage extends to two or more Units, or extends to any part of the common elements, those insurance proceeds will be paid to the Board, as Trustee, to be held in trust for the benefit of the Unit owners and their mortgagees as their respective interests may appear. The Board will then contract to repair or rebuild the damaged portions of all Units, buildings, and the common elements in accordance with the original plans and specifications. The funds held in the insurance trust fund will be used for this purpose. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Board will levy a special assessment on all Unit owners, in proportion to the percentage interest of each Unit owner in the common elements to make up any deficiency. If any Unit owner fails to pay the special assessment within sixty (60) days after the levy, the Board will make up the deficiency by payment from the maintenance fund; provided, however, that the Unit owner failing to pay the special assessment will remain liable for the assessment.

C. If two-thirds (2/3rds) or more of the buildings are destroyed or damaged by fire or other casualty, as determined by the Board, and unless otherwise unanimously agreed by the Unit owners at a special meeting to be held not later than fourteen (14) days after the casualty, the insurance proceeds will be delivered to the Unit owners or their mortgagees, as their interests may appear, in proportion to the percentage interest of each Unit owner in the common elements; and the Board will, as soon as reasonably possible, record with the Clerk of Lubbock County a notice stating those facts, and on the recording of the notice (i) the property will be deemed to be owned in common by the Unit owners as tenants in common, each Unit

owner owning an undivided interest in the property equal to his or her percentage ownership in the common elements as stated in the exhibits to this Declaration; (ii) any liens affecting any of the Units will be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit owner in the property and (iii) the property will be subject to an action for partition as the suit of any Unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, will be considered as one fund and will be divided among all Unit owners in a percentage equal to the percentage of undivided interest owned by each Unit owner in the property, after first paying out of the respective shares of each Unit owner, to the extent sufficient for these purposes, all sums necessary to satisfy liens on the undivided interest in the property owned by each Unit owner.

D. For purposes of this Section 12, the terms "disaster", "destruction" or "substantial damage" also mean and include a temporary or permanent taking, injury or destruction of all or part of the common elements or one or more Units or parts of Units by the exercise of the power of, or power in the nature of, eminent domain or by an action or conveyance in lieu of condemnation. "Reconstruction of the building or Unit" means the restoring of the building or Unit to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the common elements having the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Section 14 below will apply.

13. TERMINATION

A. In the event that the designated fraction or percentage of building is destroyed or substantially damaged so as to bring into effect the provisions of paragraph 12.C above, and the Unit owners do not unanimously vote to act otherwise, the property will be removed from the provisions of the Act without further agreement seventy-five (75) days after the destruction or damage.

B. All of the Unit owners may remove the property from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded that their liens be transferred to the percentage of the undivided interest of the Unit owners in the property.

C. After removal of the property from the Act, the Unit owners will own the property as tenants in common and the respective mortgagees and lienors will have mortgages and liens on the respective undivided interests of the Unit owners. These undivided interests of the Unit owners will be the same as the percentage of undivided interest in the common elements appurtenant to the Unit owners' Units prior to removal from the Act.

D. This Section 13 cannot be amended without the consent of all Unit owners and all record owners of mortgages on Units.

14. EMINENT DOMAIN

A. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the common elements or one or more Units or parts of Units by the exercise of the power of, or power in the nature of, eminent domain or by an action or conveyance in lieu of condemnation, the Board and each Unit owner will be entitled to notice and the Board will, and the Unit owners at their respective expenses may, participate in the proceedings.

B. With respect to common elements, any damages or awards will be determined for the taking, injury or destruction as a whole and not for each Unit owner's interest in the common elements. After that determination, each Unit owner will be entitled to a share of the damages in the same proportion as his or her percentage of undivided interest of the common elements. This provision does not prohibit the Board, pursuant to authorization by a majority of the Association, from restoring the common elements so taken on the remaining land or on other acquired land, provided that this Declaration and the plats are fully amended.

C. With respect to one or more Units or parts of Units, the damages or awards will be deposited with the Board as trustee even though the damages or awards may be payable to one or more Unit owners. In the event a Unit owner refuses to deposit his or her award with the Board, then at the option of the Board, either a special assessment will be made against the defaulting Unit owner and his or her Unit in the amount of this award or the amount of the award will be set off against the sums made payable to that Unit

owner by the provisions below.

D. In the event the property is removed from the provisions of the Act pursuant to Sections 12 and 13 above, the proceeds of the damages or awards will be distributed or used in accordance with, and the owners of the affected Units will have the rights provided in, Section 12.C, above.

E. If one or more Units are taken, in whole or in part, and the property is not removed from the provisions of the Act, the taking will have the following effect:

1. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made habitable, the Unit will be made habitable. If the cost of this work exceeds the amount of the award, the additional funds required will be assessed against the Unit owner. The balance of the award, if any, will be distributed to the mortgagee to the extent of the unpaid balance of its mortgage and the excess, if any, will be distributed to the Unit owner. If there is a balance of the award distributed to the Unit owner or a mortgagee, the Unit owner's percentage of undivided interest in the common elements will be equitably reduced. This will be done by recomputing the percentages of undivided interests of all Unit owners in the common elements, taking into account the reduction in floor area occasioned by the taking.

2. If the taking destroys or so reduces the size of a Unit that it cannot be made habitable, the award will be distributed to the mortgagee of the Unit to the extent of the unpaid balance of its mortgage and the excess, if any, will be distributed to the Unit owner. The remaining portion of the Unit, if any, will become a part of the common elements and will be placed in condition for use by all Unit owners in the manner approved by the Board. The percentages of undivided interests in the common elements appurtenant to the Units that continue as part of the property will be equitably adjusted to distribute the ownership of the common elements among the reduced number of Unit owners, taking into account the reduction in floor area occasioned by the taking.

F. Changes in Units, in the common elements and in the ownership of the common elements that are affected by the taking referred to in this Section 14, will be evidenced by an amendment to this Declaration and the plats, which need not be approved by the Unit owners.

15. MORTGAGEE PROTECTION

A. The term "mortgage" as used here means any recorded mortgage having priority over other mortgages and includes a recorded deed of trust. The term "mortgagee" means the owner and the holder of a mortgage and includes a beneficiary under a deed of trust.

B. The Board will maintain a roster of Unit owners from the evidence of change of ownership furnished to the Board, which roster will include the mailing addresses of all Unit owners. The Board will also maintain a roster containing the name and address of each mortgagee of a Unit if the Board is provided notice of a mortgage by way of a certified copy of the recorded instrument evidencing the mortgage and containing the name and address of the mortgagee. The mortgagee will be stricken from the roster on request by the mortgagee or on receipt by the Board of a certified copy of a recorded release or satisfaction of the mortgage. Notice of removal will be given to the mortgagee unless the removal is requested by the mortgagee.

C. The Board will give to any mortgagee on the roster written notification of any default by the mortgagor of the respective Unit in the performance of that mortgagor's obligations under the Declaration which is not cured within twenty (20) days.

D. A mortgagee of any Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or by way of deed or assignment in lieu of foreclosure will take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrued prior to the time that the mortgagee comes into the possession of the Unit, except for claims for a pro rata share of any assessments or charges resulting from a pro rata reallocation of assessment or charges to all Units, including the mortgaged Unit.

E. Any liens on any Unit created under the Act or pursuant to this Declaration or the Bylaws will be subject and subordinate to, and will not affect the rights of any mortgagee under, a mortgage on that Unit made in good faith and for value, provided however, that any lien created after a foreclosure or sale will

have the same effect and be enforced in the same manner as provided in the Act, the Declaration and the Bylaws.

F. No amendment to this paragraph will affect the rights of a mortgagee who has recorded a valid mortgage prior to the recordation of any amendment.

16. ENCROACHMENTS

A. None of the rights and obligations of any Unit owner created by this Declaration, the Bylaws, or by a deed conveying a Unit will be affected in any way by an encroachment (i) by any portion of the common elements on any Unit; (ii) by any Unit on any portion of the common elements or (iii) by any Unit on another Unit due to settling or shifting of any building including the rebuilding of a building after fire or other casualty or an eminent domain taking or delivery of a deed in lieu of condemnation, unless there occurs an encroachment that results from the willful or negligent act or omission of the owner of the encroaching Unit, or of the owners of the Units to which the use of encroaching limited common elements are appurtenant, or of the Board in the event of an encroachment by any portion of the common elements other than the limited common elements.

B. There are hereby created valid easements for the maintenance of any encroachments permitted by this Section 16 of this declaration so long as those encroachments exist.

17. SALE OR CONVEYANCE

On the sale or conveyance of a Unit, all unpaid assessments against a Unit owner will first be paid out of the sales price; provided, however, that if these unpaid assessments are not paid or collected at the time of a sale or conveyance of a Unit, the grantee of the Unit will be jointly and severally liable with the selling Unit owner for all unpaid assessments against the selling Unit owner to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the selling Unit owner the amounts paid by the grantee. Any person who has entered into a written agreement to purchase a Unit will be entitled, on written request, to a statement from the Board setting forth the amount of the unpaid assessments against the selling Unit owner and that grantee will not be liable for, nor will the Unit conveyed be subject to, a lien for any unpaid assessments made by the Board against the selling Unit owner in excess of the amount set forth in the statement; provided, however, that the former Unit owner will remain liable and the grantee will be liable for any assessments becoming due after the date of the statement, including the reapportionment and reassessment of any uncollected common assessments.

18. CONVEYANCE REQUIREMENTS

A. Every deed, lease, mortgage or other instrument must describe a Unit by its identity number as set forth in Exhibits "B" and "C" and in the plat. A description by identity number will be deemed good and sufficient for all purposes and will be deemed to convey, transfer, encumber or otherwise affect the Unit owner's corresponding percentage of undivided ownership in the common elements as set forth in those exhibits even though that ownership interest is not exactly mentioned or described.

B. Every deed, lease, mortgage or other similar instrument will be deemed to:

1. Except and reserve, with respect to a Unit, (i) any portion of the common elements lying within that Unit; (ii) easements through that Unit appurtenant to the common elements and all other Units for support and repair of the common elements and all other Units; and (iii) easements appurtenant to the common elements for encroachments on the air space of that Unit by those portions of the common elements located within that Unit.
2. Include, with respect to a Unit, nonexclusive easements for ingress and support of that Unit through the common elements, for the repair of that Unit through all other Units and through the common elements and for the use of the balcony and patio space as indicated in the Exhibits.
3. Except and reserve, with respect to the undivided percentage interest in the common elements, nonexclusive easements appurtenant to all Units for ingress, egress, support and repair and exclusive easements appurtenant to each Unit for the use of the balcony and patio spaces as set forth in the plats.
4. Include, with respect to the undivided percentage interest in the common elements,

nonexclusive easements through each Unit for support and repair of the common elements and nonexclusive easements for encroachments on the air space of all of the Units by and for the portions of the common elements lying within the Units.

19. COMBINATION OF UNITS

A. An owner of two or more adjoining Units will have the right, on approval of the Board, which shall not be unreasonably withheld, to combine those Units. No combination requiring the removal or partial removal of a load bearing wall will be approved by the Board. No combination of portions of Units shall be allowed. Any combination shall address the penetration of firebreaks between Units to maintain or maximize the integrity of the fire-break system.

B. An amendment to the Declaration, together with an amended plat or plats containing the same information with respect to the altered Units as required in the initial Declaration and plat with respect to the initial Units, will be prepared and recorded at the expense of the Unit owner making the combination.

C. An amendment to the Declaration or plat pursuant to this Section 19 will reflect the changes occasioned by the combination to include a change in the percentage of undivided interest in the common elements which are appurtenant to the Units involved. The remaining combined Unit, when two or more Units are totally combined, will acquire the total of the percentage of undivided interest in the common elements appurtenant to the Units that were combined as set forth in Exhibits "B" and "C". The percentage of undivided interest in the common elements appurtenant to all other Units will not be changed. These amendments must, in all instances, be consented to by the Board and also all other persons holding interests in the Units affected. The consent of other Unit owners need not be obtained to make these amendments or alterations valid, provided the percentages of undivided interest in the common elements of the other Unit owners remain unchanged.

D. The amendments to the Declaration and plats must be approved by attorneys employed by the Board to insure the continuing legality of the Declaration and the plats. The cost of this review by the attorneys will be borne by the person wishing to combine the Units.

20. AMENDMENT

Except as otherwise provided in this Declaration and except as prohibited by the Act, the provisions of this Declaration may be Amended by an instrument in writing signed and acknowledged by Unit owners who own five-sixths ($5/6^{\text{th}}$) or more of the undivided interest in the common elements, which amendment will be effective on recording.

21. ASSESSMENTS

A. The making and collection of assessments from Unit owners for their share of common expenses will be pursuant to the Bylaws and subject to the following provisions:

1. Each Unit owner will be liable for a proportionate share of the common expenses that share being the same as the percentage of undivided interest in the common elements appurtenant to the Unit owned by the Unit owner as set forth in the Exhibits.
2. Assessments and any installments of assessments that are not paid on or before ten (10) days after the date when due will bear a late fee of \$50.00 and an additional late fee of \$1.00 per day beginning on the eleventh (11th) day after the due date until paid. All payments on account will be first applied to late fees and then to the assessment payment first due.
3. There will be a lien on the applicable Unit for unpaid assessments which will also secure reasonable attorneys' fees and all costs and expenses, including taxes, if any, incurred by the Board incident to the collection of an assessment or the enforcement of a lien. The lien for assessments will be superior to all other liens and encumbrances except for (i) assessments, liens and charges in favor of the State and any political subdivision for taxes past due and unpaid on the Unit, and (ii) amounts due under duly recorded mortgages.
4. In any foreclosure of a lien for assessments, the Unit owner subject to the lien will be required to pay a reasonable rental for the Unit.

B. The Board may include in the regular assessments amounts to be used for the replacement of or

additions to capital items or improvements in the property. Assessments for capital improvements or replacements may not exceed thirty-six percent (36%) of the common assessment for the operation and maintenance of the property.

C. In assessing the Unit owners for capital improvements to the common elements, there will be no single improvement exceeding the sum of \$72,000.00 made by the Board without the improvement having been first voted on and approved by five-sixths (5/6^{ths}) or more votes in percentage ownership interest of those present in person or by proxy at a meeting of the Association duly called for that purpose. The foregoing dollar limitation and the 36% of the common assessment limitation provided at paragraph 21, above, does not apply in connection with damage or destruction referred to in Section 12 above or to any structural alterations or capital additions to or capital improvements of the common elements that are necessary in the Board's reasonable judgment to preserve or maintain the integrity of the common elements of the property.

D. If the Unit owner leases his or her Unit and defaults for a period of ninety (90) days in the payment of assessments, the Board may, at its option, as long as default continues, demand and receive from any tenant of the Unit owner the rent due or becoming due and the payment of that rent to the Board will be payment and discharge of the tenant and the Unit owner for those assessments to the extent of the amount paid.

E. Utility services to the common areas are furnished through one or more master meters. The Board will include in their budget an assessment to cover the expected cost of these utilities and may adjust such assessment annually based on past and expected future utility use for the common areas. The Board may also specially assess Unit Owners for additional common area utility costs if necessary.

F. The Board will handle all assessments, whether for common expenses, capital contributions or utility usage, so as to comply with applicable provisions of the Internal Revenue Code and the its regulations as well as applicable State and local tax laws and to avoid undue adverse tax consequences that might result to the Association or individual Unit owners.

G. The Board may (but is not required to) invoice, and accept payment from, Unit owner's lenders for payment of assessments related to taxes and insurance out of escrow funds held by such lenders.

22. VOTING

One Unit equals one vote; thus, at any meeting of the Association, each Unit owner, including Declarant, either in person or by proxy, will be entitled to a single vote for each Unit owed by that owner.

If there is more than one owner of a Unit, any or all of those Unit owners may attend any meeting of the Association, but it will be necessary for all of those owners present, in person or by proxy, to act unanimously in order to cast the votes appertaining to their Unit. In any case where there is more than one owner of a particular Unit, the Board will be notified by writing signed by all owners of that Unit at least seven (7) days in advance of any meeting of the Association of the identity of the party authorized to cast the votes appertaining to that Unit. Notification will be conclusive evidence of the designated party's authority to cast the votes appertaining to that Unit until the Board is notified otherwise in writing.

23. NOTICES

Any notice permitted or required to be delivered as provided in this Declaration may be delivered either personally or by mail. If delivery is made by mail, it will be deemed to be delivered thirty-six (36) hours after a copy has been deposited in the U. S. postal service, postage prepaid, return receipt requested. Notice to Unit owners will be addressed to each Unit owner at the address given by that Unit owner to the Board for the purpose of service of notice or to the Unit of that owner if no other address has been given to the Board. The address may be changed from time to time by notice in writing to the Board. Notice to the Board must be addressed to: Main Street Condominiums Unit Owners Association, Inc., 7008 Salem Avenue, Lubbock, Texas 79424. This address may be changed from time to time by notice in writing to the Unit Owners.

24. NO WAIVER

The failure of the Board or its agents or designees to insist, in one or more instances, on the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or the Bylaws, to

exercise any right or option contained here or to serve any notice or to institute any action will not be construed as a waiver or a relinquishment for the future of that term, covenant, condition or restriction; that term, covenant, condition or restriction will remain in full force and effect. The receipt and acceptance by the Board or its agent or designee of the payment of any assessment from a Unit owner with knowledge of the breach of any covenant of this Declaration will not be deemed a waiver of the breach, and no waiver by the Board of any provision of this Declaration will be deemed to have been made unless expressed in writing and signed by the Board.

25. ENFORCEMENT

Each Unit owner will strictly comply with the provisions of the Declaration, the Bylaws, the administrative rules and regulations and decisions issued pursuant to those provisions. Failure to comply will be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board or its agent or designee on behalf of the Unit owners, or in an appropriate case, by an aggrieved Unit owner.

26. DECLARANT AND DECLARANT'S USE

A. The term "declarant" means and includes McDougal Construction, Ltd., and any person or persons who might acquire title from McDougal Construction, Ltd. through foreclosure or deed.

B. Declarant and persons it may select from time to time will have the right of ingress and egress over, upon and across the common elements and limited common elements and the right to store materials and to make other use of the common elements as may be necessary and incident to the development and sale of all of the Units as determined by the Declarant in its sole discretion.

27. SEVERABILITY

The provisions of this Declaration will be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion of it will not affect the validity or enforceability of any other provision of it.

28. LAW CONTROLLING

This Declaration, the plats, Appendix and the Bylaws will be construed and controlled by and under the Uniform Condominium Act and other laws of the State of Texas.

30. EFFECTIVE DATE

This Declaration takes effect when recorded.

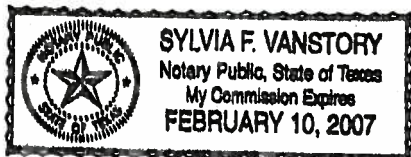
In witness whereof, the undersigned has executed this instrument this 13 day of September, 2004.

MCDUGAL CONSTRUCTION, LTD., A Texas Limited Partnership

By: [Signature]
Michael McDougal, as Managing Member of MCD EQUIPMENT LEASING, L.C., Its General Partner

STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 13th day of September, 2004, by Michael McDougal, as Managing Member of MCD EQUIPMENT LEASING, L.C., the General Partner of MCDUGAL CONSTRUCTION, LTD., a Texas Limited Partnership, on behalf of said partnership.



[Signature]
Notary Public, State of Texas

SEAL

STATE OF TEXAS §
COUNTY OF LUBBOCK §

That First Bank & Trust Co. duly organized and existing under the laws of the State of Texas, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) paid in cash, and for other good and valuable consideration, the receipt of which is hereby acknowledged and confessed, being the lienholder on the property described herein, does hereby consent and agree to the foregoing Declaration and does hereby subordinate its rights in the above described property to the above declaration, as shown on the attached exhibits.

IN WITNESS WHEREOF, the said First Bank & Trust Co. has caused these presents to be signed by its duly authorized officers at Lubbock, Lubbock County, Texas, this 22 day of September, 2004.

First Bank & Trust Co.

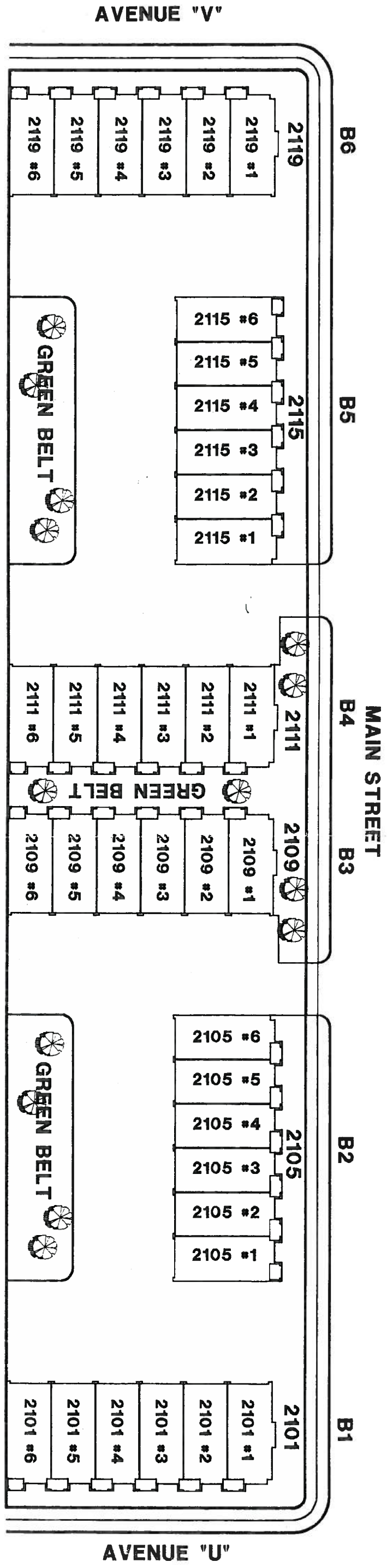
By: [Signature]
Printed Name: Drew C. Anderson
Title: Branch President

This instrument was acknowledged before me on the 22 day of September, 2004, by Drew C. Anderson, as Branch President of First Bank & Trust Co., and in the capacity therein stated.

[Signature]
Notary Public, State of Texas



SEAL



TRACT 11 OVERTON PARK

EXHIBIT 'A'

Page 1 – Example Building Front Elevation

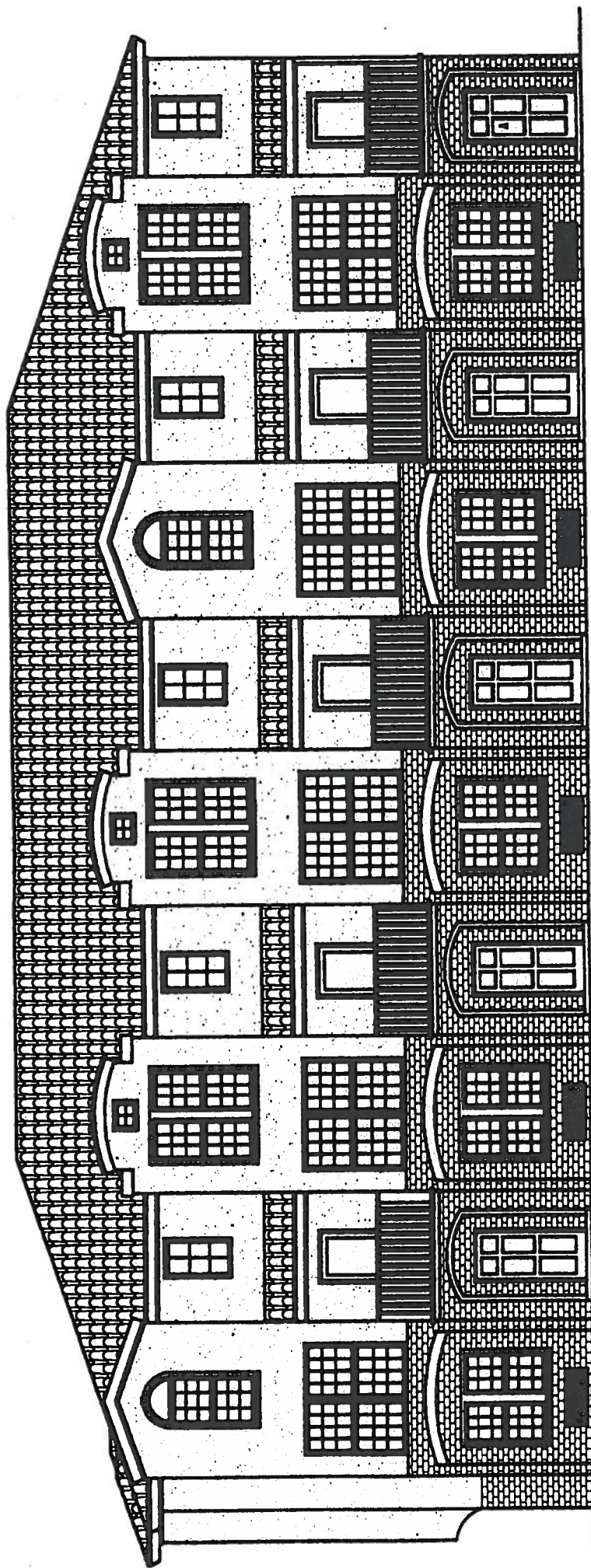
Page 2 – Example Building Back Elevation

Pages 3, 4 & 5 – Example Unit A (1800 square foot unit) Floor Plan

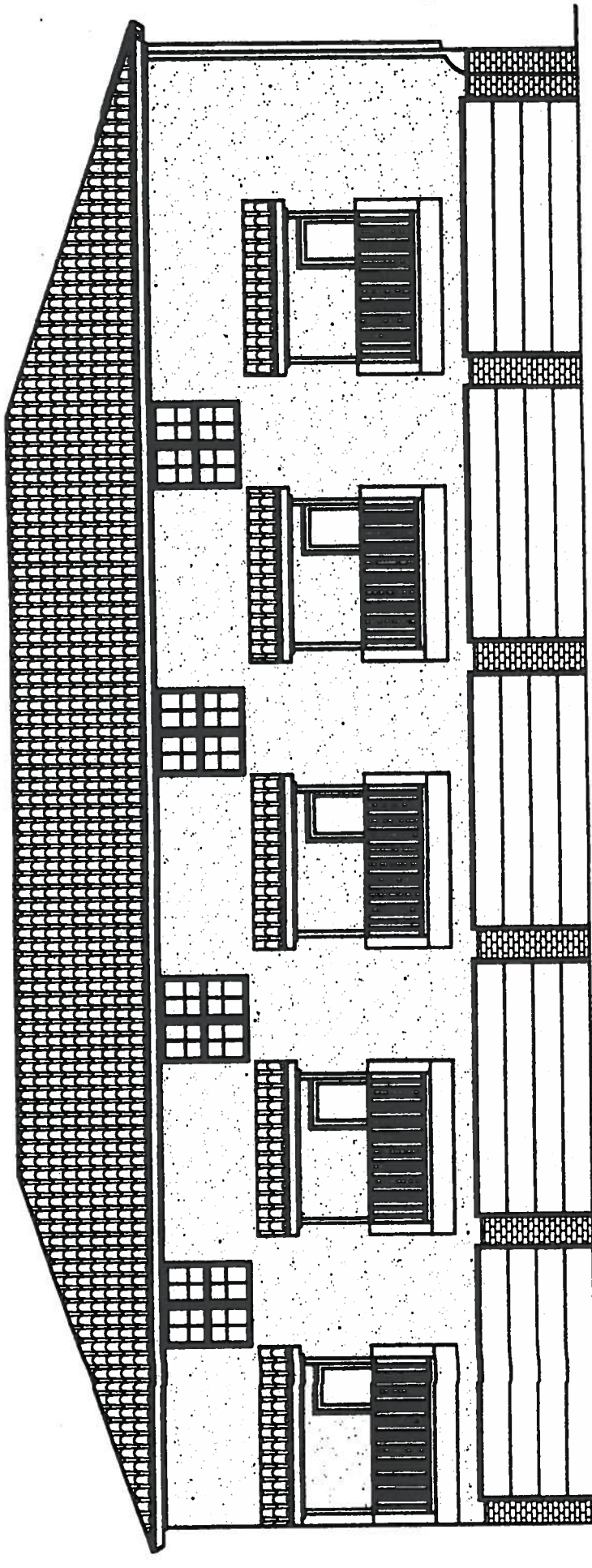
Pages 6, 7 & 8 – Example Unit B (1900 square foot unit) Floor Plan

Note: Example elevations and floor plans may not be to scale and may vary from the project as built.

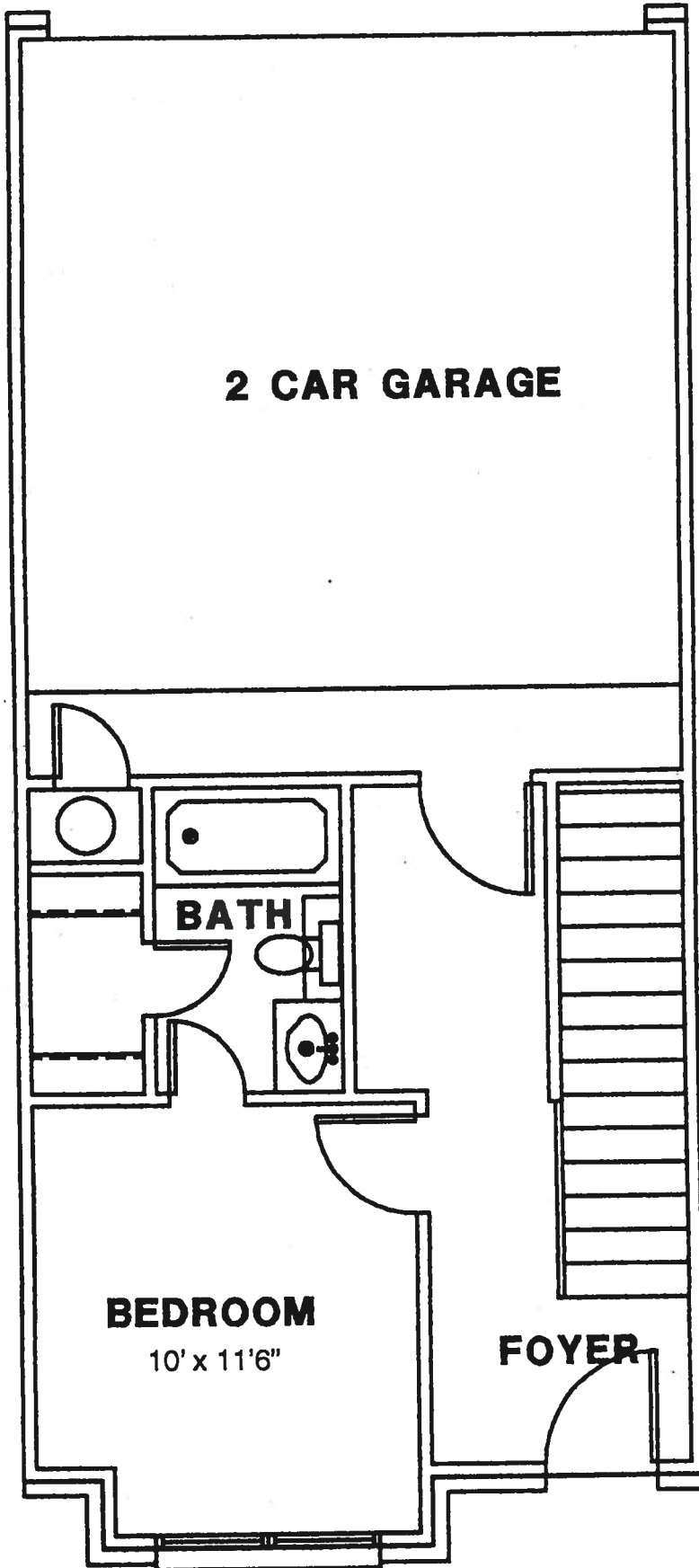
Page 9 – Plat



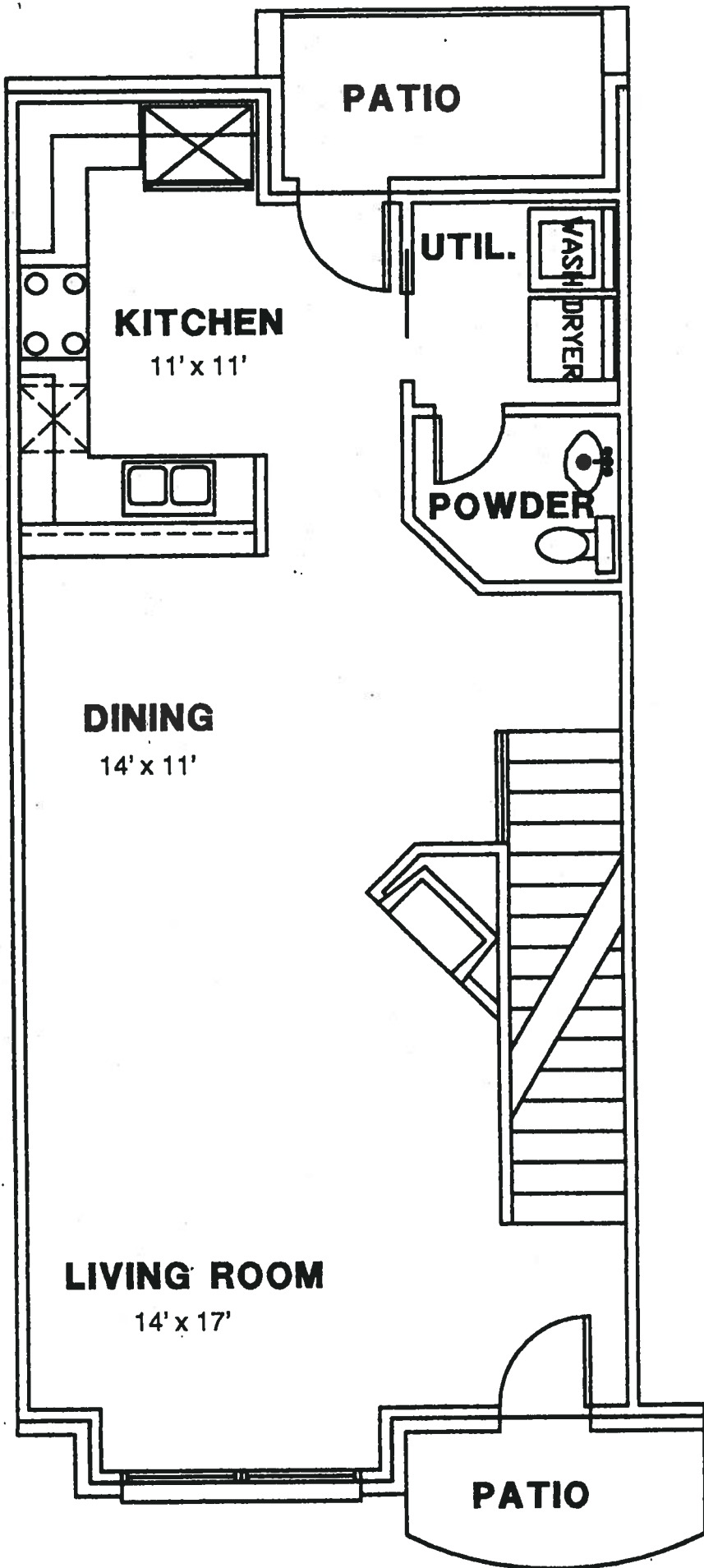
Front Elevation



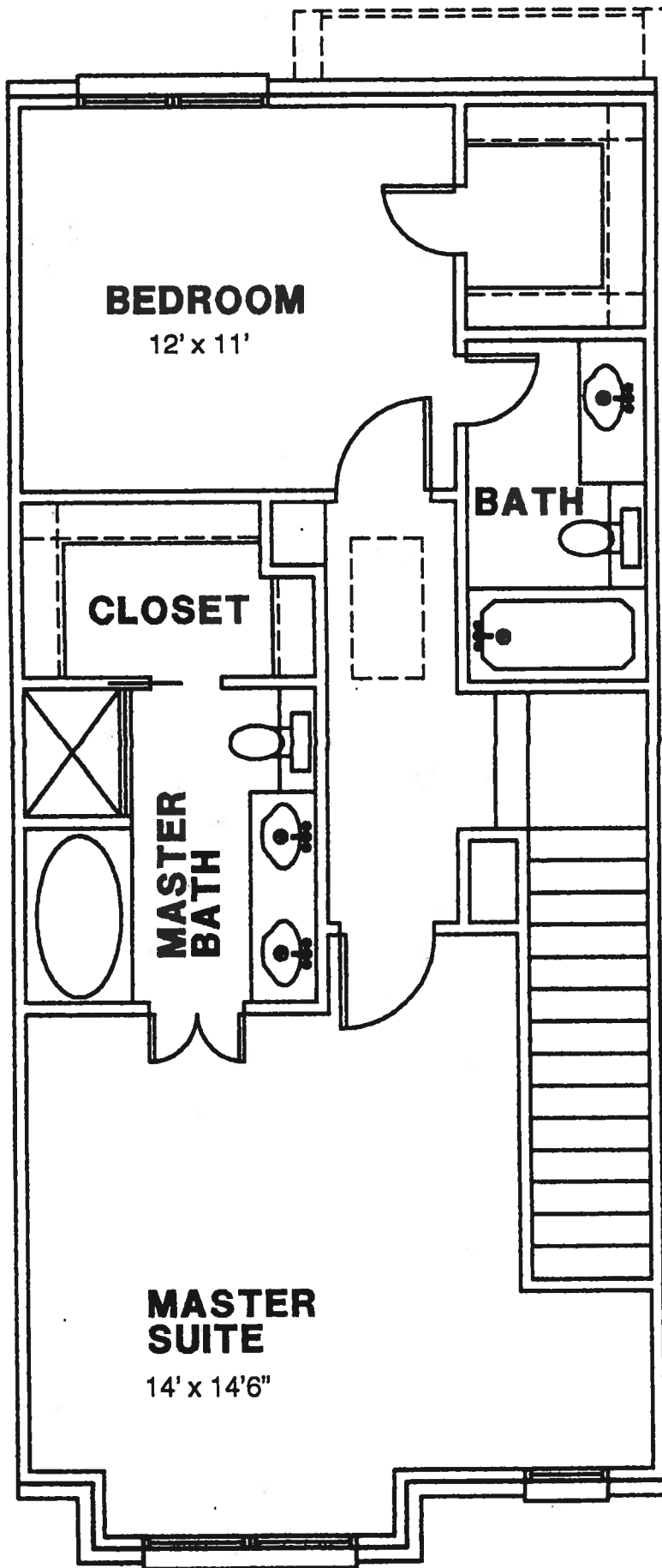
Rear Elevation



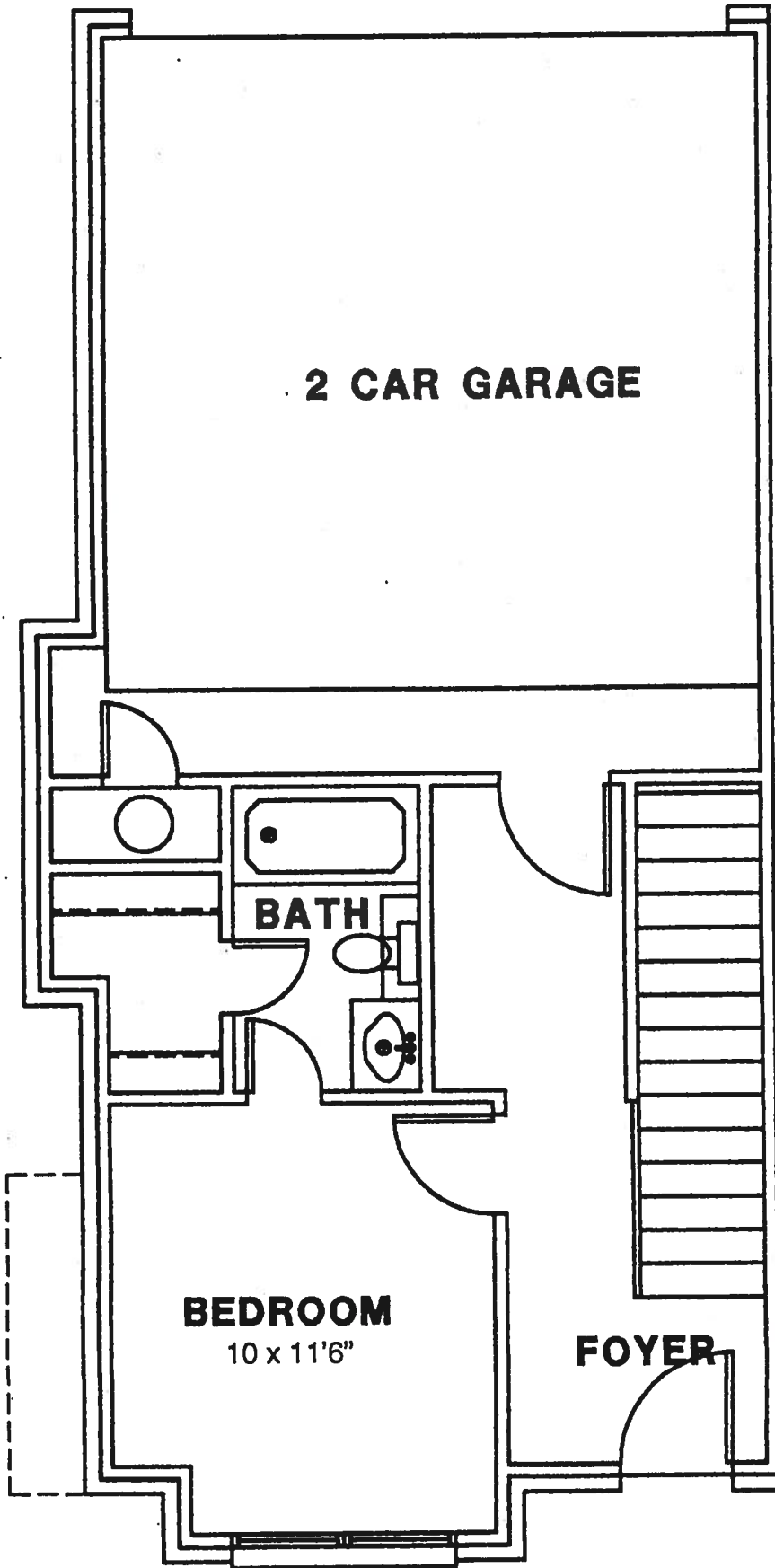
Unit A
1st Floor
1800 sq ft



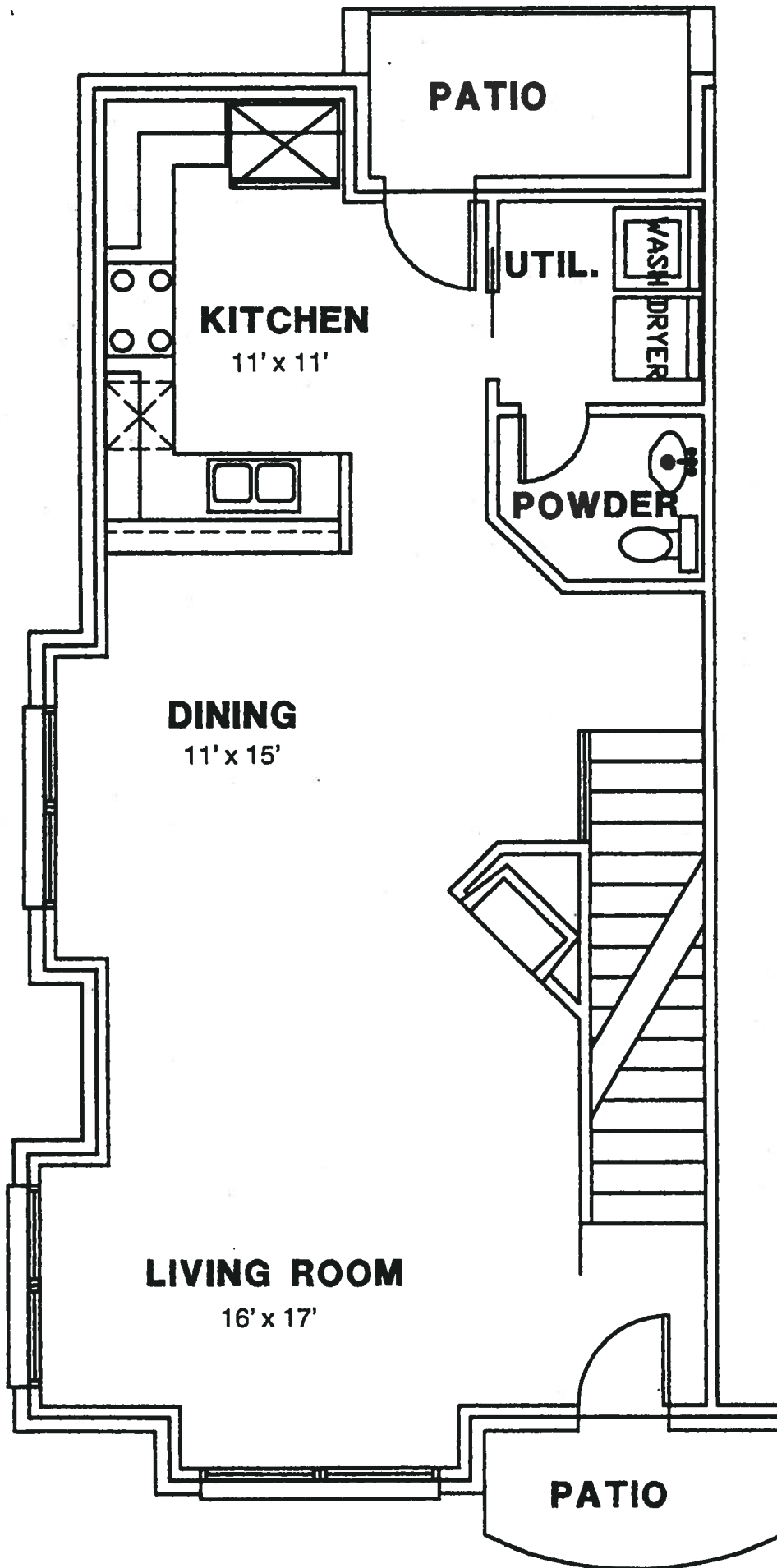
Unit A
2nd Floor



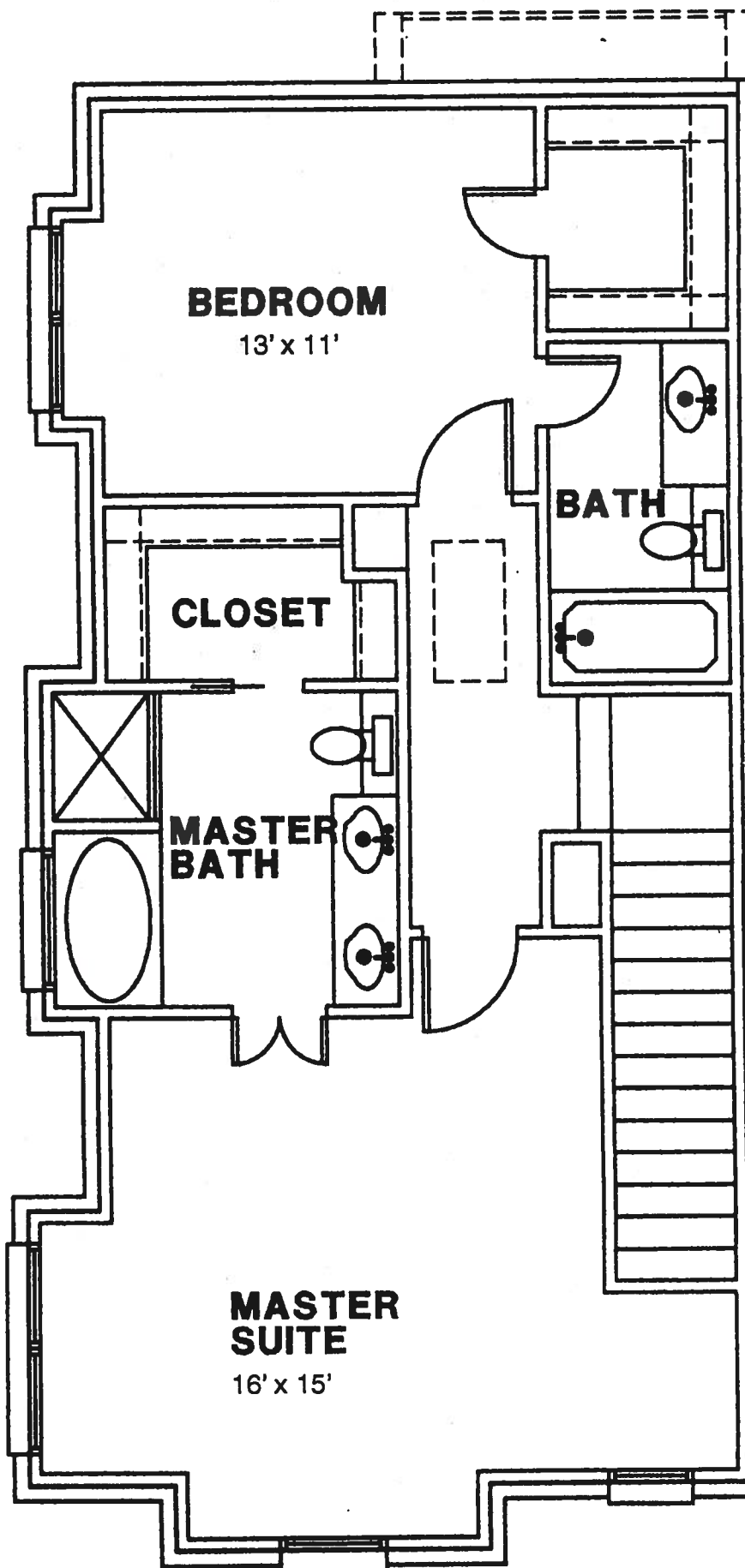
Unit A
3rd Floor



Unit B
1st Floor
1900 sq ft



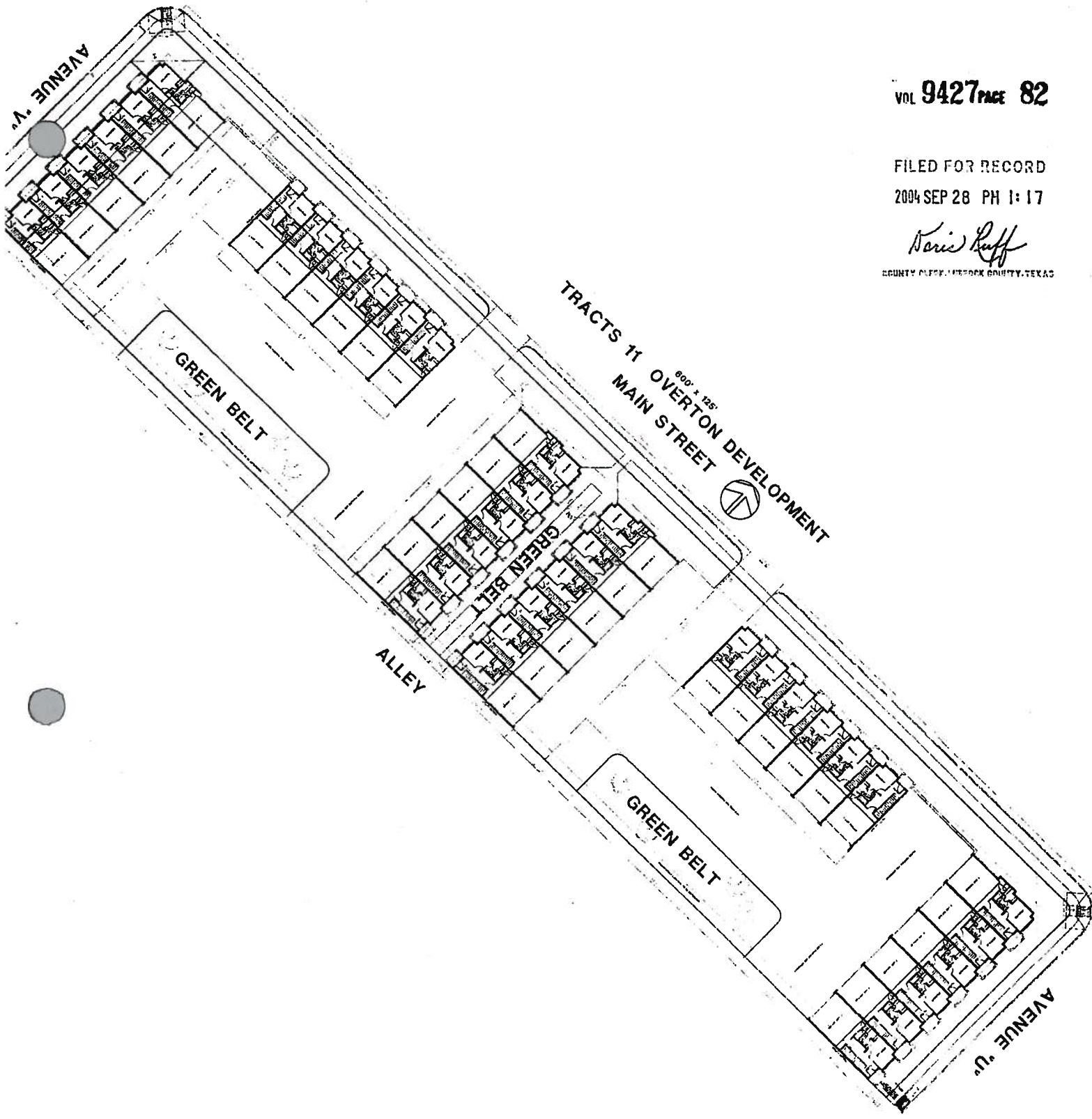
Unit B
2nd Floor



Unit B
3rd Floor

FILED FOR RECORD
2004 SEP 28 PH 1:17

Norie Ruff
COUNTY CLERK, HENRIK COUNTY, TEXAS



**BYLAWS OF
MAIN STREET CONDOMINIUMS UNIT OWNERS ASSOCIATION, INC.**

The administration of Main Street Condominiums and the Main Street Condominiums Unit Owners Association, Inc. ("Association"), a Texas Nonprofit Corporation, will be governed by the UNIFORM CONDOMINIUM ACT ("Act"), Chapter 82 of the TEXAS PROPERTY CODE as amended, if amended, the Declaration of Condominium of Main Street Condominiums and these Bylaws.

1. OFFICES AND AGENT

The principal office of the corporation in the State of Texas will be located in the County of Lubbock. The office of the corporation to be maintained in the State of Texas may be, but need not be, identical with the principal office in the State of Texas, and the address of the office may be changed from time to time by the Board of Directors. The registered agent of the corporation may be changed from time to time by the Board of Directors. The address of the initial registered office of the corporation will be 7008 Salem Avenue, Lubbock, Texas 79424, and the name of the initial registered agent of the corporation at that address will be Michael McDougal.

2. MEMBERS

2.1 The members of this corporation will be the owners of the units in the Main Street Condominiums, as defined in the Articles of Incorporation of the Main Street Condominiums Unit Owners Association, Inc. ("Association").

2.2 Annual Meeting. There will be an annual meeting of the Association on the third Monday of April on the property or at another reasonable place or time as may be designated by written notice of the Board of Directors delivered to the Association not less than ten (10) days nor more than thirty (30) days prior to the date fixed for the meeting. At the annual meeting the Board will present a certified audit of the Maintenance Fund, itemizing receipts and disbursements for the preceding calendar year, the allocation of receipts and disbursements to each Owner, and the estimated maintenance for the coming calendar year. Within thirty (30) days after the annual meeting, a copy of the audit will be delivered to all Owners.

2.3 Notice. Any notice permitted or required to be delivered as provided to an Owner may be delivered either personally or by mail. If delivery is made by mail, it will be deemed to have been delivered thirty-six (36) hours after a copy has been deposited in the United States mail, postage prepaid, addressed (a) to an Owner at the address given by the Owner to the Secretary of the Board for the purpose of notice or (b) to the Unit of that Owner if no address has been given to the Secretary. Any address for purposes of notices may be changed from time to time by notice in writing to the Secretary.

2.4 Voting. Each unit in the condominium will be entitled to one (1) vote at any and all meetings of the members.

2.5 Quorum. In order to constitute a quorum at any meeting, more than fifty percent (50%) of the voting members of this corporation must be present.

2.6 Special Meetings. Special meetings of the Association may be called at any time for the purpose of considering matters which, by the terms of these Bylaws and the Declaration, require the approval of all or some of the Owners or for any other reasonable purpose. Special meetings will be called by written notice, signed by the President or by the Owners having one-half (1/2) of the total votes and delivered not less than fourteen (14) days prior to the date fixed for the special meeting. Notices must specify the date, time and place of the meeting, and the matters to be considered.

3. BOARD OF DIRECTORS

3.1 General Power. The business and affairs of the corporation will be managed by its Board of Directors. Until the first election of the Board and/or subject to the limitation of Paragraph 9 of the Declaration, the rights, duties, and functions of the Board will be exercised by McDougal Construction, Ltd. ("Declarant").

3.2 Number, Tenure, and Qualifications. Until April 2007, or by their sooner resignation or removal by a majority vote of the members, the Directors of the corporation will be as provided in the Articles of Incorporation. After that date, the Board of Directors will be composed of seven (7) Directors who will be

residential owner-occupants of units in the condominium. At the first annual meeting, the Owners will elect a Board of Directors for the upcoming year, consisting of seven (7) Owners and thereafter at each annual meeting the Owners will elect members to the Board as provided below. However, the first Board elected may be elected at a special meeting duly called, that Board to serve until 2007 (subject to the drawing of lots described below). Each Owner entitled to vote at any election of members of the Board may vote, if present. The candidates receiving the highest number of votes up to the number of members of the Board to be elected will be deemed elected. All votes will be cast by written ballot. Members of the Board will, except as otherwise provided, serve for a term of three (3) years, commencing on the first day following the meeting at which they are elected, or until their respective successors are elected, or until their death, resignation or removal, whichever is earlier; provided that if any member ceases to be an Owner, his or her membership on the Board will terminate. Immediately after the election of the full Board of Directors at the first annual meeting, they will meet and by lot determine the two of them who will serve for three year terms, the two of them who thereof who will serve for two year terms, and the three of them who thereof who will serve for a one year term.

3.3 Regular Meetings. A regular meeting of the Board of Directors will be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide by resolution the time and within Lubbock, Texas, for the holding of additional regular meetings without other notice than that resolution. Five (5) members of the Board will constitute a quorum, and, if a quorum is present, the decision of a majority of those present will be the act of the Board. The Board will elect a President who will preside over both its meeting and those of the Association of Unit Owners. In case of a tie vote at a Board meeting, the President of the Board will cast the deciding vote. Meetings of the Board may be called, held and conducted in accordance with any regulations the Board adopts. The Board may also act without a meeting by unanimous written consent of its members.

3.4 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of a majority of the residents, or any three (3) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place within Lubbock, Texas as the place for holding any special meeting of the Board of Directors called by them.

3.5 Notice of Election. After the first election of the Board, Declarant will execute, acknowledge and record an affidavit stating the names of all the persons elected to membership of the Board. Thereafter, any five (5) persons who are designated of record as being members of the most recent Board may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Board. The most recently recorded affidavit will be prima facie evidence that the persons named in the affidavit are all of the incumbent members of the Board and will be conclusive evidence of that fact in favor of all persons who rely on it in good faith.

3.6 Authority of the Board. The Board, for the benefit of the Property and the Owners, will enforce these provisions and will acquire and pay out of the Maintenance fund, as provided below, for the following:

- (a) Water, sewer, garbage, electrical, gas and other necessary utility services for the Common Elements.
- (b) A policy or policies of fire insurance, with extended coverage endorsement, for the full insurable replacement value of the Units and the Common Elements payable as provided in Paragraph 11 of the Declaration, or such other fire and casualty insurance as the Board determines gives substantially equal or greater protection to the Association of Owners, Owners, and their mortgagees, as their respective interests may appear, which policy or policies will be reviewed annually by the Board.
- (c) A policy or policies insuring the Board and the Owners against any liability to the public or to the Owners and their invitees or tenants incident to the ownership and use of the Property, and including the personal liability exposure of the Owners. Limits of liability under this insurance will not be less than \$1,000,000.00 for any one person injured, \$1,000,000.00 for any one accident, and \$50,000.00 for property damage, with these limits and coverage to be reviewed at least annually by the Board and adjusted in its discretion. The Board will also secure an umbrella policy of insurance against general liabilities with a minimum policy limit of \$1,000,000.00, and

an Officers and Directors liability policy with a with a minimum policy limit of \$1,000,000.00. The policy or policies will contain a cross liability endorsement in which the rights of named insureds under the policy or policies will not be prejudiced as respects his, her or their action against another named insured;

(d) Worker's compensation insurance to the extent necessary to comply with any applicable laws;

(e) The services of the Manager to manage its affairs to the extent deemed advisable by the Board as well as other personnel that the Board determines to be necessary or proper for the operation of the Property, whether these personnel are employed directly by the Board or are furnished by the Manager; however, any service contract must be limited in duration to three (3) years unless a longer period is approved by the Board;

(f) Legal and accounting services necessary or proper in the operation of the Common Elements or the enforcement of the terms of the Declaration;

(g) A fidelity bond with the Manager, the Board and other persons as designated by the Board as principals and the Owners as obliges if required by the Board, for the first year in an amount at least equal to the estimated cash requirement for that year, and for each subsequent year in an amount at least equal to the total sum collected through the Maintenance Fund during the preceding year;

(h) Maintenance, repair and painting all of the Common Elements including but not limited to all parking and driveway areas, and exterior surfaces of Units, including exterior walls, windows and roofs, and furnishings and air conditioning and heating units for the Common Elements, which the Board will have the exclusive right and duty to acquire; however, kitchen appliances, plumbing fixtures, electrical equipment, all doors including front, rear and sliding glass patio doors, and the interior surfaces of each Unit will be maintained and repaired by the Owner of each unit, with this maintenance to be at the sole cost and expense of the Unit Owner;

(i) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure or pay for pursuant to the terms of the Declaration or these Bylaws or which in its opinion will be necessary or proper for the operation of the Common Elements or for the enforcement of the Declaration or Bylaws, provided that if any materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Units, and are not intended to be maintained by the Association of Unit Owners, their cost will be specially assessed to the Owner of that Unit. The Board will also pay any amount necessary to discharge any lien or encumbrance levied against the property which may in the opinion of the Board constitute a lien against the Common Elements, rather than merely against the undivided interest of an Owner. When one or more Owners are responsible for the existence of a lien, they will be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of the lien will be specially assessed to those Owners;

(j) Maintenance and repair of any Unit, if the maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Elements or preserve the appearance and value of the Property, and the Owner or Owners of the Unit have failed or refused to perform the maintenance or repair within a reasonable time after written notice of the necessity of the maintenance or repair delivered by the Board, and the Board will levy a special assessment against the Unit of that Owner or Owners for the cost of the maintenance or repair. The Board's powers in this instance will be limited in that the Board will have no authority to acquire and pay for out of the Maintenance Fund capital additions and improvements (other than for purposes of replacing portions of the Common Elements, subject to all the provisions of the Declaration) having a cost in excess of five thousand dollars (\$5,000) except as expressly provided here or in the Declaration. Nothing here authorizes the Board to furnish to any person services primarily for the benefit or convenience of any Owner or Owners, or occupant or occupants, of any Unit other than services customarily rendered in connection with the rental of space for occupancy only. The Board will have the exclusive right and obligation to contract for all goods, services and insurance in connection with the Property, payment for which is to be made from the Maintenance Fund,

except as otherwise specifically provided here or in the Declaration.

3.7 Resignation and Removal. Any member of the Board may resign at any time by giving written notice to the Secretary, and any member may be removed from membership on the Board by a vote a five-sixths (5/6) majority vote of the Association or by a vote of five (5) of the Board members.

4. OFFICERS

4.1 The officers of the corporation will be a President, a Vice President, a Secretary, a Manager, and a Treasurer, each of whom will be elected by the Board of Directors. Other officers and assistant officers as deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The initial officers of the corporation will be elected by the Board of Directors at the first meeting of the Board of Directors; subsequently, the officers of the corporation will be elected by the Board of Directors annually at each meeting of the Board of Directors held after each annual meeting of the members. If the election of officers is not held at an annual meeting, the election will be held as soon after that meeting as is convenient within a specified time limit. Each officer will hold office until his or her successor has been duly elected and has qualified or until his or her death or until he or she has been removed in the manner provided below.

4.3 Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interest of the corporation would be served by the removal.

4.4 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

4.5 President. The President will be the principal executive officer of the corporation and, subject to the control of the Board of Directors, will in general supervise and control all of the activities and affairs of the corporation. He or she will, when present, preside at all meetings of the members and of the Board of Directors. In the absence of any appointment, the President will act as Manager. He or she may sign, with the Secretary or any other proper officer of the corporation duly authorized by the Board of Directors, any notes, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, and in general will perform all duties incident to the office of President and any other duties prescribed by the Board of Directors.

4.6 Vice President. In the absence of the President, or in the event of his or her death, inability or refusal to act, the Vice President will perform the duties of the President, and when so acting, will have all the powers of and be subject to all the restrictions on the President. The Vice President will perform any other duties that are assigned to him or her by the President or by the Board of Directors.

4.7 Manager. The Manager will manage the affairs of the corporation subject to the control of the Board of Directors and the President as they determine necessary or proper for the operation of the Property; however, any contract for services entered into by the Manager will be limited in duration to three (3) years. In the absence of a Manager, the President will act as the Manager.

4.8 Secretary. The Secretary will do the following:

- (a) Keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose;
- (b) See that all notices are duly given in accordance with the provisions of these By-Laws or as required by law;
- (c) Be custodian of the records of the corporation.
- (d) Keep a membership roll of the members of the corporation;
- (e) Sign with the President or Vice President in any instrument as authorized by resolution of the Board of Directors; and
- (f) In general perform all duties incident to the office of the Secretary and any other duties assigned by the President or by the Board of Directors.

4.9 Treasurer. If required by the Board of Directors, the Treasurer will give a bond for the faithful discharge of his or her duties in the sums and with the surety or sureties that the Board of Directors determines. He or she will:

- (a) Have charge and custody of and be responsible for all funds of the corporation, receive and give receipts for moneys due and payable to the corporation from any source, and deposit all moneys in the name of the corporation in banks, trust companies, or other depositories as selected in accordance with these Bylaws; and
- (b) In general perform all of the duties incident to the office of Treasurer and any other duties assigned by the President or by the Board of Directors.

4.10 Salaries. No salary will be paid to any officer or Director other than the Manager, Secretary and Treasurer. Salaries are to be established, reviewed, increased, decreased, or terminated by a majority vote of the Board.

5. CONTRACTS, LOANS, CHECKS AND DEPOSITS

5.1 Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and this authority may be general or confined to specific instances.

5.2 Loans. No loans will be contracted on behalf of the corporation, and no evidence of indebtedness will be issued in its name, unless authorized by an affirmative vote of five (5) of the members of the Board and unless the total indebtedness contracted by the corporation will not exceed three times the projected annual income based on the current annual maintenance charge. This authority may be general or confined to specific instances.

5.3 Checks, Drafts, etc. All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the corporation will be signed by the officer or officers, agent or agents, of the corporation and in the manner determined by resolution of the Board of Directors.

5.4 Deposits. All funds of the corporation not otherwise employed will be deposited from time to time to the credit of the corporation in the banks, trust companies or other depositories that the Board of Directors selects.

6. COMMON EXPENSES: ASSESSMENTS

6.01 All assessments will be made in accordance with the general provisions of Paragraph 21 of the Declaration.

6.02 Within thirty (30) days prior to the annual meeting of the Association, the Board will estimate the common expenses and capital contributions for the coming fiscal year. Subject to the provisions of the Declaration, the estimated capital contributions may include amounts the Board deems proper for general working capital, for the general operating reserve, for a reserve fund for replacements and major maintenance, and will take into account an expected income, surplus or deficit in the common expenses for any prior year. These estimated capital contributions and common expenses will be presented at the annual meeting and will subsequently be assessed on a monthly basis to the Unit owners in proportion to their percentage of undivided interest in the common elements as stated in the Declaration. If the estimated common expenses prove inadequate for any reason, including nonpayment of any Unit Owner's assessments, the Board may, by resolution duly adopted, make additional assessments, which will be assessed to the Unit Owners in the same manner as the estimated common expenses. Each Unit Owner will be obligated to pay to the Board assessments made pursuant to this paragraph on or before the first day of each month, or in another reasonable manner that the Board designates. The funds received by the Board from assessments for common expenses and capital contributions will be kept in either capital accounts or in the common expense fund and will be expended by the Board only in accordance with the provisions of the Act, the Declaration and these Bylaws.

6.03 The failure by the Board before the expiration of any fiscal year to estimate the common expenses as required here will not be deemed a waiver or modification in any respect of the provisions of the Declaration or these Bylaws or a release of the Unit Owner from the obligation to pay any past or future assessments, and the estimated common expenses and capital contributions fixed for the previous and

current year will continue until a new estimate is made.

6.04 No Unit Owner may exempt himself or herself from liability for common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his or her Unit.

6.05 The treasurer will keep detailed records of all receipts and expenditures, including expenditures affecting the common elements, specifying and itemizing the maintenance, repair and replacement of expenses of the common elements and any other expenses incurred. These records will be available for examination by the Unit owners during regular business hours. In accordance with the actions of the Board assessing common expenses against the Units and Unit Owners, the treasurer will keep an accurate record of the assessments and payments by each Unit Owner.

6.06 All assessments will be a separate, distinct and personal liability of the Owner of the Unit at the time each assessment is made. The Board will have the rights and remedies contained in the Act and in the Declaration to enforce the collection of assessments.

6.07 Any person who enters into a written agreement to purchase a Unit will be entitled to obtain a written statement from the treasurer stating the amount of unpaid assessments charged against the Unit and its Owners, and if the statement does not reveal the full amount of the unpaid assessments as of the date it is rendered, neither the purchaser nor the Unit will be liable for the payment of an amount in excess of the unpaid assessments shown on the statement, provided that the former Unit Owner will remain liable for that excess amount. Any excess amount which cannot be promptly collected from the former Unit Owner-grantor will be reassessed by the Board as a common expense to be collected from all Unit Owners, including without limitation the purchaser of the Unit, his or her successors and assigns. The new Unit Owner will, and the former Unit Owner will not, be liable for any assessments made after the date of transfer of title of a Unit, even though the common expenses and any other expenses incurred or the advances made by the Board for which the assessment is made relate in whole or in part to any period prior to that date.

6.08 In addition to the statements issuable to purchasers of Units, the Board will provide to the Unit Owner, to any person who has entered into a binding agreement to purchase the Unit and to any mortgagee on request at reasonable intervals a current statement of unpaid assessments for common expenses and for any expenses of and advances by the Board with respect to the Unit.

6.09 In all cases in which all or part of any assessments for common expenses and for any expenses of and advances by the Board cannot be promptly collected from the persons or entities liable for them under the Act, the Declaration or these Bylaws, the Board will reassess them as a common expense without prejudice to its rights of collection against those persons or entities and without prejudice to its lien for assessments.

6.10 Amendments to this Part 6 will be effective only on unanimous written consent of the Unit Owners and their mortgagees. However, the provisions of the Declaration relating to this Part 6 may be amended as provided by the Declaration.

7. SPECIAL ASSESSMENTS FOR UTILITY USAGE

7.01 Utility services to the common areas are furnished through one or more master meters. The Board will include in their budget an assessment to cover the expected cost of these utilities and may adjust such assessment annually based on past and expected future utility use for the common areas. The Board may specially assess each Unit for the amount of utilities consumed by the common areas. The Board will assess for utilities consumed at a rate equal to the rate actually charged to the property. The monthly assessment for utilities will be paid within fourteen (14) days of the receipt of the assessment.

8. LITIGATION

8.01 If any action is brought by the a member of the Board on behalf of the Association and recovery is had, the plaintiff's expenses, including reasonable attorneys' and experts' fees, will be a common expense; however, if an action is brought against the Unit Owners or against the Board or its officers, employees, or agents in those capacities, with the result that the ultimate liability asserted would, if proved, be borne by all the Unit Owners, the plaintiff's expenses, including attorneys' and experts' fees, will not be charged to or borne by the other Unit owners, as a common expense or otherwise.

the settlement as to which the corporation is advised by counsel that the person to be indemnified had not been guilty of gross negligence or willful misconduct in the performance of his or her duty as Director or officer in relation to the matter involved. These rights will not be exclusive of other rights to which the Director or officer may be entitled. All liability, loss, damage, cost and expenses incurred or suffered by the corporation by reason of or arising out of or in connection with these indemnification provisions will be treated by the corporation as common expenses; however, nothing contained in this section will be deemed to obligate the corporation to indemnify any member or owner of a Unit, who is or has been a Director or officer of the corporation, with respect to any duties or obligations assumed or liabilities incurred by him or her under and by virtue of membership in the corporation or as a member or owner of a Unit.

15. DISSOLUTION

15.01 In the event of waiver or termination of the Condominium being administered by this corporation, the corporation will immediately be dissolved as provided by law and this instrument.

15.02 Prior to dissolution, the assets of the corporation, after the payment of all debts including mortgages and other encumbrances, will be distributed to the members of the corporation in accordance with their percentage of ownership in it.

16. SEVERABILITY

16.01 These provisions will be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or a portion of a provision will not affect the validity or enforceability of any

CERTIFICATION

Michael McDougal, Chairman of the Board of Directors and David Miller, President of the Main Street Condominiums Unit Owners Association, Inc., do hereby certify that the foregoing is a true and correct copy of the Bylaws of the Main Street Condominiums Unit Owners Association, Inc., a Texas Non-Profit Corporation, adopted at a meeting of the members held on the 23 day of September, 2004, which adoption appears of record in the minutes of that meeting.

David R. Miller
As President of Main Street Condominiums Unit Owners Association, Inc.

Michael McDougal
As Chairman of the Board of Directors of Main Street Condominiums Unit Owners Association, Inc.

Michael McDougal
As Secretary of Main Street Condominiums Unit Owners Association, Inc.

FILED FOR RECORD
2004 SEP 28 PM 1:17

STATE OF TEXAS
COUNTY OF LUBBOCK

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the Volume and Page of the Official Public Records of Lubbock County, Texas as stamped hereon by me

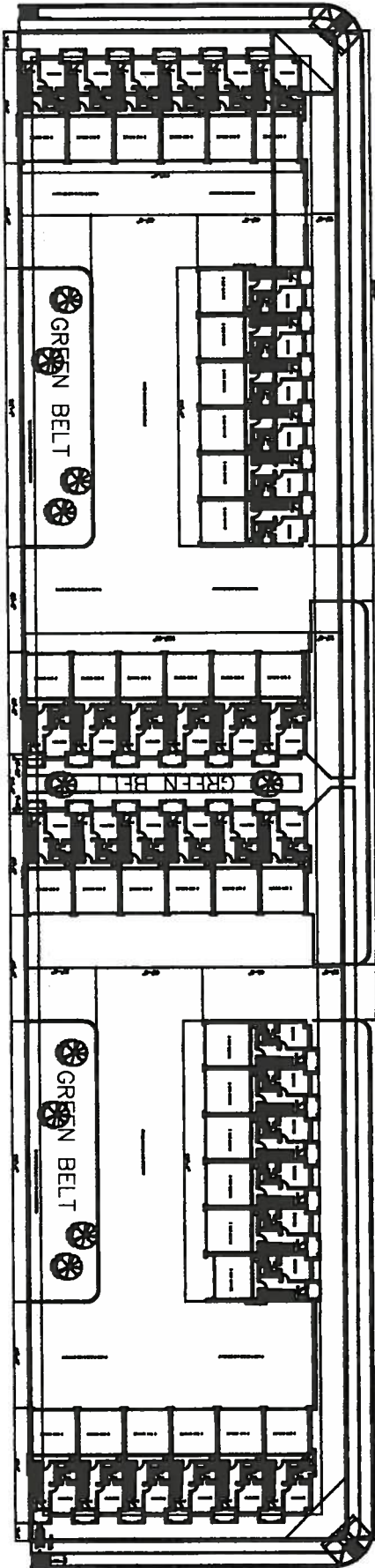
SEP 28 2004

Doris Ruff
COUNTY CLERK, LUBBOCK COUNTY, TEXAS



Doris Ruff
COUNTY CLERK
LUBBOCK COUNTY, TEXAS

AVENUE "V"



TRACTS 11 OVERTON DEVELOPMENT

500' x 125'

MAIN STREET



AVENUE "U"

ALLEY

GREEN BELT

GREEN BELT

GREEN BELT